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**A review of the experience of
Compulsory Competitive Tendering
under the Local Government Act 1988**

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A review of the experience of
Compulsory Competitive Tendering
under the Local Government Act 1988

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The DoE aptly refers to the CCT legislation as “biting” when it is imposed on a service.

Since 1988, CCT has bitten:

- Refuse collection
- Street cleansing
- Catering and welfare catering
- Grounds maintenance
- Vehicle maintenance
- Building cleaning
- Sports & Leisure Management

The government is currently planning for CCT to bite on:

- Housing Management
- Architectural services
- Engineering services
- Property management services
- Legal services
- Computing services
- Corporate & Administrative services
- Financial services
- Personnel services
- Home-to-school transport
- Vehicle Fleet Management
- Security Services for buildings
- Management of theatre & arts facilities
- Library support services
- Parking services

The maintenance of fire service vehicles is to be subjected to market testing, while fire authorities are already part of the existing CCT regime.

CCT is also set to bite on police support services such as cleaning and vehicle maintenance under current plans. However, as part of the review and re-organisation of the police service, recent leaked documents identify a further twenty four functions - similar to those in local government - which the Home Office thinks suitable for “civilianisation” and subsequent compulsory competitive tendering.

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1.

Introduction

Competition and privatisation are at the core of the government's philosophy, embracing economic, social and employment objectives.

Compulsory Competitive Tendering (CCT) is a key part of the government's attack on local government, imposed on a number of services through the Local Government Act 1988.

The UK is the only European country where tendering of local government services is enforced by law. Although European examples of privatisation and contracting exist, there are fundamental differences:-

- Democratic authorities choose that course of action.

- Local authorities in Europe can build social provisions into contracts, to ensure that reasonable social objectives are met even where private firms do the job. In the UK this is specifically outlawed.

- Where contractors are used on the continent, they often work alongside direct labour which is not subject to competition, to measure value for public money.

In the UK, CCT has changed the way local councils function and the type of services they can provide. It has had severe implications for the

staff that were employed to provide those services.

Under CCT, direct labour has won the vast majority of work despite the use of ministerial power - and now regulations - designed to assist privatisation.

But who wins is only part of the story. The effects on local government, services and employment have still been there where the council wins the work. It is the process of competition which has wrought the changes and done the damage.

CCT has been a springboard for the further fragmentation and diminution of local government - in community care, education, and housing. It is now being extended to more services, and the contracting and competition culture is spreading. With that culture has come:

- the undermining of employment conditions, often amongst staff already low paid;

- greater control over local services by bureaucrats rather than politicians, and greater secrecy;

- much greater control by the government of local services;

- the treatment of local people as mere consumers of services, rather than citizens who are part of a democracy.

The government makes great claims about what CCT has achieved. Yet often those claims are incorrect, or exaggerated.

The impact of CCT is widespread and as part of the debate on the future of public services, a critique of the CCT experience so far must be at the forefront.

This pamphlet looks at the key issues.

Restructuring public services

CCT is an integral part of the government's strategy to restructure state-provided services. The elements of this strategy for local government include:

- Privatisation and competition, including the sale of DSOs; withdrawal of local government responsibilities for Polytechnics, Further Education Colleges; and the transfer of responsibilities to Urban Development Corporations, Training and Enterprise Councils, and Housing Associations.
 - Contracting out of key services and the setting up of internal markets.
 - Centralisation and government control through increased ministerial power and detailed regulations.
 - Reduction in democratic control over service provision.
 - Increased power to managers at the expense of elected members and employees.
- 'Management has become both more powerful and formal' (1)*
- Claims for increased rights to service users through the Citizen's Charters which in practice are extremely limited.

2.

CCT: Changing local government

CCT has been a driving force for major changes in the organisation of services in local government.

'The impact of competition has reached far beyond the Direct Service Organisations (DSOs) themselves to the management of authorities, both at officer and member level' (2)

Contract culture

A contract culture has grown alongside CCT in many local authorities. It includes tendering of a wide range of services, the division of all services into client-contractor roles, and the creation of internal markets in which departments trade with each other on a contract basis.

'One recurring feature of CCT in refuse collection is the deterioration of client/DSO relationships. There is ample evidence of situations where staff have worked happily together prior to the contractor/client separation, only to find themselves in conflict once the 'Chinese Walls' are in place.' (2)

The CCT legislation has sought to force local authorities into splitting service departments into two distinct roles - client and contractor. This involves:

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- Management by contract with the result that in a climate of financial stringency the contractor side delivering the service is permanently under financial pressure.

- A separation between the client side which decides on standards and budgets and the contractor side which includes those who understand the service and its costs and are committed to high standards of provision.

- The separation of budgeting and service responsibility from responsibility for recruiting and employing staff, making it easier for cuts to be made without concern for the consequences.

A step towards privatisation

The client/contractor split also encourages the possibility for more privatisation:

- Through the sale of DSOs to the private sector.

- Through management buyouts involving the transfer of council staff to the private sector.

- By reducing the possibility of the DSO successfully bidding for the work.

- By promoting commercialisation - with business values being adopted in place of public service principles.

- By creating greater uncertainty amongst staff and users. This divides the workforce and weakens the organisation of direct services.

- By trying to make councils take a neutral view of whether services are provided in-house, and consequently whether to make existing staff redundant.

'The client role is no different whether the work is carried out by an

external contractor or an authority's own DSO' (3)

Ministers have even suggested that it may be anti-competitive for councils to express the hope that services are retained in-house, as it may deter private firms (Robin Squire, Local Government Minister in a speech to Pulse, 1992).

Re-organising services

In a climate of competition, many local authorities are re-organising services into business units with trading accounts, performance criteria and business planning techniques.

CCT has been used as a management tool to re-organise services. But they have not been re-organised in response to the needs of users or with the aim of improving standards, but to satisfy competition requirements and declining budgets.

This has also been true in the NHS with re-organisation of services into purchaser/ provider functions and the employment of an increasing number of administrators to implement the changes, and negotiate internal contracts.

Responding to government plans in 1992 to extend CCT and establish an internal market, even the Audit Commission said the proposal 'runs the risk of producing a system which is both bureaucratic and unwieldy, difficult to administer and maintain, and which gives rise to substantial costs far exceeding the benefits'.

Re-organisation has created complexity and confusion for the public and led to increased alienation for users. Many councils have even changed the name of their service

departments to make them appear like private companies. Privatisation and client/contractor splits make local authority complaints procedures unwieldy and largely inappropriate.

Competition does not give choice to individual users. Once a contract has been awarded under the CCT requirements, the chances for users to influence that contract are minimised for several years, until the contract is put out to tender again.

Loss of democratic control

'We could do all our contracting activities with no political profile' (5).

The government is encouraging a position where officers rather than councillors control local services. The 'enabling' scenario associated with CCT is leading to a deepening split between strategic policy making and policy implementation, widening the gap between councillors and the local people they serve.

The underlying purpose of CCT is far removed from enhancing democracy. The contract culture encouraged by CCT leads to decision making being done by increasingly unaccountable committees and small groups of councillors and officers.

This was confirmed in an assessment of the involvement of elected members in the latest DoE report which concluded: *'Member involvement in the continued management of competition was limited, and member involvement overall, therefore, declining.'* (1)

Elected councillors are undermined by CCT:-

- The complexity of the contract culture and competition process

involving detailed timescales and technical jargon make the overall issues of CCT hard to grasp or influence for many elected members.

- Under CCT contracts, councillors are limited to scrutinising performance as a 'client' to a contract, which distances them from issues of cost and employment.

- Increasingly detailed Government regulations on CCT give councillors less and less freedom to decide on the most appropriate options for the service.

Indeed, regulations now dictate what benefits a council has to assume it will achieve from privatisation, irrespective of the facts. The CCT regime requires councils to follow the DoE's view of fair competition, however perverse, first and think of the best deal for local people second.

- The outlawing of contract compliance and other political and social objectives from the competition process has limited attempts by councillors to adopt alternatives to the rigid requirements of CCT and its consequences for staff, services, and local people.

- The fear of challenge for 'anti-competitiveness' by the DoE has led to a more fragmented committee structure, which makes it harder to take a corporate view, and panders to the worst elements of the committee system.

- Under new government 'guidance', councillors are expected to declare an interest - as if it were a 'private or personal' matter, when CCT issues are discussed in committee, if they are responsible as a councillor for the DSO bid.

In many authorities, CCT poli-

cies are now decided behind closed doors. Many items are excluded from committee reports and there is an increasing level of decision making outside council committees. This makes a mockery of the Citizen's Charter and the scope for influencing council-decision making on CCT.

'The development of competition has significantly shifted power to the managers' (1).

Losing in-house service expertise

One of the most damaging results of CCT and privatisation of local authority services is the loss of in-house provision and therefore, knowledge and experience of services:

- Direct labour will always be more committed to the service and the council's interests than a private company.
- Under CCT the providers of the service lose the potential for planning and developing services.
- Increasingly, contract managers are being employed with no service skill or detailed local government experience.
- The trend towards casualisation of employment and cuts in pay and conditions in both DSOs and the private sector has also resulted in the loss of experienced staff.
- The separation of client and contractor functions results in diminished understanding of the needs and demands for resources for particular services.

The myth of competition

Those who favour CCT believe that competition is beneficial and that

market mechanisms will result in improved standards and better value for money.

'We will obtain better value for money and higher quality services' (Michael Heseltine, Secretary of State for Environment, January 1992).

But the actual competition for many services has been in little evidence.

The Audit Commission blames councils for lack of competition and claims that there should have been more savings made from competition. These sweeping assumptions have been made with little effort to understand the nature of the competition and the state of the market in which DSOs are being forced to compete.

In London, the weakness of the market has led to suspicions, based on an analysis of bidding patterns, that some private contractors in grounds maintenance are colluding in the making of bids and their pricing. These suspicions are fortified by the findings of the Office of Fair Trading over tendering for contracts from the Property Services Agency.

In some sectors there is little competition because private contractors have other interests or do not have the experience and organisational ability to move into the local government sector.

In some local authorities, work has been packaged in favour of the private sector and repackaged where interest from the private sector has been thin on the ground.

In Wandsworth, for example, the council refused to accept a bid from the DSO for the school cleaning service, even though it was the only

one made for the contract. This refusal was made even though the cleaners had agreed a package of cuts to present a lower bid. Rather than accept the in-house bid which would have saved the council nearly £1m a year, the council decided to re-run the tendering process with a changed contract. *'Current cleaning wage rates used by contractors are significantly below the figure used by the officers proposing the in-house bid...For these reasons, retendering is recommended'* (4). The council's wish to extract more cuts resulted in four different contractors being employed to run the service and nearly 400 cleaners being made redundant by the council.

In many cases since 1988, the private sector showed no interest in local authority contracts, and even where they did, pulled out prior to the tender stage. On average, only one in four initial expressions of interest leads to a formal bid for the work (3). In education catering and leisure management, over half the work so far has been awarded without competition.

This has been confirmed in the latest study published by the DoE (1) which showed that overall there were four expressions of interest per contract in their case study authorities, but on average only 0.96 external bids per contract. No external bids were made in 35 per cent of the cases under CCT.

The nature of private sector competition can fluctuate and this is particularly important in some sectors where company takeovers and mergers result in changes in ownership of contractors running privatised services.

The corporate strategies of national and international companies seeking to expand their public sector markets can create uncertainties for councils who may be unsure about who will be running the service in the future.

3.

Savings: a selective view

Compulsory Competitive Tendering was imposed at a time when the government was intent on reducing local government expenditure and increasing its control over the way in which councils spend their resources.

Some of the manual services subjected to CCT since 1988 (such as building cleaning and catering) are not high profile services and have been easy targets for cuts. They also employed large numbers of part-time women employees who were poorly organised and vulnerable to the impact of the legislation.

In a 1992 Industrial Tribunal case involving North Yorkshire, the council argued that it could cut school meals workers' pay because family commitments and the local rural economy would force them to accept worse conditions, rather than give up a job.

A mechanism for making cuts

By the end of 1992 nearly £2bn. worth of local government work was operating under contract (3).

The scale of CCT has been carried out in the context of declining local authority budgets. Cutting

costs has meant cutting services and, since 1988, budget-led CCT has been the most common form of cost-cutting in manual services. This has led to severe problems for many DSOs which have been awarded contracts and led to the privatisation of 32 per cent of contracts (17 per cent by value) with awards being made to the lowest cost bid in virtually every case.

'Competition clearly has very different effects in different authorities. In those cases, for example, where there had already been significant attempts to make cost reductions and increase efficiency, there was little future cost reduction to be made, and competitive tendering might increase costs. In other cases the financial cuts and competition interacted strongly; cost reductions had been made, but they resulted not from competition but from the fact that the authority had to cut costs to meet budget targets.' (1).

In other words CCT has facilitated cuts in expenditure. Without the CCT process it would have been much harder for councils to make such drastic changes to services to meet government spending targets.

Mythical 'savings'

The ideology behind CCT assumes that tendering directly results in major financial savings. Government ministers continually talk about massive savings - figures which are never backed up by evidence.

'Buying in from a contractor generally means as good or better quality services at substantially less cost. It is common for savings of 25 to 30 per cent to be achieved' (6).

● There is little proof that savings result from CCT itself. There

Establishing the real costs of tendering

The costs of tendering which need to be taken into account in any proper overall analysis of contracting include a detailed assessment of the costs of staff and other resources spent on:

- organising the contractual process
- the separation into client and contractor functions
- capital investment in systems and accommodation for managing CCT
- recruitment into new jobs at senior level
- financial and administrative arrangements
- preparation of the specification
- reviewing the service for CCT
- cost of management consultants and other advisers
- cost of any joint trade union and management working arrangements
- costs of the tendering process itself, including advertising, processing the tenders, tender evaluation and contract monitoring.

These costs must be set against any savings that CCT is designed to achieve.

have been no comprehensive studies showing that services have been maintained to the same standards as prior to CCT but at a lower cost.

● In addition, the savings claims connected with CCT are not purely the result of the competition process, but are a direct result of budget-led tendering, reduced council budgets and cuts in many front-line services.

'Most of the savings from contracting out arise because contractors offer poorer conditions of employment' (7).

● Several independent research studies show that competition does not necessarily result in improvements in value for money.

Research by the Centre for Public Services (8) revealed that the first round of tendering following the Local Government Act 1988 resulted in 'savings' worth 6.6 per cent of the total contract value, taking into account the costs of tendering.

These savings were often not the result of CCT, but were linked to reduced council budgets and lower quality services, reductions in numbers employed, and inferior terms and conditions of employment.

● The gap between government claims and reality was further confirmed by a study of manual services carried out by INLOGOV for the DoE (9). The report stated that the survey showed an overall reduction in cost of about six to seven per cent after introducing competitive tendering. The 'savings' figure emanated from interviews with local authority staff and private contractors in 40 authorities and did not include the full costs to local authorities of preparing for CCT.

A follow up survey published in

1993 showed a cost reduction of 6.5 per cent (1). The range of change was very wide in the authorities. There was a reduction in cost following competition in 64 per cent of the cases and an increase in 24 per cent of cases. In 12 per cent of the cases there was no change at all. The study found that the services in which the greatest reduction in costs were made were refuse collection, building cleaning and grounds maintenance.

However, these figures overestimate savings since they do not include the full costs of re-organising the service and officer time preparing for CCT.

Research by the London Business School (10) claimed that 'direct unit costs' on refuse collection contracts have fallen by 27 per cent since 1988. But the report also stated that *'Allowing for administrative and monitoring costs, as well as gaps in the data, costs appear to have fallen by between 10 and 20 per cent'*.

The report identifies wide discrepancies between local authorities; in one in ten authorities costs rose in real terms, whilst in one in five authorities costs fell by over 40 per cent. The report does not provide any real proof that the savings are a direct result of the competition process itself. Their conclusion that the largest cost savings have arisen in the largest authorities, predominantly metropolitan districts, points as much to the severe financial cuts suffered by these authorities as to economies of scale or CCT itself.

Looking at half the picture

Many of the savings figures are fundamentally flawed because they do

not take account of:

- Accurate figures on the costs of CCT, and include underestimates of the client-side costs and monitoring.

- Increases in actual tender prices. Tender prices are often altered following variations to the contract and post-tender negotiations. Post-tender negotiations tend to occur when a contract has been awarded and the contractor argues then that it cannot meet the specification.

- The difference between outturn figures and initial estimates which can vary widely. In the DoE study (1), out of a total of 88 observations, 40 showed an increase between estimate and outturn, 36 a decrease and in only 12 cases no difference. The only plausible reasons for outturn prices being lower than tenders are cuts in the service and deductions for failures.

Contradictory and unsubstantiated evidence on financial savings associated with CCT means that savings claims should be treated with caution. The real value of any of the savings figures used by advocates of CCT must be challenged.

The use of averages by the government supports the view that cutting public spending is their major consideration. But averages are not what the individual authorities or service users experience. They pay for whatever the market demands for that contract, even if it is a substantial increase.

Costs of tendering

CCT is costly and time consuming. The government and many local authorities fail to take into account these costs when making estimates

of 'savings' and other 'benefits' from competition.

The resources allocated to carrying out CCT in many authorities have been very high in proportion to the cost of the contracts. The Centre for Public Services estimated that in the first year of CCT, the cost of tendering 448 contracts was £41m (8). This figure excluded the cost of management consultants who are increasingly employed by local authorities to assist with the CCT process.

The total cost of tendering the seven defined services between 1989 and 1993 is estimated to be £325m (19).

The DoE report published in 1993 (1) concluded that the average cost of preparation for competition was 7.5 per cent of the first year costs, and about 1.8 per cent of the total contract value.

However, the report also states that since information was partial, the costs of preparation are likely to be underestimated as it is identifiable costs that tend to be cited. The general costs of officer time, the main element in most cases, are not included in the cost estimate.

The costs of CCT are expected to become a major issue when white-collar tendering commences on a large scale. A survey by the Association of District Councils showed examples of white-collar contracts which would cost councils more money than their present in-house service.

Of the ADC survey respondents, 41 districts gave details of 90 white-collar areas subject to CCT plans where the value of the work fell between £80,000 and £200,000.

Costs of putting services out to tender ranged between £15,000 and £50,000 (20). These high costs are particularly important in considering tendering out of smaller, specialist contracts.

Hoping for the best

CCT, combined with cuts in local government has led to the severe under resourcing of contracts, resulting in poor quality services in many areas.

Local authorities facing financial difficulties used the opportunity of CCT as a vehicle for cutting expenditure in manual services.

This has had a severe effect on services since all the manual work carried out by local authorities is highly labour intensive and any reduction in staff and hours has a direct effect on the quality of services provided.

Several authorities have been forced to re-tender their building cleaning contracts because of the underestimation of resources needed.

'Benefits' of re-tendering

The government argues that further savings can be made from CCT in local government in subsequent competition exercises.

However, there is already evidence that where contracts are renewed, costs increase.

As local authorities become more dependent on contractors and there is no in-house service, private companies are in a clearer position of strength to increase the cost of their bids.

The initial cost reductions associated with CCT first time round are

less likely when contracts are retendered.

Recent research by the London Business School (11) shows that the savings made on refuse collection contracts disappeared once the contracts were re-negotiated.

The research examined refuse contracts voluntarily tendered out in the 1980s, prior to the introduction of CCT.

It shows that contracting out in refuse collection resulted in savings of 20 per cent but only in the first years of the contract.

By the time the contracts were re-negotiated, savings were insignificant. The report also stated that: *'we believe there is a strong evidence that under-bidding was taking place, with a view to obtaining a long-term relationship with the local authority'*.

More than half of those early contracts were later re-awarded to the same contractors.

Under-bidding is confirmed in research by PSPRU (12) which found that by 1992 seven out of twelve of the main refuse and cleansing contractors had made major losses so far from council contracts.

A report by the Centre for Public Services for NALGO (4) also shows that the value for money argument used by three London Boroughs, where competitive tendering has been carried out since the early 80s, was largely unfounded and that on retendering contracts, prices have gone up.

The result has been that the cost of some of the services provided in the boroughs by private contractors are as high or even higher than if they were carried out by the in-

house workforce, even though there had been major job losses and cuts in pay and employment conditions.

Profitability

Under CCT, in most services the council has to include a 'profit' element, or 5 per cent rate of return on capital in its bid, which it must meet in every year of the contract.

Yet there is no purpose in public services making profits. The rate of return for council services is simply a device to inflate in-house bids and assist privatisation.

However - even where the DSO is the cheapest bidder, it does mean that local people pay more for services than they would otherwise have to.

Private contractors operate with a long term profit motive which is passed on as a cost to the local authority and in turn removes money from the local economy.

Ministers take a callous view of employment, talking of 'manual staff savings' when they mean cuts in jobs, pay and conditions, and accusing councils of 'cushioning their workforces from the full force of competition' (21).

Yet for council staff, CCT has been devastating.

In an article extolling the benefits of CCT, Local Government Minister Tony Baldry tried to underplay the effects on employment: '*Competitive tendering is not about lower wages....and where wage rates have fallen it may be that the Council has previously been paying over the odds.*' (22)

CCT meets a number of government objectives beyond the provision of services:-

- Weakening public sector trade union organisation by fragmenting local authority workforces.

- Increasing the trend to wages determined by the market and not by collective bargaining, illustrating how little people will work for in a competitive climate with no social protection.

- Increasing casualisation of labour.

- Breaking up the local authority's role as a 'model employer' in terms of setting local market standards.

The ban on the use of contract compliance in CCT has made local authorities powerless to ensure that equal opportunities policies are adhered to by private contractors.

Pushing down labour costs

Since labour is a substantial element of most local authority service costs,

4.

The effects on people and jobs

under competition there is always pressure to improve productivity to reduce costs. CCT has led to local authority workers being employed in new ways and to cuts in jobs and hours. DSO employees are expected to work with greater flexibility imposed, often less certainty and security, and increasingly on a similar basis to the private sector.

The contract culture requires workers constantly to price themselves downwards at regular intervals in order to stay in work, and prove they are the cheapest labour in the market. This is what the government calls increasing competitiveness.

'Competition has had a major impact on employees.....the most common changes are reductions in staffing (56 per cent of cases) and rearranging hours of work (51 per cent of cases).....the pay bill has been reduced by changing or abolishing bonus systems, and other adjustments to the pattern of work.' (1)

'The result of competition has been to increase the level of productivity, largely through staff working harder.' (1)

Under CCT, managers of DSOs and private contractors have greater freedom to hire and fire staff and to

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impose local terms and conditions of employment moving away from national pay and conditions bargaining. For managers, performance related pay has been introduced along with other financial incentives. There is also the increasing use of fixed term contracts. This has resulted in a steep decline in the role of local authorities as model employers.

With competition as the driving force, insecurity for the workforce is created leading to increasing pressure on employees to meet performance standards and targets. This can be an extremely negative experience for staff keen to provide a high quality service.

Attacking public sector workers

Underlying CCT is a division between the quality of employment and the quality of services, though in reality the two are inseparable. Public sector employment practices are superior in most cases to those in the private sector. The evidence of the impact of CCT on local authority employment bears this out.

● The combined effect of CCT, reorganisation of services and budget cuts led to the loss of nearly 167,000 manual jobs (29 per cent of full-time and 14 per cent of part-time jobs) in local government between 1989 and 1993 (13).

The 1993 DoE study (1) estimated that overall there has been a 12.2 per cent staffing reduction following competition.

It goes on to state that manual staff, in particular, have borne the brunt of changes that have been

made in working methods, pay and conditions.

● Holiday retainers have been widely eliminated for school cleaners and meals workers by both contractors and local authorities. This represents a 25 per cent pay cut for many women.

● Many contractors pay well below nationally agreed pay rates in local government. In addition, some local authorities have abandoned nationally agreed basic rates in favour of lower local rates. In Leicestershire, for example, cleaners were forced to take a pay cut from £3.77 per hour to £2.83 (12).

● Staff get fewer holidays, with private contractors often allowing only 10 days a year in contrast to 20-25 days in local government.

● There has been a loss of non-statutory maternity benefits, sick pay and pensions - these benefits are virtually non-existent among private contractors.

● Deteriorating working conditions have been imposed alongside increased pressure to improve productivity.

● Less importance is attached to the implementation of health and safety policies in local authorities as there is increasing pressure to cheapen the cost of the service.

● Hours have been reduced to exclude part-time staff from statutory protection, as well as causing substantial cuts in wages.

● Overall, employees have lost accumulated rights - to statutory protection, maternity provision, and access to pension schemes, as past years of service have been wiped out when contractors take over, even if the contractor does give them a job.

Recruitment problems

Services are also suffering because staff have been treated badly under CCT. Staff have tended to leave where pay, hours and conditions of service have been cut and where huge productivity increases leave workers unable to meet standards. This has led to the loss of experienced staff from local government, and this in turn has had an impact on service quality. High staff turnover and recruitment problems result from this.

Casualisation

An increased use of temporary staff has been a direct result of the cost pressures emanating from CCT and budget cuts.

DSO managers will employ staff on temporary contracts to give themselves more flexibility. Temporary workers have few employment rights and no security of employment.

'Competition has given a major push towards the casualisation of public sector work. There is greater use of casual staff to cope with peaks and troughs of work. The conditions of existing staff have partly been casualised by reducing hours and reducing the number of weeks worked per year....the tendency is towards a core staff, with others recruited as and when needed'. (1)

European protection for workers

The disarray surrounding the Transfer of Undertakings Regulations (TUPE), which stems from European social legislation, has presented some opportunities to improve the prospects for public

sector workers facing competition.

TUPE presents important rights for local government workers in terms of protecting terms and conditions of employment and union recognition.

There is no doubt that TUPE has brought clearly into focus the true purpose of competition, and the incompatibility of competition with the protection of workers, their pay and their conditions.

'Contractors would be required to employ all the existing staff on exactly the same rates of pay, terms and conditions as they previously enjoyed.

Under these circumstances, competition would not be viable' John Hall, Cleaning and Support Services Association and CBI 'Competing for Quality' Committee.

Whilst it is important to support the widespread application of TUPE, to prevent the 'Dutch auction' of public service workers to the lowest bidder, it will not solve the problems associated with CCT in the long term:

- TUPE will not stop compulsory competition for public services.
- The benefits of TUPE can be short lived for those staff transferred.
- Loopholes can be exploited by contractors.
- It is unlikely to compensate retrospectively all workers who have lost out on their terms and conditions of employment so far under CCT.
- It only applies where services are privatised, and so will not assist those in 'successful' DSOs where there is no transfer, who lose their jobs, or have pay and conditions cut.

Only proper contract compliance measures, such as exist in most public sector contracts in other countries, or greater statutory protection for workers, covering security and earnings, combined with TUPE could fully protect workers in competition exercises.

Contractors are already manoeuvring in order to continue to benefit from CCT. Some contractors are cynically seeing TUPE as a price, rather than an employment, issue.

'Although the main purpose of the legislation is to protect employees on the transfer of the business in which they are employed, in practice the legislation has very little to do with employee protection. It has more to do with issues of price. It is possible for a potential transferee to broadly calculate his maximum legal risk on transfer and price his bid accordingly' (14). The risks cited and costed include redundancy and adverse tribunal rulings.

Other contractors are calling for longer contract periods so that the cost of cutting jobs and conditions can be absorbed and profits maintained. Some contractors are arguing that CCT should be replaced by a more draconian system with services further removed from local authority control.

Trade union organisation

The loss of trade union organisation rights and protection is a direct product of CCT. Trade unions have been affected by:

- reduced membership;
- weakened and fragmented trade union organisation;
- reduced local bargaining strength;

- loss of representation for many members;

- less consultation over management's policies and practices.

Most private contractors are anti-union and do not recognise trade unions.

Increasingly, local authorities are attempting to introduce local bargaining. *'Patterns of negotiation have changed markedly, with moves away from national and even local authority wide agreements'* (1)

Fragmentation of the workforce has resulted: *'Since DSOs are the major employers of manual staff, the way they were dealt with had a major impact on the rest of the authority. The effect was to create pressure for a much more fragmented bargaining structure, with each DSO pursuing its own line, bound if at all, only by very general policy considerations'* (1).

Role of the local authority as a major employer

CCT has changed the local authority as an employer. It tries to force the council to drop any loyalty to its workforce in favour of competition and cheapness. The competitive council is not supposed to care who provides its services or what sort of jobs are created for local people.

CCT has diminished the local authority's role in the local economy. It weakens the local authority - often the largest local employer - in setting wage levels and conditions of service if services are privatised and wages and conditions are altered from those nationally and locally agreed.

CCT makes it more difficult to retain corporate policies and practices. For example, the role of per-

sonnel departments is being reduced and their advice is often considered an 'overhead' which needs to be reduced.

In a recent tribunal case involving North Yorkshire County Council, the council argued that it was right to cut school meals workers' pay by 8 per cent, but not of their equal pay male 'comparators' in grounds maintenance because that was what the market demanded.

Impact on the local economy

The loss of jobs, wage cuts and reduced benefits has a knock-on effect on the local economy leading to reduced spending in shops and services. It has been estimated that for every four local authority jobs lost through contracting out, one additional job is lost in the local economy (15).

There are substantial costs associated with CCT where jobs have been lost or conditions cut which include:

- increased unemployment payments relating to the loss of jobs;
- loss of national and local tax revenues;
- cost of special employment schemes;
- increases in payment of housing benefit, Family Credit, and other benefits available to those in low-paid jobs.

These costs are rarely taken into account but should be included in estimating the true costs of CCT.

There are also social costs caused by the strain on families and individuals of working within a system requiring ever greater productivity and pressure on living standards.

Loss of equal opportunities

During the 1980s many local authorities improved equal opportunities and presented opportunities for disadvantaged groups. Much of the progress made has been curtailed or reversed by CCT and accompanying changes.

The impact of changes in employment levels and conditions on women and ethnic minorities has been especially severe in CCT and contracting out since these groups of employees are heavily concentrated in council manual services.

Part-time women workers have suffered reduced pay and conditions, with loss of earnings and employment rights since many are now employed on less than 16 hours a week losing rights to statutory sick pay, state pensions, unemployment benefits.

Even provisions to protect disabled employees under CCT have not been fully utilised because of budget cuts and the culture of competition, productivity and profit that CCT has created.

Equal opportunities policies have often been eroded as DSOs struggle to meet targets. Contractors do not generally have any equal opportunities policies and since the demise of contract compliance, there are few controls local authorities can use in ensuring that even the most basic equal opportunities targets are maintained.

'The development of competition has also put pressure on equity in employment conditions, and on the development of equalities. DSO managers often felt that they could not afford to implement initiatives that they have developed' (1).

5.

Services on the slide

'CCT has shaken up service delivery standards like nothing that we have seen in recent decades' stated Secretary of State for the Environment, Michael Heseltine in January 1992.

Yet the reality was the more measured view of Environment Minister Robert Key who admitted to the PULSE conference in October 1991 that CCT had only *'brought standards of work at least equal to those that had gone before'* - and he was speaking of specifications - anticipated standards, not the reality.

He was also talking averages - in some cases councils set lower standards.

The government has constantly argued that standards improve with competition. Yet this argument has never been proved.

The evidence points to increasing problems for local authorities concerned to maintain and improve service standards. CCT has resulted in:

- Services which are limited to what can be specified and monitored easily;
- Inflexibility in service provision;
- Lack of development and innovation;

- A sterile definition of quality which largely rests on quality assurance standards and takes little account of actual service delivery.

'The focus of the British Standards Institute approach to quality assurance is on the service production process and system. It does not examine outcomes. It was argued by some of those interviewed that the impact of quality assurance could be to institutionalise poor service' (1).

Quality of services declines

Although local authorities may specify the same standards as operated before in CCT contracts, the experience in manual services since 1988 has shown that the quality of services is not improved by competition. Where budgets are tight and monetary considerations uppermost in the evaluation of tenders, there is inevitably a conflict between cost and quality.

Where work has been privatised, contractors will always look for ways to maximise profits and cut corners. Work is often performed by less skilled and inexperienced staff. CCT encourages minimum quality standards rather than quality improvements.

Supporters of CCT argue that it is not important who provides the service so long as the quality of service is maintained and that the private sector can match the quality of service achieved by local authorities. But the evidence against this is clear. Analysis of over 5,000 local government and health service contracts (12) has shown the extent of poor quality privatised services:

- One in ten of all contracts

awarded to private contractors have been terminated.

- 23 per cent of contracts awarded to private contractors have suffered problems.

Competition does the harm

Some DSOs have also suffered from inexperience in competitive bidding and problems of performance and quality of service delivery. Whoever wins, it is CCT that does the damage to services.

In a survey of 150 schools carried out by the Audit Commission in a sample of authorities, 'significant dissatisfaction' was revealed with the provision of services such as cleaning, ground maintenance and catering (3). Nearly a third of respondents felt that the contract met their needs 'badly' or 'not very well'.

In another study (16) on the impact of Local Management of Schools over a quarter of headteachers judged the site management services to be 'very poor' or 'poor'. The complaints covered:

- service specifications which did not reflect their wishes;
- specifications were right but service not actually being delivered;
- problems compounded by an inability to get the problem put right.

The report stated that these problems are not confined to schools and 'similar statements were made to the study team by officers in other departments'. As the Audit Commission points out, all these problems are about service delivery and have been highlighted by CCT, although the Commission avoids concluding that CCT is the problem and blames councils instead.

Problems in the building cleaning service are confirmed in the recent DoE study which found that standards were not being achieved in about a third of cases (1).

Specifying social objectives

The government has argued that the market and CCT will lead to better defined services and incentives to achieve standards. However, for contractors the incentive is profit and this conflicts with the social objectives of local authorities.

Broader social objectives are meaningless unless councils can specify qualitative criteria clearly, incorporate them in a contract and then monitor and enforce them effectively.

Contractors have no interest in an agenda where equality issues and the needs of different groups in the community are taken into account in policy making and decisions about service delivery.

Contract failures

The government equates competition and the involvement of the private sector with improvements in quality. But the opposite is true when problems with contracts are analysed.

Contract failures usually occur when service provision has deteriorated over a long period and financial penalties have occurred, taking up substantial local authority time and resources.

The Public Service Privatisation Research Unit estimated in 1992 that the failure rate of CCT contracts held by private contractors was four and a half times higher than for contracts held by the in-

house workforce in local government. Where DSOs have been under increasing pressure to work to tight specifications with declining budgets, some problems have arisen with service delivery and, in some cases, contracts have been retendered.

Problems in most contracts are blamed on falling standards and a drop in the quality of the service. A PSPRU survey in March 1991 showed that Britain's schools were experiencing severe problems with the standards and reliability of cleaning. Half of all contracts undertaken by private companies had been problematic and over 20 per cent had been terminated.

More recently, the DoE study (see table below) found that three out of four contracts had suffered from a 'noticeable failure to perform' (1). It is clear from these figures that competition itself has caused the problems in service delivery and performance. It is, however, noticeable that failure is most common in those services where the highest levels of competition and contracting out has occurred.

Building cleaning and grounds maintenance — the services with the highest failures — have been particu-

larly vulnerable to competition, low wages, and problems of recruitment.

The most common failures identified in the DoE study (1) were:

- poor standards of work;
- incomplete work;
- failure to complete work on time.

Once contracts are awarded, failure to perform rarely leads to penalties as the following figures illustrate.

A recent LGMB (17) survey report showed that only eight per cent of private sector contracts and six per cent of DSO contracts have been subject to financial defaults or have had payments withheld. This does not represent good value for money since councils are paying contractors for services they are not getting.

What terminations, failures and company liquidation mean for local people is rubbish on the streets, dirty schools, and overgrown parks.

Changes in service delivery

CCT is linked to the consumerisation of services with users being treated merely as individual receivers of service rather than collective groups with differing needs.

This has resulted in:

- standardisation of services;
- loss of initiative and innovation;
- loss of democratic responsibility;
- lack of development and strategic planning;
- lack of flexibility to respond to new and changing user needs;
- fragmented services provided by an increasingly diverse range of unaccountable organisations and

Cases stating that there had been noticeable failure to perform

Refuse collection	72%
Street cleaning	78%
Building cleaning	96%
Catering	48%
School and welfare catering	55%
Vehicle maintenance	67%
Grounds maintenance	88%
Total	78%

companies.

Access to services

CCT has changed the relationship between the local authority and local people by pushing the level of accountability and responsiveness further away from service users.

Privatised services are more inaccessible to service users. Users have no direct contact with contractors.

While local authorities rightly remain responsible, those with complaints want to be able to deal directly with those who actually do the job. That is not possible with private contractors. Local authority complaints procedures are largely irrelevant if the service is operated by a private contractor.

Contract conditions usually mean that contractors can refuse to make any changes that are not in the contract. This inflexibility curtails the access of service users even further.

Competition does not give choice to individual users. Once a contract has been awarded under CCT, the chances for users to influence the contract are minimised for several years - until the contract is put out to tender again, particularly where services are privatised.

Once a contract has been awarded to a private firm, the constraints on the power of the local authority undermine any freedom of choice for local people.

CCT has generally involved very little consultation with service users and little assessment of the needs of different groups in local communities.

Inadequate monitoring

Local authorities have the right to

monitor contractors to ensure that service standards are maintained. According to ministers, the contract system allows for performance to be '*monitored in a much more systematic way. Poor or unfinished work can no longer be hidden.*'(22)

However, that does not necessarily stop it occurring. As shown earlier 'poor and unfinished work' are the very reasons given for an average of 78% of contracts failing to perform, according to the DoE's own research.

Councils have little power to deal with the service delivery problems caused by CCT, even where they are identified. Withholding payments or claiming defaults carries little threat, particularly as many private contractors budget for a level of failures. The costs of re-tendering to resolve problems can also be prohibitive to councils.

Few authorities have allocated sufficient resources or developed efficient systems for effective contract monitoring.

Yet although monitoring is inadequate, client side costs remain high. In an Audit Commission survey (3), it was found that average costs of the client side ranged from 1.4 per cent for education and welfare catering to 12.5 per cent for vehicle maintenance.

Where there is direct labour, contract supervision duplicates proper staff supervision. Elsewhere, the costs incurred are purely a product of contracting out. At an average of 8.2 per cent across all services, this element of the cost of the service is largely unproductive and is contributes nothing to actual service delivery.

6.

'Enabling' – a bleak future

The enabling concept - a phrase coined by government - is being pursued by some authorities, encouraged by the Audit Commission.

It is based on the widespread introduction of CCT, privatisation and contracting out (18). According to the government's 1991 consultation paper on internal management in local government:- *'The ability to manage large numbers of directly employed staff is becoming less important than the ability to set up and oversee contractual arrangements.'*

The government's enabling council is founded on the following principles:

- acceptance that competition is a good thing;
- market forces are the most appropriate way to allocate resources;
- management by cost limit, irrespective of need;
- business criteria such as crude assessments of value on only monetary terms, profit ratios, and increasing productivity;
- a view that it does not matter who delivers the service because the contract can be enforced to secure objectives;

- employment conditions are not related to quality of service;
- local authorities should have no social role in employment matters.

'Enabling' means that the problems associated with CCT are magnified:

- contracting out and privatisation is increasingly used as a means of centralising control, achieving productivity increases and making cuts;
- the break up of local government as a valued institution is accelerated;
- control of services, their quality and development becomes even harder;
- there is further reduction in democratic control and accountability to local people;
- many of the costs of preparing for contracting out are ignored;
- there is continued break-up of trade union organisation through the fragmentation of the workforce into different contracts and employers;
- the break-up of national pay and other trade union bargaining is accelerated.

The combined impact of these moves could lead to more fragmented, fewer and poorer quality services eventually leaving local authorities with the rump of services private contractors do not want.

As CCT, financial pressure and ideological pressure push local government towards the 'enabling council', it is rarely asked whether it is local people, voters or service users who are 'enabled' by these changes.

The analysis contained in this pamphlet shows that there is a clear need to develop alternative models for local government. The continuation of CCT under the present regime will further damage council services with severe consequences for the future.

An alternative model needs to build on the existing strengths of local government and develop new ideas to address its weaknesses.

For more effective and democratic services the following public service principles should be adopted:

- Service quality targets for all services.
- Regular service reviews looking at quality of employment, financial performance, and implementation of corporate and service-related policies.
- Development of a best practice approach which is based on quality specifications, stringent contract conditions and effective contract compliance where services are provided by the private sector.
- Proper management structures for services which take account of needs, resources, costs, employment, quality and development, rather than artificial structures suitable only for competition and privatisation.
- Social audits examining the public costs of policies and their social and environmental impacts.
- Value for money criteria that go beyond cheapness and cost.
- Openness, accountability and responsiveness in the workings of the council.
- Services which are provided by

7.

The need for an alternative

staff who are fully trained, properly paid, properly valued and supported, and who can use their skills and experience in improving and developing services.

Such an alternative is part of an agenda that gives local authorities greater powers over their finances - their spending, their budgets and the raising of their revenue. It would give them the ability to represent their communities, to government and beyond to Europe. It would allow them to respond to the needs and demands of their local communities with a power of general competence.

8.

Sources of information

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The Centre has unrivalled experience of working with local authorities, trade unions and community organisations on developing strategies to retain and improve public services, monitoring privatisation and competitive tendering, and researching changes in the public sector.



The LGIU is an independent research and information organisation supported by over ninety local authorities and the major local authority trade unions. It has been closely involved with Compulsory Competitive Tendering since the Local Government Bill was introduced in 1987. It provides advice to councils and trade unions on CCT and lobbies on their behalf.

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*CCT
On
The
Record*



CCT On The Record

Compulsory Competitive Tendering has been the major force behind the restructuring of local government. It has consumed councillors, officers, and precious resources at a time when local democracy and local services could ill afford them.

More competition is to be imposed on local government and the civil service.

But the record of CCT is highly questionable. The claims of the government are not always supported by the facts. CCT On The Record looks at a variety of sources to establish the real picture.

- Councils have reviewed services and published standards – but to meet the needs of CCT, not local people;
- CCT itself has not led to major savings – but it has facilitated cuts;
- CCT has not improved service quality;
- Control of services has been shifted away from elected councillors;
- CCT is costly to set up and run;
- CCT has caused major job losses and cuts in wages and conditions;
- CCT has particularly hit women workers and is creating a low paid, casualised workforce.

The future of public services and the way that they are run is very much an issue of the 1990s. If the debate is to encompass the experiences of local government, then CCT should be judged - On The Record.

**A review of the experience of
Compulsory Competitive Tendering
under the Local Government Act 1988**



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