UNISON

Best Value and The Two-Tier Workforce in Local Government

"We want to ensure that when services are contracted out, it is not done on the basis of poorer terms and conditions for the staff."

Tony Blair October 2001

"...where evidence of a two-tier workforce is found to exist we will take action to end it."

Stephen Byers October 2001

Best Value Intelligence Unit
January 2002

Introduction

During November 2001 UNISON carried out a survey of 116 branches in England enquiring about 190 local government service contracts awarded to private companies or voluntary organisations during 2000/2001(see Research Methodology below). We asked if there were any differences in pay and conditions between transferred staff and new starters (employees recruited after the transfer of the contract.) What they told us was disturbing given the relative youth of the contracts – that a two-tier workforce had or was emerging as a matter of routine in many workplaces.

These findings once again support those of other surveys showing that two-tier and multi-tier workforces exist in local government contracted out services.

Background

In the past fifteen years the policies of Compulsory Competitive Tendering (CCT) and market testing have led to dramatic changes in the way local councils deliver many of their services. Over that period tens of thousands of staff have been transferred from local councils to private contractors. Until the early nineties these workers were offered little or no protection following the contracting out of their jobs. Most found themselves doing the same work for a private contractor, but on lower pay, poorer terms and conditions, and were not allowed to join an occupational pension scheme.

The worst affected were usually low paid, part time women working in catering, cleaning and care jobs. However a large number of low paid male manual workers – refuse collectors, grounds maintenance staff, street cleaners – were similarly affected as their jobs were also privatised during this period.

Legal challenges in the 90s led to greater protection for the workforce. Today when a service is “externalised”, the staff are usually transferred to the new service provider on their existing terms and conditions, protected by TUPE.

More recently pensions protection has also been extended. Private contractors are expected to offer a ‘comparable’ pension scheme to transferred staff, and in the majority of cases they do. And new regulations covering local councils, give private contractors the opportunity to gain admitted body status in the local government pension scheme. This means that if the contractor agrees, staff transferred can remain in the local government scheme.

However, these changes provide transitional relief only. There are still cases where the pay and conditions of staff are being cut over time. And new employees are offered no protection at all – invariably creating a two-tier workforce – a problem that has already concerned the all-party Treasury and Health select Committees.

Whilst the two-tier workforce is a product of market testing and CCT, the government’s commitment to PFI, PPPs, housing stock transfers and Best Value means it is a problem set to continue. The absence of any real safeguards for new employees taken on after the service has been contracted out usually means a worsening of pay and conditions. With the playing field tilted in favour of the private sector, more services will be privatised as contractors' build into their winning bids lower pay and conditions and poorer pensions for the new workforce.

In February 2001 new legislation was introduced which amended the 1988 Local Government Act and allowed councils to take workforce matters into account when awarding contracts. However, these changes are permissive and not prescriptive. They allow local councils to take certain workforce issues into account but virtually everyone agrees, they will not end the phenomenon of the two-tier workforce.

UNISON first highlighted the existence of the two-tier workforce in the report 'Contracting Out and the Two-Tier Workforce,' published in September 2000. This had a major impact. Following on from this report and as part of our continuous monitoring of the two-tier workforce, UNISON has been gathering further evidence this year. This has taken the form of specific surveys, large and small, either carried out internally or by academic organisations and researchers such as NOP. All the evidence supports our initial findings. Our research covers:

- Homecare workers
- PFI projects
- Careers Service companies
- UNISON Conference survey on Best Value
- The regional dimension – reports on East London and the North East
- The contracting culture: from CCT to PPPs

A review of the research on the two-tier workforce is attached as an Appendix to this report.

Research Methodology

The findings in this report are based on a telephone survey conducted by UNISONdirect[1] between 5 and 16 November. Respondents were also invited to fax back information where it was more convenient for them to do so.

The survey concerned local government contracts in England, transferred to a private/voluntary sector employer between 1 January 2000 – 31 August 2001. In some instances this entailed a transfer between private/voluntary sector employers following an earlier externalisation. The cut off date of 31 August 2001 was selected on the basis that these contracts would have been operating long enough to generate some information on the pay and conditions of new starters.

The contracts were identified from a variety of sources – trade journals, IDeA, UNISON branches – held on UNISON's Bargaining Support Group (BSG) databases.

We included all types of contracts awarded to the private and voluntary sectors during the survey period, including those awarded as part of a PFI, PPP or Large Scale Voluntary Transfer. The only contracts excluded were contracts awarded in-house or to a direct service organisation (DSO)

[1] UNISON's national contact centre

The aim of the survey was to contrast any differences in pay and conditions between transferred staff who would have enjoyed the protection of TUPE and new starters who would not. The resulting figures yet again clearly demonstrated the existence of a two-tier workforce.

In carrying out the comparison, the survey looked at six key areas of pay and conditions.

- Basic rates of pay
- Unsocial hours payments
- Sick pay
- Annual leave
- Pensions
- Job security

Although the scope of the survey was determined by those local government services actually transferred to the voluntary/private sector during the period identified, nevertheless every effort was made to ensure that the information received dealt with a wide range of services.

In looking at six aspects of pay and conditions, we asked respondents to say for new starters whether it was better, the same or worse than for the transferred staff. They could also simply state that they did not know. Where possible respondents were also asked to give concrete examples of differences.

What follows is a statistical representation of our findings together with a commentary and examples of some of the differences reported for each category. To illustrate the overall picture, six case studies taken from the survey are included in the report.

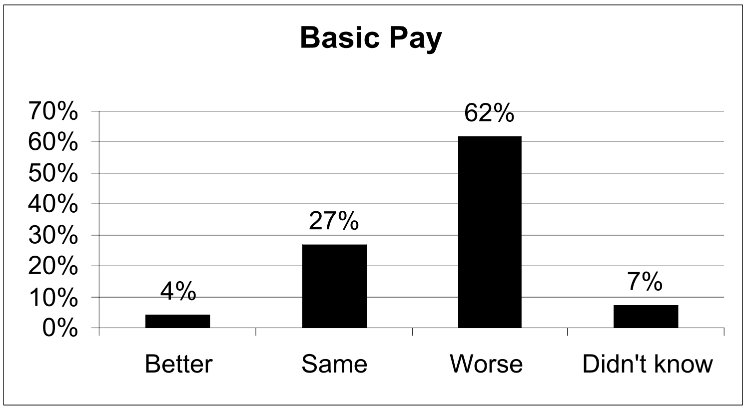
Survey Findings

Basic Pay

We asked:

Compared to transferred staff, is basic pay for new starters better, the same or worse?

The findings are:



Commentary

Some respondents could not compare basic pay because the company had new employees on personal contracts. Jobs are advertised without grades/pay rates. For example, we were told that 'new Capita employees are asked not to share information about pay and conditions with other employees. There does not appear to be a pay structure. Each employee negotiates their own pay' (Blackburn with Darwen UNISON Branch).

Examples of differences include:

London Borough of Barnet – residential care contract awarded to Freemantle in 2001.

Freemantle pay very different pay rates across all grades, which is contributing to recruitment and retention problems. Examples include:

Job	Transferred Staff	New Starters
Manager	£30,198	£27,500
Deputy Manager	£23,553	£19,500
Sen. Care Worker	£20,460	£14,234
Care Worker	£15,660	£11,537
Care Assistant	£13,329	£10,459

Herefordshire County Council – refuse contract awarded to FOCSA

TUPE transferred staff are paid £5.11 an hour and new starters £4.35.

Lancashire County Council – three school catering contracts awarded to Harrison Catering Ltd, Mellor Catering Services and Palm City Catering Group

These three companies each contracted to provide school catering to different schools all pay new starters £4.20 per hour. TUPE transferred staff are paid £4.80 per hour.

Nottinghamshire County Council – school meals contract awarded to Scolarest

Transferred staff are paid £4.80 per hour on a 38 week per year contract. New starters get £4.60 per hour for a 34 week per year contract.

South Gloucestershire Unitary Council – cleaning contract awarded to ISS

Transferred staff are paid £4.60 per hour and new starters £4.20.

Southend Borough Council – parking enforcement contract awarded to Central Parking Systems

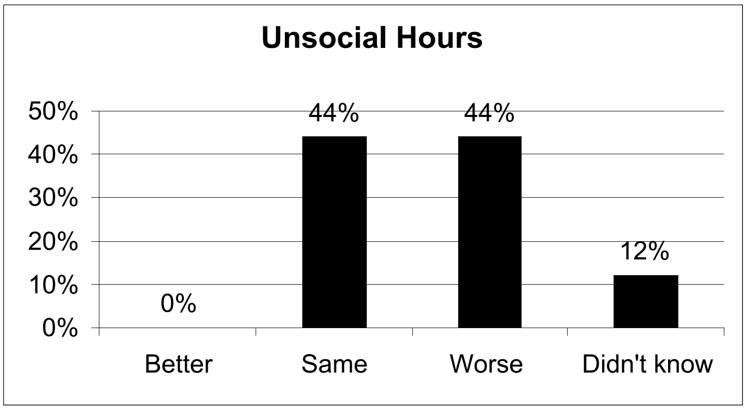
Central Parking Systems pay transferred staff £6.20 per hour for a 37 hour week and new starters £5.16 per hour for a 40 hour week.

Unsocial Hours Payments

We asked:

Compared to transferred staff, are the unsocial hours payments received by new starters better, the same or worse?

The findings are:



Commentary

This is the only area the 'same' category scored as high as the 'worse' category. However, a number of respondents answering 'same' qualified their response by indicating that unsocial hours payments are not paid to transferred staff or new starters alike.

Under the NJC agreement the standard working week is 37 hours (36 in London). There are a range of enhancements for working unsocial hours for employees whose basic pay is at or below point 28 (currently £19,014). These cover additional hours, Saturday and Sunday working, night work, bank holidays, sleeping-in duty and other non-standard working patterns.

For employees above point 28 the employing authority has the discretion to pay the allowances (except additional hours) or to pay an inclusive rate of pay to take all the features of the job into account.

Where transferred staff receive unsocial hours payments, examples of differences for new starters include:

Lancashire County Council – three school catering contracts awarded to Harrison Catering Ltd, Mellor catering services and Palm City Catering Group

Transferred staff are paid NJC rates. New starters do not get unsocial hours payments.

Manchester City Council – car parking contract awarded to NCP/MCC Joint venture Company

With shift pay, enhanced weekend/late night payments etc the average annual pay for car park operatives is approximately £14,000. New starters get annually £10,400. They do not get shift payments or overtime.

North Somerset Unitary Council – residential care contract awarded to Shaw Homes

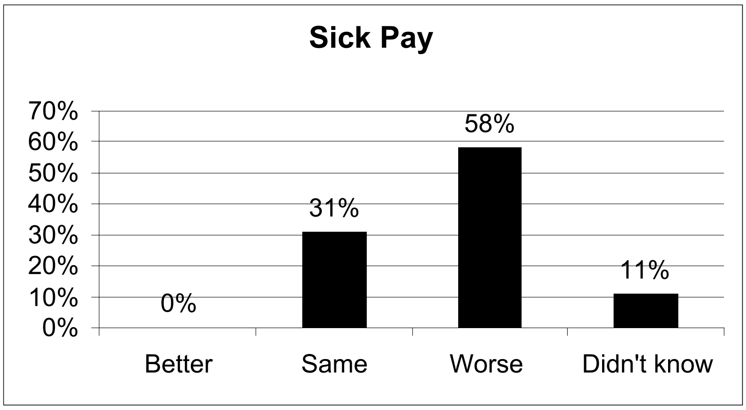
Weekend/evening/Bank Holiday enhancements are worse for new starters.

Sick Pay

We asked:

Compared to transferred staff, is sick pay for new starters better, the same or worse?

The findings are:



Commentary

Under the NJC scheme employees are entitled to receive sick pay for the following periods:

Year 1: 1 month's full pay and (after 4 month's service) 2 months half pay

Year 2: 2 months full pay and 2 months half pay

Year 3: 4 months full pay and 4 months half pay

Year 4/5: 5 months full pay and 5 months half pay

Year 6: 6 months full pay and 6 month's half pay

Statutory sick pay (SSP) is paid by employers to employees earning more than £72 per week and who are off work due to illness for 4 days or more. The current rate is £62.20 per week and is payable for a maximum of 28 weeks over a 3 year period.

It should also be noted that part-time workers earning less than £72 per week are not eligible for SSP because of their low earnings. If they are doing more than one job that cumulatively brings them over the £72 threshold, they remain ineligible for SSP unless the jobs are with the same employer.

Examples of differences are set out below. Unless otherwise stated transferred staff are on NJC rates.

Kirklees Met. Borough Council – PFI contract awarded to Trident – school cleaning sub contracted to Jarvis

New starters do not receive any sick pay because they do not earn enough to qualify for statutory sick pay. After 1 year's service they receive a maximum of 2 weeks sick pay a year.

London Borough of Tower Hamlets – leisure services contract awarded to CCL Leisure

CCL pay new starters no sick pay for the first 3 days. Thereafter they receive a maximum of 2 weeks full pay and 2 weeks half pay.

Weymouth & Portland Borough Council – LSVT to Weymouth & Portland Housing Company

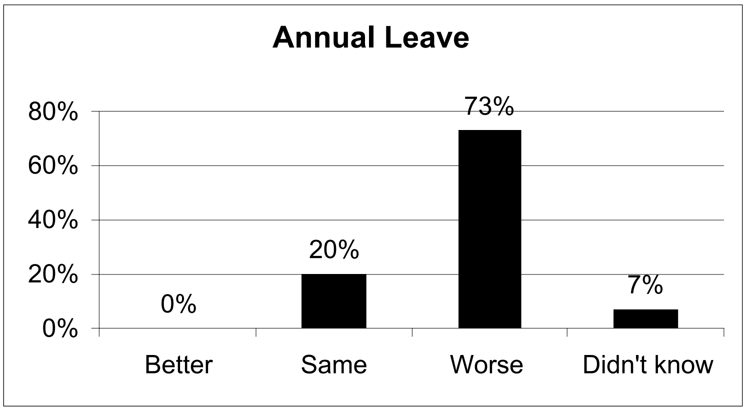
The maximum entitlement for new starters is full pay for 3 months and then it drops to half pay.

Annual Leave

We asked:

Compared to transferred staff, is annual leave for new starters better, the same or worse?

The findings are:



Commentary

NJC rates are 22 days for new starters rising to 27 days after 5 years service. Local agreements can enhance this. The legal minimum holiday entitlement in the UK is 4 weeks' paid leave i.e. 20 days. This includes Bank Holidays.

Examples of differences are set out below. Unless otherwise stated transferred staff are on NJC rates, which excludes Bank Holidays:

Herefordshire County Council - refuse contract awarded to FOCSA

New starters get 20 days plus Bank Holidays.

Lincolnshire County Council – strategic partnership contract for finance, property, personnel, IT, school welfare and civic catering awarded to Hyder Business Services.

NJC rates for transferred staff. New starters get a maximum of 25 days.

South Gloucestershire Unitary Council – cleaning contract awarded to ISS

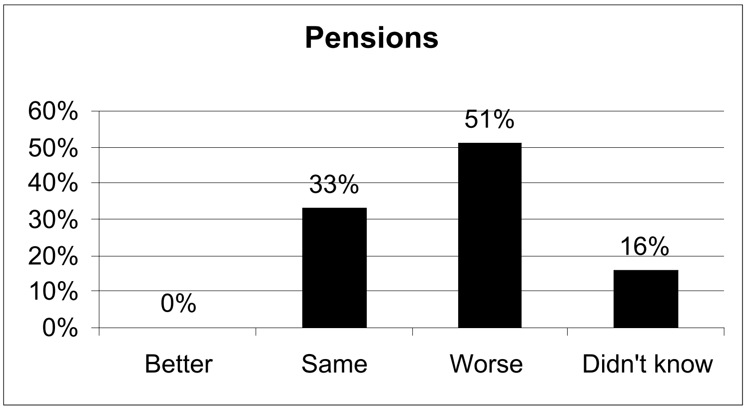
New starters get 20 days, including Bank Holidays, i.e. the legal minimum.

Pension Scheme

We asked:

Compared to transferred staff, are the pension arrangements for new starters better, the same or worse?

The finding are:



Commentary

The high number of 'don't knows' reflect the fact that often employees were waiting to hear from the company about pension arrangements, if any. This appears to be a common problem when contracts are awarded to private contractors/companies.

Pension provision is a key area targeted by contractors wishing to cut employment costs. Similarly it is an area being flagged up by management consultants. For example, in their 2000 Report on Home Care provision Laing & Buisson had the following to say on pensions:

"One hindrance to the transfer of in-house home care units has been replacing the local authority pension scheme, which is more generous than all but the very largest private sector employers could afford."

The overall findings show that just over half of all new starters have a worse pension provision. These figures would have been even worse if it were not for a number of LSVTs where the housing association had gained admitted body status in the Local Government Pension Scheme (LGPS) for both transferred staff and new starters. This development is encouraging. However, it should be noted that LSVTs are not subject to competition and are therefore much less likely to build poorer pension provision for the new workforce into their business plans.

The Local Government Pension Scheme is a defined benefit scheme with an employee contribution of 6% and a variable employer contribution, the underlying rate of which is currently slightly more than 12%. New starters are usually offered at best a company money purchase scheme[2]. The relative benefits for the employee can be illustrated by comparing the LGPS with, for example, the Capita money purchase scheme, which provides one of the higher employer contributions for this type of scheme at 6%. Our calculations show that under the Capita scheme where an employee is on a salary of £20,000, the employer is currently 'under contributing' on average £1888 per annum per member over what would be needed to provide a pension comparable with the Local Government Pension Scheme. This will increase the likelihood that the lowest paid will have to rely on means tested benefits in retirement. Additionally, reliance on money purchase schemes also effectively transfers the investment risk to the employee.

Examples of difference are set out below. Unless otherwise stated transferred staff are in the LGPS.

Essex County Council – two direct labour contracts awarded to May Gurney and to A McAlpine

New starters are not offered membership of an occupational pension scheme.

Liverpool City Council – building maintenance contract awarded to Liverpool Maintenance Partnership.

Could not get admitted body status for new starters. New starters join a company money purchase scheme.

Trafford Met. Borough Council – sports and leisure contract awarded to Deckers.

No pension scheme available for new starters.

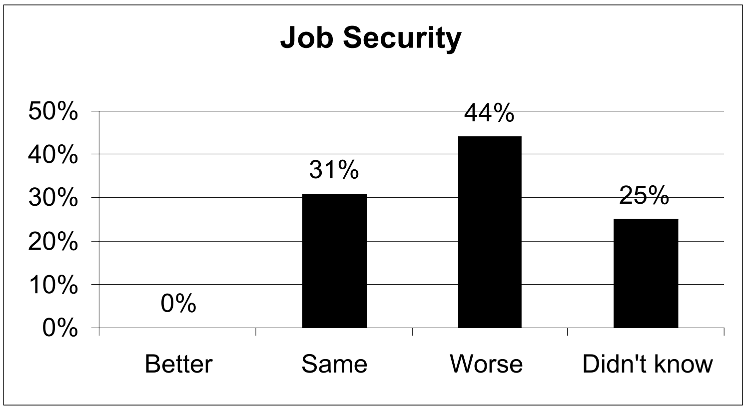
Job Security

We asked:

Compared to transferred staff, is job security for new starters better, the same or worse?

[2] Since October 2001 all employers not providing an occupational pension scheme, must provide a stakeholder pension scheme. However there is no legal requirement for employers to make a financial contribution

The findings are:



Commentary

The high return of 25% for 'don't know' is striking and demonstrates an atmosphere of uncertainty.

Examples of differences include:

Lancashire County Council – three school catering contracts awarded to Harrison Catering Ltd, Mellor Catering Services and Palm City Catering Group

Reported increase in the use of temporary and casual contracts for new starters.

Manchester City Council – car parking contract awarded to NCP/MCC Joint Venture Company

Agency staff used for Sunday working – previously worked by regular staff on overtime. Now heavy casualisation of staff.

London Borough of Richmond upon Thames – cleaning contract awarded to Serviceteam

New starters are employed on casual contracts of 3 or 6 months duration.

Case Studies

It has been argued by some that comparing individual components of pay and conditions does not give an accurate picture. Whilst some employment benefits could be worse for new starters in comparison to transferred staff, this could be compensated for in other areas of their pay and conditions. In other words, taking all conditions into account there is not an overall reduction in the reward package offered to new starters. <u>Our evidence does not support this proposition</u>. Looking at all terms and conditions in the 'round' our evidence shows conclusively is that new starters are often repeatedly disadvantaged in their terms and conditions compared to transferred staff. Below are short cases studies drawn from the survey to illustrate this.

Birmingham City Council – two grounds maintenance contracts awarded to Glendale Grounds Management and to Serviceteam in 2000.

In 1996 Brophys won the two grounds maintenance contracts but lost them in 2000 to Glendale and to Serviceteam. Both workforces then transferred to new contracts either with Glendale or Serviceteam and a three tier workforce now exists. Local authority transferred staff are paid £6.50 per hour, Brophys transferred staff are paid £5 per hour and new starters with either Glendale or Serviceteam are paid the national minimum wage of £4.10 per hour. Whilst LA transferred staff receive sick pay on NJC rates, Brophys transferred staff and new starters to Glendale or Serviceteam get a maximum of one month's sick pay.

Excluding Bank Holidays in both instances, LA transferred staff receive up to 27 days annual leave in accordance with NJC rates but Brophys transferred staff and new starters get 20 days.

Comparing pension provision, LA and Brophys transferred staff have transferred to the Glendale or Serviceteam final salary schemes[3]. New starters can only opt for the money purchase scheme. Under both contracts new starters are employed on temporary contracts, which are renewed up to 12 months. The employee is then either taken on permanently or the temporary contract is not renewed.

Blackburn with Darwen Borough Council – strategic partnership contract for central support services awarded to Capita in 2001.

Capita operates a number of contracts for Blackburn across a wide variety of activities including personnel, finance, civil engineering, property and maintenance. 470 staff transferred, 60% of which are women. There are two Capita contracts operating based on job function. Staff in payments, payroll, IT, personnel and reprographics sections are employed on a Capita Business Services contract. Staff in the property, building services, architects, traffic, highways and civil engineering sections are employed under the Capita Property Services contract. Our survey results show new starters on worse conditions under these contracts than those enjoyed by transferred staff covered by TUPE.

In the area of annual leave, some Capita staff were worse off than others. Transferred staff who started their employment before April 1998 had 27 days annual leave rising to 32 days after 5 years service. Transferred staff who started after April 1998 are entitled to 25 days annual leave rising to 30 days. The entitlement for new starters on Capita Business Services terms is only 23 days rising to 27 days after 5 years service. New starters on a Capita Property Services contract receive either 23 days or 25 days.

It is not possible to make pay comparisons between transferred staff and new starters. New starters are on personally negotiated contracts and are asked by the company not to share information about pay and conditions. There does not appear to be a pay structure. Weekly

[3] Private companies are required to offer TUPE transferred staff a broadly comparable final salary scheme, or continued membership of LGPS.

hours vary. Transferred staff have a standard working week of 36.25 – 37 hours. New starters normally work a 37.5 hour week.

Sick pay for new starters is also notably poorer than that enjoyed by transferred staff. For example, in the first six months new starters are only entitled to Statutory Sick Pay with any payment of wages at the discretion of their manager. Transferred staff are entitled to one months full pay and, after four months service, two months half pay. The gulf is particularly wide during years 4 and 5 when transferred staff receive 5 months full pay/5 months half pay whilst new starters get 3 months full pay/3 months half pay. It is only after 5 years service that the difference ceases with both receiving 6 months full pay/6 months half pay.

New starters also have worse maternity entitlements. Whilst they and transferred staff both receive 90% of their pay for the first 6 weeks of maternity leave it is the following 12 weeks where a gulf opens up between these two differing groups. For transferred staff these 12 weeks are paid at half pay plus Statutory Maternity Pay (SMP) but new starters only receive SMP. Paternity leave entitlement is also worse. Those on transferred terms receive 5 days paid paternity leave whereas new starters get 3 days paid leave.

Transferred staff also benefit from remaining in the Local Government Pension Scheme whereas new starters can only become a member of the Capita Group Money Purchase Scheme. By its very nature the Capita money purchase pension scheme provides few guarantees about the ultimate level of pension members can expect. Differences between the schemes also become very apparent when one looks at the level of contribution from the employer. In both schemes the employee contributes 6%. In the Local Government scheme the employer contributes 12%. In the Capita Money Purchase Scheme, the employer's level of contribution varies but never rises above 5%.

In conclusion, our respondent reports that recently any staff on a TUPE contract successfully applying for a re-grading are being told yes 'but only if you go on to a Capita contract.' In his opinion Capita do not readily acknowledge the TUPE'd re-grading process and appear to want to get as many employees off TUPE and on to their conditions.

London Borough of Camden – parking enforcement contract awarded to APCOA in 2001

In Camden approximately 60 staff were transferred under this contract and the majority of employees are new starters. TUPE transferred staff are paid £10 an hour and employed on a 35 hour week contract. On appointment, new starters receive £4.90 per hour rising to a maximum of £6.41 per hour. This is on a 42 hour a week contract and new starters are also contractually required to work up to five hours compulsory overtime. In addition they are pressurised to sign working time regulation waivers. The differences continue in other conditions. Transferred staff receive sick pay in accordance with NJC rates but new starters get statutory sick pay only. Excluding Bank Holidays in both instances, transferred staff receive up to 27 days annual leave but new starters get 20 days. In addition, new starters have no pension, London Weighting or enhancements for working unsocial hours. Unsurprisingly, the annual turnover rate for staff employed under the contract is staggering 80% compared to 3% when in-house. The dismissal rate under the contract is 39% whereas Camden Council's rate is below 0.5%.

Oxfordshire County Council – grounds maintenance/vehicle maintenance/highways contract awarded to Isis Accord in 2000.

The contractors Isis Accord operate the Highways, Grounds and Vehicle Maintenance services for Oxfordshire County Council. The workforce totals 295 and is mainly male manual in complexion. There was a well handled TUPE transfer and a welcome rationalisation of some of the transferred staffs former terms and conditions. But there are notable differences in the terms and conditions of staff that have been transferred and protected by TUPE and new starters on new contracts.

New starters receive a bonus rather than participating in the Accord profit sharing scheme. Overall this is seen as a worse deal.

New starters get 5 days less annual than transferred staff. Although the terms of the sick pay schemes seem identical for transferred staff and those on new contracts there is a major difference. Whereas the scheme for transferred staff is based on contractual entitlements some aspects of the scheme for new starters are discretionary.

TUPE transferees have joined the Accord final salary pension scheme. New starters join a money purchase scheme, the details of which are as follows:

First six months – membership of a stakeholder scheme with no employer contribution
Post six months – membership of the Accord Group money purchase scheme with a minimum employee contribution of 4% and a maximum employer contribution of 5%

Our respondent concludes that overall terms and conditions for new starters are worse. This is reinforced by a recent approach from the company who are keen to open discussions with the union about the possibility of closing the gap.

Stevenage Borough Council – catering contract awarded to Crown Venue Catering in 2001

Catering has been contracted out by the Council's 'Arms Length' leisure Trust – Stevenage Leisure Ltd (SLL.) 23 staff transferred under TUPE (16 permanent and 7 casuals) 7 new starters have been taken on (2 permanent and 5 casuals) The workforce is predominately female. Both transferred and new starters on casual contracts are paid £4.50 per hour. No one gets unsocial hours payments; these were stopped as a result of compulsory competitive tendering in 1991.

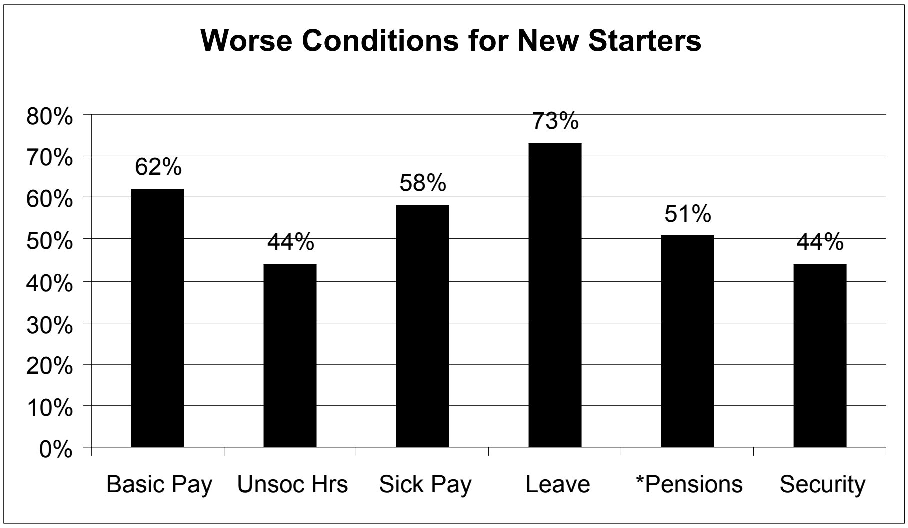
Transferred staff get sick pay in line with the NJC agreement (up to six months full pay and six months half pay depending on length of service) New starters get 20 days and they are not always paid for sickness on day 1 – 'it depends on what's wrong.' Transferred staff get up to 31 days annual leave and new starters get 20 days. Crown Catering Ltd did not meet the criteria to obtain admitted body status to the Local Government Pension Scheme. Accordingly, transferred members' contributions have been frozen. Only Directors of service have an occupational pension scheme. Crown announced in April 2001 that they were looking into stakeholder pensions but this has not yet materialised.

Our respondent reports there is poor job security. Crown wants all transferred staff to change to Crown Contracts - staff contracted to work less than 30 hours to change to zero hours contracts and staff contracted for 40 hours to change to ‘True’ salaried employees. This would mean staff would work whatever hours are necessary to complete the job, be paid basic salary, with no overtime enhancements.

The respondent to the survey commented ‘the transferred workforce has changed from a hardworking, reasonably happy, conscientious, helpful workforce into a stressed out, unhappy, miserable, overworked, understaffed workforce who are constantly looking for new employment.’

Conclusions

The table below shows the extent new starters are recruited on pay and conditions worse than that of TUPE transferred staff.



** Other than for new employees of housing associations, the survey only reveals one case of a private company offering a defined benefit scheme to new employees.*

Our findings once again confirm the existence of two-tier workforces in local government contracted out services. While it does not exist in every transferred contract in our survey, the evidence shows it is an all too a common phenomenon – indeed the rule rather than the exception. It should also be noted that our survey deals with recently transferred contracts and that some respondents, when citing ‘same’ conditions, reported that employers were seeking to vary the terms of new starters. One respondent said of the Chief Executive of the Housing Association he negotiates with ‘he is keen to preserve conditions inherited on transfer in the short term as he wishes there to be continuity for the first few months after the transfer.’

The incidence of two-tierism is expected to grow during the life of these contracts.

Overall a complex picture is emerging. Many transferred staff have had their NJC conditions eroded in previous transfers as contractors have sought to force down pay and conditions. In such circumstances the scope for further reductions in new starters' pay and conditions on subsequent transfers diminishes. This needs to be borne in mind when interpreting the number of respondents saying that new starters were being offered the same conditions as transferred staff. In some instances the minimum wage also prohibits further reductions!

It is also evident that, as a result of second generation contracting or re-structuring and re-tendering by the client authority, many employees are faced with not just being part of a two-tier workforce but a multiple-tier workforce.

Finally, as cited above, in some instances new starters are 'discouraged' from discussing their terms and conditions with their colleagues. This lack of transparency makes it more difficult to obtain a clear picture.

The adverse effects described will particularly impact on women employees who make up almost three-quarters of the workforce providing local government services. Local government is a major employer of women as the following figures show:

- 71% of the 1.5million staff are women.
- 59% work part time
- In education (excl. teachers) 84% are women
- In social services 89% are women

There is no doubt that those who are most at risk in the emerging two-tier workforce are those who are already most vulnerable. Black and ethnic minority staff continue to be concentrated in the lower paid jobs which are most at risk. Yet the duty to secure race equality has now been strengthened with the Amendment to the Race Relations Act. Local authorities will need to think about how their new responsibilities are affected by decisions to contract out services.

Contracting out means more than a simple transfer of services to an external provider. The duty of Best Value still resides with local councils and they have the power to secure the economic, social and environmental well-being of their areas. Pushing down pay, conditions and pension rights will not result in quality services or aid recruitment and retention. Government priorities in respect of social inclusion, regeneration, ending of child poverty and women's equality will also be undermined as local economies feel the effects of reductions in the income and purchasing power of those providing public services.

Contracting Out and the Two –Tier Workforce
(UNISON: September 2000)

This report set out the preliminary findings of a UNISON research project into the impact of contracting out in the NHS and local government. The aim of the project was to find out more about the impact of externalisation on the terms and conditions of those staff transferred and new starters. The majority of the contracts looked at were originally awarded under CCT.

The main findings were:

- over 90% said pay levels for new employees were worse than those for transferred staff.

- most companies offered inferior occupational sick pay, maternity leave and special leave and poorer holiday entitlements than transferred staff.

- 1 in 5 (20%) had a difference in the standard working week. Where there was a difference, in all cases the standard working week for new employees was higher than that for transferred staff

- there was not a single example of a defined benefit pension scheme being open to new employees. Where a money purchase scheme was offered, in a significant number of cases the contractor made no financial contribution whatsoever.

- frequently there were more than two sets of terms and conditions in existence. Many respondents said harmonisation was an option for transferred staff. Usually this was rejected by TUPE protected staff because it would result in an overall worsening of terms and conditions.

Homecare – the forgotten service: NOP survey
(Report for UNISON by Mick Taylor, of Gowland Taylor Associates)

This report published in early 2001 set out the results of over 3000 responses to an NOP survey of UNISON members working in local government. The survey identified 450 homecare workers whose employment had transferred from a local authority to another employer. The transfers were generally a result of the desire by local councils to make financial savings, mixed with the perception that service quality may be improved by the greater freedom to manage, allegedly offered by the independent sector. The survey suggested that strategies developed in response to Best Value might accelerate this process of contracting out. For some homecare workers this change had resulted in a reduction in basic pay but for the majority, so far, conditions had been preserved. However, the survey suggested that new starters were being recruited on lower wages and with poorer conditions of employment, confirming the emergence of the two-tier workforce in newly outsourced contracts.

UNISON Survey of Local Government/Police Branches with PFI projects.

This report set out the findings of a telephone survey conducted by UNISONdirect in August 2001 focussing on PFI projects which had been signed or which were fully operational. Once again the research confirmed that new starters were more likely to be recruited on lower pay and poorer conditions. Worse conditions included unsocial hours, sick pay and especially annual leave. Few new starters were able to join the LGPS and most were in a company money purchase scheme. A number were offered no pension provision at all.

UNISON Survey of Terms and Conditions in Careers Service Companies in England, Wales and Scotland.

(Unpublished preliminary findings from 2001 survey)

This survey looked at the development and changes to pay and conditions of Careers Service employees since 1998. Careers Service companies were privatised in a phased programme which begin in 1993.

The preliminary findings included:

- the overwhelming majority of companies employed most new staff on temporary or fixed term contracts. For example, one Careers Service company employed new starters (50% of its staff) on annually renewable contracts. The other 50% were on permanent contracts and were transferred under TUPE. Another company's policy was to recruit new staff on temporary contracts, particularly non-professional grades.

- In 32% of Careers companies new starters were employed on worse annual leave, sick leave and maternity leave conditions.

- Staff turnover had increased with all careers companies experiencing recruitment and retention problems. Most of the companies researched had difficulty recruiting careers advisers.

2001 Local Government Service Group Survey on Best Value

The survey included a question on the two-tier workforce in respect of services that had been externalised following a Best Value review. Just under three quarters of respondents (73%) indicated that new starters were recruited on lower pay rates and poorer conditions than those of the TUPE transferred staff. This was particularly true in respect of basic pay, pensions and weekend enhancements.

Mapping Low Pay in East London: a report for TELCO's Living Wage Campaign

(Report by Jane Wills, Dept. of Geography, University of London : September 2001)

The report by The East London Communities Organisation[4] (TELCO) outlines the pay and conditions of workers employed by public service contractors across East London. The report concludes that 'the process of contracting out has driven down the pay and conditions of staff providing many public services. Whilst TUPE has maintained the pay and conditions of many transferred staff, private contractors are able to bring in new employees on inferior terms and conditions, inevitably leading to a two-tier workforce in public sector employment.'

The research reveals that the majority of staff working for private contractors not protected by TUPE have minimal rates of basic pay and overtime and no London Weighting, bonuses, pension or compassionate leave. Referring to staff working in schools, universities and local government the report found that ''when contracts are awarded, conditions deteriorate and new staff are employed on inferior terms.'

The report includes a small number of local government examples, including one from LB Hackney where Serviceteam was awarded the contract for waste management and street cleaning in December 2000. 257 staff were transferred to the new firm and new starters taken on. The report found that:

'Serviceteam gives non-TUPE staff only 20 days holidays a year, in contrast to 32 days for TUPE street cleaners and 33 days for TUPE rubbish collectors. New starters are only given sick pay (for 5 weeks) once they have worked for five years, but even then they get nothing for the first three days of sick leave. In addition, these workers have no pension, London Weighting, bonus or extra benefits. Moreover, new staff and those brought in from agencies are paid as little as £5 an hour in contrast to TUPE workers who get well over the living wage.' (**NOTE:** TELCO's London living wage figure is £6.30 per hour.)

Best Value – Best for Who? The Economic and Social Implications of Best Value in the North East Region

(Report for UNISON by Centre for Urban and Regional Development Studies, University of Newcastle)

The report, published in 2001, examines the introduction of the Best Value regime in the context of the agenda for the modernisation of public services and the economic and social implications of Best Value within the North East region. The report includes two case studies; one from South Tyneside on the emergence of a multi-tier workforce and one from Redcar and Cleveland on externalisation to 'balance the books'. The researchers state that the findings from the case studies, whilst not wholly representative, 'are both suggestive and indicative of the directions of change as a result of the implementation of Best Value. Issues include, amongst others, the creation of multi-tier workforces, downgrading of terms and

[4] TELCO claims to be the largest and most diverse people organisation in London and is composed of forty churches, mosques, union branches and schools.

conditions, souring of industrial relations, weakness of TUPE protection post-transfer of contracts and loss of democratic accountability of local services.'

Contracting Culture: From CCT to PPPs

(Report for UNISON by Sanjiv Sachdev, Kingston University)

The report, published November 2001, examines the private provision of public services and its impact on employment relations. It concludes ' the emergence of a two-tier workforce is a major concern….Most public services are very labour intensive and PPPs are said to derive many of their 'benefits' from changing staff working practices. There is concern however, that savings are mainly derived at the expense of staff jobs, pay and conditions, particularly for new recruits…As with equal opportunities and family friendly policies, the lack of serious consideration of the impact of PPPs on employment relations is striking.'

Copies of this report and a number of the reports referred to in the Appendix can be obtained from UNISON's Best Value Intelligence Unit.

Every attempt has been made by UNISON to ensure the accuracy of the information in this report. Comments and further information on the contracts mentioned should be sent to the Best Value Intelligence Unit for inclusion in future briefings.

Best Value Intelligence Unit
UNISON
1 Mabledon Place
London WC1H 9AJ

Tel: 020 7551 1340
Fax: 020 7387 7217
e-mail: g.archer@unison.co.uk