



A CATALYST WORKING PAPER

Paying the cost?

Public Private Partnerships and
the public service workforce

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Executive summary

1. Introduction

- The employment relations implications of the Private Finance Initiative (PFI) and Public Private Partnerships (PPPs) are an important, controversial and neglected issue in the broader debate around private sector involvement in public services.

2. The embrace of Public Private Partnerships

- There has been a widespread embrace of the market and the private sector by centre-left governments and parties in recent years. The private sector is seen as a more efficient, effective and innovative provider of public services, with competition as the spur to these efficiencies.

3. PPPs and the workforce

- Since its inception, changing labour practices have been seen as central to the success of PFI projects. The government sees private sector as the route to “innovation”, “modernisation” and “flexibility”.
- The distinctive employment relations of the public sector arise partly as a result of the “model employer” approach whereby the state sought to set an example to the private sector. This model was explicitly rejected by the Thatcher governments of the 1980s, though some of its legacy still remains intact in the form of superior terms and conditions.
- Despite the centrality of workforce management to PFI/PPP projects and the controversy aroused by the issue, the impact of such schemes upon public service employees have received little in depth examination.

4. The prison service “model”

- Public Private Partnerships in the prison service are often put forward as PPP success stories and as models for extending such schemes. They are distinctive in that private sector involvement extends to the operation of “core” services.
- Private prisons are also distinctive in that a relatively substantial level of evidence regarding their impact on employee relations have been collected by official and other bodies.
- The performance record of private prisons is mixed, with some examples of service improvements to point to but other areas where they have fallen well short of the public sector. But there is no doubt that private prisons are cheaper to run than public prisons.
- The balance of evidence suggests that only a small part of the cost-savings achieved by private prisons are the result of innovative management practices. By far the larger part can be related to employees working longer hours, with fewer holidays, for lower pay and inferior pensions and other benefits.

5. Developments in employee protection

- There has been some progress in protecting staff terms and conditions under PPPs, but this has often been ad hoc and piecemeal. The debate for extending protection has continued.

6. Conclusion

- Government claims that the private sector can bring new innovations and efficiencies to public service delivery that are not at the expense of public service employees do not sit comfortably alongside the evidence that does exist as to the impact of PPPs.
- There are serious grounds for concern that PFI/PPPs are contributing to greater income inequality, a deterioration of terms and conditions particularly among relatively low-paid staff, and may be setting future problems in store as a result of poor pension provision.

1

Introduction

The employment relations implications of the Private Finance Initiative (PFI) and Public Private Partnerships (PPPs) are an important, controversial and neglected issue in the broader debate around private sector involvement in public services.

The issue has stoked the opposition of many trade unions to PFI/PPPs and taken centre stage at Labour Party conferences. The controversy is, to a degree, unsurprising as the employment relations of PFI/PPPs are at the juncture of two of what have been identified as the eight main tenets of “Third Way” thinking (1) – public service reform and labour market reform.

Large numbers of workers are affected, such that the Audit Commission sees a “shift from a public sector to a public services workforce”(2). According to Capita, a leading contractor firm in this area, some 80,000 workers have so far transferred to the private sector under PPPs (3).

Yet despite the scale of controversy aroused, the numbers of workers involved and the existence of the PFI initiative for over a decade, there is little robust evidence as to its impact on public service workers. As a recent academic study of the effects of sub-contracting more generally notes, “what does cause surprise is the extent to which these measures have been embraced with little regard for the consequences” (4). The impact upon employees has been particularly neglected. For a government committed to evidence based policy making this neglect is of serious concern.

A partial exception to this rule is the prison service where significant research, mainly official, exists. This research is particularly important as the prison service has been promoted as a model for extending PFI/PPP arrangements into “core services” in sectors such as health and education. Moreover, some recent research has implications for public service workers more generally.

This paper outlines the wider ideological shift that set the basis for the embrace of Public Private Partnerships. It then considers the role of government as “model” employer. The central role of labour in PPPs/PFI is set out, prior to evaluating, in detail, the prison service evidence. Developments in employment relations and PPPs are then examined.

2

The embrace of Public Private Partnerships

There has been a widespread embrace of the market and the private sector by centre-left governments and parties in recent years. The private sector is seen as a more efficient, effective and innovative provider of public services, with competition as the spur to these efficiencies.

In the words of John Lloyd, privatisation has “been copied and furthered by leftist administrations, and is generally seen by governments as an answer to an overstretched state and public sector sluggishness” (5). Gavin Kelly, then of the Institute of Public Policy Research (IPPR), has noted that “[t]here now appears to be no widely accepted account of the limits of private sector involvement in public services” (6). A leading advocate of PPPs and now Downing Street advisor (7), Julian Le Grand, has said that in the 21st century “[c]entral government or local authorities will still be financing welfare services. But they will no longer be providing the service concerned or, if they do, their role will be increasingly that of a residual provider” (8).

PPPs and public service reform

For New Labour the market and competition are paramount to **reforming public services** within a wider context of substantial funding increases. The leading Third Way advocate, Anthony Giddens argues that “[s]ome of the inadequacies of Britain’s public services are more to do with inertia, poor management, overmanning and bureaucratic sloth than lack of resources”; and that “firms working in the commercial sector are likely to be better managed than state agencies – not merely because they are commercial, but because they have been exposed to competition” (9).

This is a fundamental shift in centre-left thinking. Traditionally, as David Marquand has written, “[i]n most of western Europe, the great achievement of the second half of the nineteenth century and the first half of the twentieth was the creation of a public domain, ring-fenced from the pressures of the market place, in which citizenship rights rather than market power governed the allocation of social goods” (10). In the words of Colin Crouch, it was thought that the provision of certain services “through market means would demean their citizenship quality” (11).

By contrast, the Chancellor of the Exchequer, in addition to driving through significant increases in investment in public services, has argued that “we should normally tackle market failure not by abolishing markets but by strengthening markets and enabling them to work better”, and that “the bracing winds of competition ... should apply to the public sector as well as the private sector” (12). According to the Prime Minister, “[b]y instigating

a competitive tendering process PPPs can ... help to drive up cost efficiencies and encourage innovation in public service delivery” (13). In this, he echoes the approach of Michael Howard, who as Home Secretary, announced plans to extend private sector involvement in the Prison Service in 1993, stating that “[t]here are encouraging signs that competition is a spur to higher standards and greater efficiency” (14).

PPPs and labour market flexibility

Another crucial ideological shift is that of promoting a **“flexible” labour market**. The UK labour market is less regulated, or in the Treasury’s words, regulation is “less heavy handed”, than in many other OECD countries and “more conducive to labour market flexibility” (15). Gerry Sutcliffe, the employment relations minister, has expressed his “hope” that if Labour were still in power in five years time “we will still have the most flexible labour market in Europe” (16). The Chancellor has lamented the fact that “UK labour market flexibility – while much greater than much of Europe – is lower than in the USA” (17). Part of this flexibility entails a greater role for local pay and conditions of service (18).

An in-depth examination of labour market flexibility is beyond the scope of this paper, but a few points merit attention. Many accounts of the actual workings of the “flexible” labour market have raised serious concerns about its effects, particularly for low paid workers (19). A report for the Joseph Rowntree Foundation found that

the majority of the costs of flexible employment are borne predominantly by those in a weaker position in the labour market, either because of a lack of skills and qualifications which limit the kind of job opportunities they have available to them, or because of organisational restructuring which has jeopardised their employment security and subsequently eroded their bargaining power with employers. (20)

Richard Sennett has also argued that the costs of “flexibility” are especially borne by the weakest in the labour market concluding that “the flexible work world tends to breed passivity in its bottom echelons. In an unstable institution, where people have no viable claims on the organisation, they tend to keep their heads down” (21).

Polly Toynbee’s experience of “low-pay Britain” is especially pertinent to this paper as it involved working for private providers of public services (as a porter in a hospital, a care home worker and a school cook). She did not find greater innovation and efficiency; indeed flexibility was reduced due to the rigidity of contracts. In her NHS portering job she found no inducement for training, no London weighting allowance, no enhanced overtime rate and job cuts were widespread. Staff were “lower paid and more insecure with worse pensions than thirty years ago”. There was “no thought for building a workforce that was content, fulfilled and a clear ladder upwards with something to work for” (22).

The Labour Party and PPPs

Labour's commitment to "partnerships" predates New Labour. Reference to "joint public-private sector ventures" for rail and road projects was made as early as 1991 (23). A turning point, in the wake of its fourth consecutive election defeat in 1992, was a document drawn up by Gordon Brown, Robin Cook and John Prescott, which envisioned

...new partnerships not simply in the provision of rail and infrastructure, but also in inner city and regional developments, in training, in housing, in childcare, and in defence diversification work ... we also see a limited application in the provision of private finance for publicly-led projects in health and education. (24)

The scope of the proposed partnerships was then much more circumscribed than current schemes. John Prescott argued that services such as "prisons, the rail service, health service and police, which cannot be run by private concerns whose primary goal is profit" (25). Interestingly, these areas of "limited application", particularly health and prisons, are the very sectors in which PFI growth has been especially strong. By April 2003 the Department of Health was the second largest in terms of signed PFI deals with a value of some £2,891 million (26). Indeed by 2001 the IPPR Commission urged the extension of PPPs schemes especially in health and education, where "core" services are excluded from their coverage.

Under the leadership of Tony Blair, New Labour's advocacy of PPPs became more enthusiastic. In 1995 he told the Confederation of British Industry that Labour had "pioneered the notion of public/private partnership" (27). The 1997 manifesto stated that Labour would, in government, "reinvigorate" PPPs (28). Labour's 1997 business manifesto set out a detailed twelve point plan for PPPs and called on the private sector to play an "increasing role in procuring public services and investment" (29). Now it was the role of the public sector that was significantly circumscribed. A key architect of Labour's PFI policy, the former paymaster-general Geoffrey Robinson MP, has said that "[h]aving agreed a detailed specification for a proposal, the whole idea of the PFI was that the private sector should be left to get on with it" (30). Typically, neither the 1997 manifestos nor Robinson refer to the implications of PPPs for public service workers.

In government, an early piece of legislation passed by Labour was the National Health Service (Private Finance) Act, announced within a fortnight of coming to power and which received Royal Assent in July 1997. This simplified, standardised and expanded the PFI process following the first Bates review, initiated by Geoffrey Robinson, which reported in June 1997. Again, employment issues formed no part of the first Bates review nor of its 27 recommendations.

Curiously, the language of Labour's 2001 manifesto is much more muted than its predecessor. It argues that "[w]here private sector providers can support public endeavour, we should use them" (31). However, such was the sensitivity of the issue in Scotland that the Scottish Labour Party's manifesto omitted even this (somewhat oblique) sentence. The

Welsh assembly has also been significantly more cautious in its approach to PPPs (32). The manifesto did however make a clear commitment in relation to public service workers: “[the] Private Finance Initiative (PFI) should not be delivered at the expense of the pay and conditions of the staff employed in these schemes” (33).

The attractions of PPPs

PPPs hold three particular attractions for New Labour. Firstly, working with the private sector enhanced the party’s credentials as being “**business-friendly**”. As Kelly says, promoting PPPs would “prove, once and for all, that the centre-left has dropped its historical ambivalence to the profit motive and to demonstrate that the new government’s commitment to social justice need not unsettle the business community” (34). The revision of Clause IV of Labour’s constitution, abandoning the aim of extending public ownership, set the basis for this business friendly stance. Correspondingly, the importance of ownership was seen by the IPPR’s Commission on Public Private Partnerships as “overblown” and “increasingly a second order issue” (35). Instead outcomes are emphasised.

Secondly, it has sometimes been argued that PPPs help the government overcome a perceived **fiscal dilemma**, enabling more investment to take place than the government is able to provide by conventional capital spending (36). In the words of the Deputy Prime Minister, the government “can either find the money from private finance or it can take the money in tax increases” (37). This argument is less convincing, as the principal effect of “private finance” schemes is to raise the time profile of expenditure by the public sector (38). Indeed, in opposition Labour criticised some PFI schemes on the basis that “apparent savings now could be countered by the formidable commitment on revenue expenditure in years to come” (39).

Thirdly, it is believed that using the private sector will **improve the quality of public services**. Labour’s 2001 manifesto speaks of drawing on the private sector’s “vitality” and argues that “a ‘spirit of enterprise’ should apply as much to public service as to business” (40). The Chief Secretary to the Treasury argues that PPPs seek “to close the all too clear gap that exists between the quality of public sector buildings, work and facilities, and the services dependent on them, and those of the private sector” (41). Following its Conservative predecessors the government believes that the private sector brings gains in innovation, efficiency and performance (42). Thus we are presented with the curious argument that ownership is not important, but that the private sector is central, because of its dynamism and efficiency, to public sector reform; ownership seems to be unimportant when it is the public sector that owns.

3

PPPs and the workforce

The IPPR Commission found “few other issues in the debate over PPPs that are so controversial” as those concerning the workforce (43). Trade unions such as UNISON have been particularly concerned at the emergence of a two-tier workforce, where new recruits receive poorer terms and conditions than employees who have been transferred from the public sector (44).

From its inception, changing labour practices were central to the success of PFI projects. The leading Conservative thinker, David Willets argued that

[m]any of the efficiency gains from bringing in private money and management come from escaping traditional NHS labour practices. Many of the firms involved would not wish to negotiate with NHS unions, nor accept conventional job demarcations. (45)

Private contractors claim that the efficiencies they secure in managing employees are central to the success of PPPs. The 1997 IPPR report noted that “[m]ost private sector operators emphasised to us that the biggest change they made came from ... [an] improvement in the utilisation of labour” (46). The 2001 IPPR Commission maintains that “it is precisely in the area of the organisation of work that the private sector might make a significant contribution to the management of public services” (47). This is unsurprising as services such as health, education and prisons are highly labour intensive; in the prison service, staff costs account for about 80 per cent of prison running costs (48).

The Treasury claims that PFI “has allowed for considerable innovation in workforce practices” (49). The Prime Minister himself has called for public services to “modernise working practices”; for “more flexible staff working practices” and a “break away from outdated systems” (50).

The public sector as “model employer”

The distinctive employment relations of the public sector arise partly because the state, from the end of the First World War until 1979, sought to act as a model “good” employer and example for the private sector (51). Key features of the “model employer” approach include the fostering of job security, the encouragement of trade unionism and collective bargaining and, latterly, equal opportunity (52). This desire to set an example was not limited to the state’s own employees – until the end of the 1970s the state also used its power as a purchaser of goods and services to influence terms and conditions. Between

1891 and 1983 a succession of House of Commons Fair Wages Resolutions required the government to specify in contracts with the private sector that the contractor should pay the currently accepted rate for the job.

The Thatcher governments overturned this model. They rescinded the Fair Wages Resolution in 1983 and contract compliance was virtually nullified by the 1989 Local Government Act. Private sector practices and market mechanisms were now the methods to be emulated by the public sector.

Notable exceptions to this policy exist. The 1998 Human Rights Act requires public authorities to protect and not infringe upon human rights. Similarly, the Race Relations (Amendment) Act 2000 gives public authorities a legal duty to promote race equality (53); a similar right for women and disabled workers is in prospect (54). The December 2001 Kingsmill Review recommendations on equal pay “required” public sector bodies to undertake employment and pay review whereas private sector organisations were only “encouraged” to do so. The Better Regulation Task Force has urged the government to promote equality practices among contractors and suppliers to the public sector. A 2003 Cabinet Office study has recommended the use of public procurement to promote race equality and the EOC has called on the government to use its power as purchaser on all public sector contractors to carry out equal pay reviews (55).

In Northern Ireland where (successful) measures prohibiting religious discrimination exist and where greater obligations apply to private sector employers of 250 or more workers and all public sector employers (56). As a result of the 1998 Good Friday Agreement there is now a positive duty upon employers to monitor and review the composition of the workforce more generally and not just between the Protestant and Roman Catholic communities.

The public / private sector contrast

In practice, if not explicitly, much of the model employer approach remains intact in the public sector. Morgan and Allington found that while insecurity of employment had grown markedly in the public sector and that the unions are much weaker, women “fare better in public sector organisations”, as do older workers (57). Recently the Cabinet Office boasted that a quarter of senior civil service posts were held by women compared with 8.6 per cent in the boards of the FTSE 100 (58). In terms of pay, public service workers had “suffered disproportionately over the past two decades” (59), but their relative position improved markedly between 1997-2002 than between 1992-1997 (60). For the year to May 2003 public sector earnings grew at 4.9 per cent as opposed to 2.8 per cent in the private sector (61). However, a much more stringent public sector pay policy seems in prospect for 2004 (62).

There is also evidence of a “greater range and number of progressive practices in the public than in the private sector” (63). Public sector provision of family friendly working practices is markedly superior to that of the private sector (64). A study commissioned by the Department of Trade and Industry found that women in the public sector (47 per cent) were “far more likely” than those in the private sector (16 per cent) to work a flexible pattern of hours, particularly part time working, but also flexitime, annualised hours and job sharing (65). A recent Equal Opportunities Commission commissioned study found that public sector organisations were almost twice as likely as private sector organisations to have conducted an Equal Pay Review or to be planning one (66).

More generally, the initial findings of the Working in Britain in 2000 Survey suggest that the conditions of employees in the private sector are significantly inferior to that of the public sector. The survey found

a much more generous attitude to “fringe” benefits in the public sector. A much larger proportion than in the private sector are likely to enjoy sick pay as well as maternity pay beyond the state minimum, an occupational pension, the opportunity for career breaks and childcare assistance. (67)

Table I: Public and private sector benefits, 2000

<i>Percentage of employees</i>	<i>Private</i>	<i>Public</i>
Occupational pension	54%	80%
Sick pay beyond statutory minimum	59%	78%
Company car/van	25%	10%
Subsidised transport	14%	19%
Discount purchases	38%	18%
Subsidised meals	25%	26%
Loans to employees	10%	16%
Private health care schemes	26%	12%
Maternity leave beyond statutory minimum	22%	43%
Childcare assistance	2%	10%
Career breaks	5%	18%

Source: Taylor (2002)

The difference is most evident with pensions. While there has been a trend in the private sector to shift investment risk from the company to the individual, public sector pensions have been “comfortably above the amounts that have been going into all but the very best private sector final salary schemes” (68). This pattern is replicated in the patterns of public and private prison service provision, set out below. More generally, for the first time since the 1970s – when the public sector was far larger than today – more public sector than private sector employees have final salary pensions (69). Moreover, leading PPP contractors,

Rentokil Initial and Compass also have the highest accrued defined benefit pensions for directors but have shut such schemes for employees (70).

The impact of PPPs

Despite the centrality of workforce management to the alleged greater efficiency of PFI and PPP schemes and the controversy aroused by the issue, the implications of such radical changes for the workers in public services have received little in-depth examination. The House of Commons Health Select Committee expressed its disappointment “at the lack of evidence backing many of the claims made. Despite numerous requests to the private sector for examples of innovation we received few” (71). An Office of Government Commerce study examining employment relations matters was set in motion in October 2000 but later abandoned for reasons that remain unclear.

The 2001 IPPR Commission report reflects this wider neglect (72). It is mostly a comprehensive study of the issues arising from PPPs, but devotes just nine and a half of its 246 pages to examining workforce issues – compared, for example, to some 34 pages on the (albeit important) issue of accountability. Workforce issues do not even merit a chapter of their own.

A more recent IPPR report confines itself to the issue of the two-tier workforce. This too neglects much of the literature in this area and seemingly adopts employer assumptions about “rigid public sector working practices” or “restrictive practices” impeding employers’ ability to organise their workforces. However, it does explicitly articulate the key governmental concern behind its reluctance to regulate this area, namely the belief, that there is “a fundamental trade off: flexibility of staff deployment versus protection of staff terms and conditions” (73).

The most extensive evidence of the impact of private providers and of the corrosive potential of competition on terms and conditions is found from the experience of Compulsory Competitive Tendering (CCT) (74). As the CBI has conceded “service quality and workplace relations often suffered through short-term, lowest-price contracting” (75). Similarly, the Labour government recognised that

There have been significant costs for employees, often leading to the demoralisation of those expected to provide quality ... All too often the process of competition has become an end in itself, distracting attention from the services that are actually provided to local people. (76)

The very process of tendering – in which labour costs are a critical component – acts as a brake upon wage increases, as the higher the pay levels, the greater the cost of the bid and

the less likelihood of its success. As research commissioned by the Conservative government on competitive tendering noted, “[c]ompetition has given a major push towards the greater casualisation of public sector work” (77). It particularly damaged the working conditions of women workers, including equal opportunity provision (78).

More recently, an ACAS appointed arbitrator, summing up a dispute between the management at Centre West London Buses and the TGWU, identified the tendering process as the source of the problem between them. According to the arbitrator, London bus operators are offered little scope to compete “other than by worsening employees terms and conditions” and that “a failure to address this underlying problem of market regulation” would be likely to lead to “increasing numbers of disputes arising from disorderly pay structures and a declining sense of employee commitment to public transport as a service.”(79)

It therefore seems that while the Blair governments have improved the pay position of public sector workers, they have not resurrected the “model employer” approach as a matter of public policy, adopting a more ad hoc approach. The absence of a coherent approach to public sector employment relations has led one commentator to argue that “there is an urgent need for a principled approach towards the regulation of public service employment” beyond the establishment of a Public Sector Employment Forum to share best practice. Public sector employment is distinctive in that “the principle of democratic accountability implies a series of constraints on the State’s autonomy as employer which are not imposed upon employers in the private sector”. These include requirements of transparency, information accountability, public scrutiny in the use of public money and “equal access” based recruitment, promotion, disciplinary and dismissal mechanisms (80).

Transparency is particularly relevant to this study. A key difficulty is that of obtaining pay and conditions information from private contractors, who refuse to disclose this on the grounds of “commercial confidentiality”. Thus when asked by MPs about levels of staff absence in private prisons in England and Wales, prisons minister Hilary Benn said that “information about privately managed prisons is not available as it is commercial in confidence” (81). Similarly, a Prison Service study used average findings of several contractors, as presenting “figures about individual prisons would give away commercially sensitive information” (82). The need to “safeguard” the “commercial interests” of private sector contractors limited the information given by management consultants commissioned by the Prison Pay Review Body, and indeed some of their figures for individual establishments are estimates (83). According to the Treasury (84) commercial confidentiality is only justifiable “where this would cause real harm to the legitimate commercial or legal interests of suppliers, contractors, the public sector client or any other party.” However, it is unclear as to who would be the arbiter of such justification. Obtaining information about publicly funded, public services remains a frustrating experience. In this respect the public sector is far more accountable.

4

The Prison Service “model”

Public private partnerships in the prison service are often put forward as PPP success stories and as models for extending such schemes.

According to the Prime Minister, the private sector has precipitated “major improvements in the way that public prisons are operated with considerable efficiency gains” (85). The Chancellor cites the management of prisons as one of the areas where

we can show that the use of private contractors is not at the expense of the public interest or need be at the expense of terms and conditions of employees but, if we can secure greater efficiency in the provision of the service, it is one of the means by which the public interest is advanced. (86)

PFI has been pursued in the service for over a decade – private prisons now hold around seven per cent of prisoners (87). During this period the service has experienced a rapidly rising prison population without a corresponding increase in staff numbers. In 1993 the average prison population was 44,566; more recently it peaked at 75,544 (88). In 1999-2000 it employed 43,000 full time equivalents, of whom 70 per cent (30,738) were prison officers; the staff : prisoner ratio has grown from 1.05 in 1993 to 1.5 in 2000 (89).

Prison officers have recently threatened to strike in protest at the government’s privatisation plans (90). The Prison Service describes its relationship with the prison service trade unions as remaining “positive” (91), although industrial relations have sometimes been turbulent and have been described by the former Director-General as “difficult” (92). The Prison Officers’ Association (POA) is the main recognised prison service union, with 31,845 members in 2000 in England and Wales (93). There is a small breakaway union, the Prison Services Union, which had 4,103 members, but is not recognised by the prison service, although Premier, a private prison contractor does so (94). In none of the nine privately managed prisons has the POA gained recognition for collective bargaining purposes despite a number of applications to the Central Arbitration Committee (95). Group 4 recognises the GMB at its prisons (96).

This sector is also important because it is one where the most significant privatisation has been considered (97). As the CBI notes, unlike other areas of public service reform, the role of the private sector goes “beyond traditional facilities management and infrastructure support: it has taken on and delivered core public service goals” (98). In prison PFI projects the contractor provides the whole service, including custody, education and healthcare for prisoners, whereas in projects such as new schools the public sector remains responsible for the provision of staff such as nurses and teachers. The IPPR Commission on Public

Private Partnerships praised the prison service PFI projects for being full PFI models, where all of the operation and management of the service is part of the contract, and concluded that the separations in health and education should be removed. It argued that this “should enable the contractor to integrate thoroughly the design and build of the prison with its operation and make productivity gains through the way it manages the single most important input in any public service – the workforce”. This practice, it maintains, should be extended to health and education as “part of the reason for marginal gains in health and education may be the restricted nature of the DBFO [design, build, finance, operate] model being used, where the bulk of the costs of the service, the staffing costs, are outside the control of the contractors” (99).

The service is also the one with the most extensive evidence of the impact of PFI schemes upon employment relations. Close examination of this evidence suggests that many of the claims made for these experiments are highly questionable.

The Prison Service evidence

Unlike other public services, there is substantial evidence of the impact of PFI/PPPs on pay and conditions in the Prison Service. A range of official research, from the House of Commons Public Accounts Committee (PAC), the Home Office, the Prison Service Pay Review Body (PSPRB), the National Audit Office (NAO), the Prison Inspectorate (HMCIIP) and the Treasury have shed important light. The IPPR and the CBI have also made significant contributions.

There is no doubt that PFI prisons are generally cheaper to run than public sector ones. The Home Office found that, on average, contracted prisons cost 2 per cent more to 11 per cent less than comparable publicly managed prisons (100).

As a whole, the evidence concludes that while some innovation (the heading of a “small amount of innovation” is used by the NAO) from the private sector is evident, the overall picture is of a “mixed” performance (101). Sickness absence management was better as was performance against the Prison Service decency agenda. However, security and safety were inferior and staffing levels and labour turnover rates were often a cause for concern.

But the evidence overwhelmingly corroborates the conclusion of the PAC in 1998 that the cheaper running costs of private sector “was almost wholly to do with different wage rates and different staff levels, and also pension arrangements, sick leave arrangements and different lengths of the working week” and a Home Office study that found the “difference in staff costs accounts for all the difference between the sectors” (102).

These issues are considered in greater detail below.

The impact on performance

PFI prison contractors have certainly brought some improvements, but the overall picture is variable.

The NAO found that “the best PFI prisons are outperforming most public prisons but the lowest performing PFI prison is among the worst in the prison estate” (103). It was a PFI prison, Ashfield, that inspired a report the Chief Prison Inspector described as “probably the most depressing I have issued” (104). She has stated that the PFI prison should “be a salutary reminder that the Commissioner’s commitment to expose failing public sector prisons to private sector competition (‘performance testing’) will not always deliver an immediate private sector panacea” (105).

The PAC concluded that “[s]hift patterns in PFI prisons allow receptions to open later, visiting times to be more flexible and prisoners on enhanced regimes to eat with their families”. As a result of these innovations, staffing changes were introduced by the Prison Service in public sector prisons (106). Paid sickness absence was also markedly lower – although some recent figures suggest a sharp convergence in these rates (107). Moreover there is “little difference in terms of the daily routines of prisons” (108).

Private prisons generally performed better on the Prison Service’s decency agenda, such as respect shown to prisoners, but “they generally perform less well in areas such as safety and security” (109) – the NAO and PAC concluding that the balance between the two areas appears to be difficult for any prison to achieve, whether private or public.

The inexperience of PFI prison staff and low staffing levels are a recurring concern of the Prison Inspectorate (110). The low staffing levels are in part a consequence of a “downward pressure on the price of recent contracts” (111). The Home Office also had concerns about staffing levels at two of the public prisons, Manchester and Blakenhurst, operating under Service Level Agreements and won by tender from the private sector. It thus appears that while in-house bids have been successful in winning prison contracts, this seems to be at the cost of both staff conditions and the services provided.

The NAO also found that the private sector

has been less successful in developing its staff for senior management roles. Directors at private prisons have been recruited from the ranks of experienced Prison Service Governors, rather than internally (despite the fact that contractors have been managing prisons for ten years). The private sector is therefore “benefiting from the experience and skills of former employees. (112)

The impact on pay and conditions

The evidence that the pay and conditions in PFI prisons are markedly inferior to those in the public sector is overwhelming and uncontested. Table 2, from research commissioned by the PSPRB, clearly illustrates the sharp difference in pay and conditions.

Table 2: Pay and conditions in public and private sector prisons, 2002-3

	<i>Prison Officer (public)</i>	<i>Prison Custody Officer (private)</i>
Average starting basic pay *	£16,500	£15,044
Average basic pay	£23,017	£16,077
Pay range	£16,500 – £25,183 **	£13,320 – £15,741 ***
Av. weekly contracted hours	39 hrs	41 hrs
Overtime pay	Time off in lieu, or up to 9 hrs a wk for 13 wks at £14.41/hr	None, flat rate or 1.5x
Pension	Final salary scheme (retirement at 60). Employer contribution equivalent to 14 %	Money purchase scheme (retirement at 65 for many staff). Employer contribution 10 %
Annual leave (days)	25-33	20-23

* Some private prisons pay staff on a lower rate while under initial training. Figures given are for staff after training.

** Normal pay scale ends at £24,285. Staff can then receive long service awards.

*** At PCO level only five prisons have formal progression arrangements that give opportunities to progress beyond starting pay by more than £1,000.

Source: DLA MCG Consulting (2003) for the Prison Service Pay Review Body (113)

For prison officers, the private sector pay packages are significantly inferior to those in the public sector. Not only is average basic pay sharply lower (public sector rates are some 43 per cent higher), but the private average basic pay rate is below the starting basic pay rate of the public sector. The overall pay scales are much more modest, the contracted working hours longer, the overtime and annual leave arrangements less favourable (public sector staff get, on average, 7 days more leave) and, importantly, pension provision is markedly inferior.

The CBI concedes that “privately managed prisons pay their prison officers and operational support staff significantly less than the Prison Service” (114). Richard Tilt, the former Director-General of the Prison Service in England and Wales, told the PAC that [private sector prison] “pay rates are lower, pension provision is generally poorer in the private sector and all those contribute to bring the cost down” (115). Moreover, before the introduction of competition, “it was very difficult to negotiate *down* pay rates and

conditions of service... it becomes a slightly more viable option once you get a degree of competition" (emphasis added) (116). Competition is not seen as a force for higher pay.

On an hourly level public sector Prison Officer pay rates are, on average, 51 per cent greater than that of their private sector counterparts; when the value of pension and holiday benefits are added this difference rises to 70 per cent (117). The PAC notes that the average prison officer salary cost almost £20,000 for a 39 hour week but Securicor were paying £14,000 for a 44 hour week at Bridgend prison and Group 4 were paying £13,000 for a 40 hour week at Fazakerley (see table 3) (118).

Table 3: Prison officer salaries, private and public sector

<i>Service</i>	<i>Pay</i>	<i>Hours</i>
Prison service	£20,000	39
Securicor (Bridgend)	£14,000	44
Group 4 (Fasakerley)	£13,000	40

Source: House of Commons Public Accounts Select Committee (1998) (119)

Table 4, from the Prison Service, sets out the cost differences between the privately and publicly managed prisons, with an overall 21 per cent difference, being derived from differences in salaries, pension costs and overtime payments. The inferiority of private sector pensions is particularly evident.

Table 4: Differences in public and private sector prison pay 1997-98

	<i>Average difference</i>
Overall employee unit cost	-21%
Salary	-16%
Pension costs	-81%
Overtime	- 33%

Source: Andrews (2000) (120)

The PSPRB found that starting pay rates for operational support grade staff and prison officers in the Prison Service were significantly higher than the average starting rates across private custodial services (121). Average pay was far higher – by over 51 per cent – for Prison Officers and Senior Officers than for their private sector counterparts. At Prison Officer level this was partly due to much greater length of experience. However, the PSPRB noted that while “[g]reater pay progression was being introduced in private companies but [it] was unlikely to do more than partly reduce the gap” (122). The pay scales in the private sector are far more truncated; in the private sector the average length from minimum to

maximum for a Prison Custody officer is £2,000 – for an equivalent Prison Officer in the public sector it is £8,000 (123). Once non-pay elements were accounted for – such as holiday pay and pensions – the gap grows wider still.

The comparability of private and public sectors

Staff in PFI prisons are younger (about 12 per cent were under 25 compared to about 3 per cent in the public sector) more likely to be women (34 per cent compared to 21 per cent) and tend to have “little or no prior experience of working in prisons” (124). The IPPR contend that, “employing relatively more women, younger staff and staff who do not have a history of working in the prison service” justifies the lower terms and conditions, or renders such comparisons “not directly comparable” (125). It is hard to see why.

Indeed the PSPRB shows such comparisons to be both eminently possible and credible, finding that “[p]rivate sector prison roles up to senior officer level were broadly equivalent to, or at some prisons slightly greater than, Prison service roles” (126). For the key Prison Officer/Prison Custody Officer grade the assessment of the consultants hired by the PSPRB was that it was generally “a closely equivalent role” (127). In the event of disturbances or other serious incidents prison staff from neighbouring prisons have assisted one another (128). Consequently, there have been public and private sector prison staff working alongside one another, doing the same work, for markedly different rates of pay.

The CBI ascribes the difference in pay primarily to private prisons “pay rates reflect[ing] local economic conditions” whereas Prison Service pay is set by “national wage bargaining” and thus “influenced to some extent by the cost of living in the most expensive parts of the UK” (129). However, research undertaken by the PSPRB found that these markedly lower pay levels could not be wholly ascribed to private prisons being in areas of high unemployment:

About half the privately-managed prisons and all of the immigration centres are in areas where unemployment is at or below the national average, including several that are operating in highly competitive local labour markets. Pay rates in these cases are still well below public sector levels. This suggests that the key drivers for pay levels in the private companies are not only local labour markets but also commercial pressures imposed by the contracts they have entered into to manage various custodial services. (130)

Martin Narey, as Commissioner for Correctional Services, has confirmed that when private sector prisons were in the south-east pay rates were “[c]loser [to the public sector] but still lower” (131). Importantly, as private sector rates are comparators in the PSPRB analysis for the public sector, they now act as a drag on most public sector rates.

Intriguingly, the CBI states that some of the prison management companies may have “engaged in aggressive competition to build market share” and faltered since, intimating that companies were running early contracts as loss leaders to get a foothold in a burgeoning market. Moreover, even it contends that the government needs to recognise

the wider implications of procurement processes that use price as the dominant criterion in evaluating successful bids. With core public services such as prison management, government must always be concerned with procuring social outcomes. This may extend to defining acceptable minima for the terms and conditions of staff members as well as ensuring the welfare and security of prisoners. (132)

The impact on turnover

High levels of labour turnover are a serious problem in many PFI prisons. Overall, among Prison Custody Officers turnover is 25 per cent – ten times greater than the 2.5 per cent rate among public sector Prison Officers (133). This figure masks regional differences; while in private prison establishments in the North rates averaged 13 per cent, in the Midlands and South this rose to 32 per cent (one had a rate of 49 per cent). High levels of turnover “caused continuing problems in maintaining staff levels. This put more pressure on existing staff and further exacerbated turnover difficulties” (134). According to the NAO there was “a very high turnover of staff in most private prisons and in each case the turnover was higher than the public sector” (135). Thus, compared with a public sector average of 6 per cent, Rye Hill had a turnover of over 40 per cent and Ashfield of nearly 40 per cent; for no private sector prison was turnover less than around 12 per cent – that is, at least double the public sector average.

The lower salaries of private sector staff when compared to their public sector equivalents was, according to the NAO, “likely to be a factor in the high levels of turnover, particularly in areas of relatively low unemployment” (136). The level of the pay and benefits package and the “absence of much opportunity for pay progression” (137) contributed to the “continuing high turnover” in some private prisons. Three of the seven PFI prisons “appear unable to offer salaries which are sufficiently attractive to meet the staffing levels stipulated in their contract bids. This can have serious consequences for staffing levels, the quality of staffing employed and their retention levels” (138). The Prison Service is however, concerned that turnover is too low in the public sector as “it is difficult to move forward and change things” (139), although it has difficulties recruiting in areas with particularly buoyant local labour markets (140).

High turnover rates are costly. The average cost of turnover per employee in 2000 was £3,933 (141). On average, a new recruit performs at only 60 per cent of their productive

potential when they are first appointed, reaching 100 per cent only after they have been in post a year (142). A Cabinet commissioned study found that, as a broader issue, representatives of employers felt that “despite the high levels [labour turnover] could reach, and despite the high costs it entailed for them, in general employers did not place a high priority on the containment of staff turnover”. It also found “scant evidence of employers acting on their own initiative or in a consistent way to contain or reduce [labour turnover], even in tight labour markets” (143).

The impact on productivity

PFI prisons have been praised for “delivering higher productivity” (144). The problems with measuring public service productivity are well known (145). Measurable indices are known to often take precedence over meaningful ones, thus “[p]rivate sector contracts have tended to focus on the quantity, rather than quality, of provision and this needs to be addressed” (146). According to Corry et al “private sector operatives always have incentives to shirk on quality given that monitoring is inevitably not perfect” (147).

Overall, there were 17 per cent fewer staff per prisoner in private prisons. Working hours in privately managed prisons were 3 per cent longer and planned time off (including holidays and bank holidays) was on average 13 per cent lower. Paid sickness absence was also markedly lower – some 53 per cent, although a recent NAO report, as noted above, found a sharp convergence in sickness rates. This meant that private sector employees spent 7 per cent more time at work than public sector ones, which in turn is “one of the reasons why contracted prisons can operate with fewer staff” (148). The most important part of this difference was due to the longer hours worked by contracted prison staff, followed closely by lower sickness absence levels (149). Thus, while some of this higher productivity arises from better sickness management, much more is a consequence of longer hours – which made “the greatest difference” to productivity (150) – and shorter holidays.

“Productivity improvements” are thus primarily an increase in workloads through longer hours (at lower pay rates) and shorter holidays, that is, at the expense of terms and conditions.

International comparisons

PPPs are being heavily promoted internationally (151).

The British pattern of prison service employment relations echoes the more extensive US experience where “wages and benefits are substantially lower than those in government-run prisons [which] have resulted in significantly higher employee turnover.” (152).

A similar picture is also evident in Australia; in Western Australia, the Prison Officers Union prevented privatisation “for at least three years but at a cost of reduced wages and benefits” (153). This involved a longer working week, job losses and loss of medical benefits. Furthermore in Australia private sector prison guards have also threatened to take strike action to secure pay parity with public sector prison staff (154).

Interestingly, in New Zealand the Labour government has introduced legislation to prevent the private management of prisons (155).

5

Developments in employee protection

PFI/PPPs have been a source of considerable friction between leading trade unions and the New Labour government.

Government rhetoric has tended to see unions as “vested interests” and occasionally as “wreckers” impeding public service reform (156). Anthony Giddens has argued that “[t]aking on sectional interests, including where necessary public sector unions, helps [the notion that the public realm is not to be equated with the state]” (157).

Union disquiet at the government’s policies is also evident. Several have cut the financial support they give the Labour Party as a result of its disagreements over PFI/PPPs. Other public service unions, notably the Fire Brigades Union and the Transport Salaried Staffs Association, have reduced their financial contribution to the Labour Party. Others have either reviewed or are reviewing their funding (158). The sole major trade union supporter of PPPs, Sir Ken Jackson of the AEEU, has lost office. There has also been a lengthy dispute at Dudley hospital over PPPs.

For trade unions, PPPs pose a serious threat both to membership levels and to the terms and conditions of their members. A key concern, borne of lengthy experience with CCT and market testing, is that any savings made by private sector contractors will be at the expense of public service jobs, pay and conditions. Membership levels are also threatened; these stand at 19 per cent in the private sector – a third of the level in the public sector (59 per cent) – and lower still in private services (159).

Enhanced protection for (some) public service employees

The sensitivity and importance of the “workforce” issue was recognised by the Prime Minister stating that “It [a modernised public service workforce] means better pay and conditions” (160). Elsewhere the government states that since 1997 it has “pursued a strategy based on the following principles:

- being open with staff;
- protecting terms and conditions for both transferees and new joiners;
- extending protection to staff pensions; and
- retaining flexibility in the delivery of public services.” (161).

There has been some progress in protecting staff terms and conditions, but this has often been ad hoc and piecemeal. As the IPPR note “there has been little co-ordinated action

across government and for the majority of central government departments there remains no solution” (162).

For example, for staff transferring from the public sector to the private sector, in addition to the protection provided by transfer of undertaking laws, occupational pension provision was added in January 2000 (163). This requires that when staff transfer they should continue to have access to “a good quality occupational scheme” (one that is “broadly comparable” to the public service pension which is being left) and “options for the handling of the accrued benefits”. However, this does not tackle the situation where *new* staff are employed, as seen above in the prison service, on inferior terms and conditions to those transferred or elsewhere in the service. In services with high turnover rates this is a crucial omission.

Similarly, while the Treasury notes its concern and action taken because “in some cases the pension scheme was materially inferior to the scheme from which the staff were transferring” (164), in public-funded private sector prisons – where pensions are clearly “materially inferior” – this concern seems absent.

Some significant protection for new entrants has been accorded to **NHS** workers with the “retention of employment” model. This would see a majority of NHS staff affected by PFI schemes being retained as NHS employees on NHS terms and conditions, as will any new recruits in these services (managerial staff are not covered by this model).

More substantial still are the changes in **local government**. Since March 2003, a new code of practice applies to staff who transfer to private contractors and to new recruits who join after transfer, who will be offered “no less favourable” terms and conditions to those offered to transferred staff. However, the obligation of employers is to be capped to match employee contributions of six per cent into a stakeholder pension or to offer an equivalent alternative. The new employer will not, it seems, be required to make payments greater than this or put in its place a final salary or money purchase scheme equivalent to that operated by the former employer (165). Controversially, this scheme has not been extended beyond local government.

The debate for extending protection has continued, with UNISON calling for the re-introduction of a Fair Wages Clause (166) to ensure that private contractors could not compete for contracts on the basis of lower pay and conditions – a call which the TUC has since echoed. The Scottish parliament and Welsh assembly have provided wider ranging protection than their English counterparts in relation to PPPs.

6

Conclusion

“We stand mid-way between two theories of economic society. The one theory maintains that wages should be fixed by reference to what is “fair” and “reasonable” ... The other theory – the theory of the economic juggernaut – is that wages should be settled by economic pressure, otherwise called “hard facts” and that our vast machine should crash along, with regard only to its equilibrium as a whole, and without attention to the chance consequences of the journey to individual groups.” – John Maynard Keynes, 1925 (167)

Notions of “fairness” have often been subordinated to that of Keynes’ “economic juggernaut”. Despite over a decade of controversy, the scale and importance of the initiative and the large numbers of employees affected by it, the employment relations of PPPs has been seriously neglected.

The evidence that does exist, notably, but not exclusively, in the Prison Service, suggests serious grounds for concern, with PFI/PPPs fostering both greater income inequality and a deterioration in the terms and conditions, particularly among relatively low paid staff. Future problems may be set in store by the poor pension provision of many private providers of public services, both in terms of greater pensioner poverty and increased demands upon the state.

Insufficient attention has been paid to the experience of Compulsory Competitive Tendering upon workforces, or the mounting evidence of official agencies that much, if not most, of the cost advantage of private contractors is at the expense of terms and conditions rather than due to “innovation”. Although some evidence of Prison Service innovation exists, it is not on the scale warranted by the rhetoric around the virtues of PPPs. There is also no evidence as to why innovation should entail a degradation of employee pay and conditions.

The Treasury maintains that PFI is only used “where the value for money it offers is not at the cost of the terms and conditions of staff” (168). This seems at odds with the evidence in the Prison Service from the Pay Review Body, House of Commons Public Accounts Committee, the National Audit Office, the Prison service itself and the CBI. Confusion seems to exist as to the effect of competition upon pay and conditions; the Prime Minister implies that it leads to “better pay and conditions” (169); the Treasury writes of “protecting” pay and pensions (170), while the then head of the Prison Service speaks of the difficulty in negotiating “down pay rates and conditions of service” (171).

Competition can and has exerted a downward pressure upon pay and conditions in what are often highly labour intensive services. This is the experience of Compulsory Competitive Tendering in the 1980s and 1990s and that of PFI in the prison service.

The Prison Service experience suggests that many “efficiency gains” are secured by three key means: reducing staff numbers and gradings; lowering the average individual remuneration; and work intensification through longer working hours and shorter annual leave as well as better staff sickness management and some innovation.

For weaker groups in the labour market, PFI/PPPs seem on the available evidence to reinforce downward pressures on their wages and pensions. Significant measures have been taken to improve the terms and conditions of some public service employees, but on an ad hoc, tentative and partial basis. Lamentably, at times the extent of Government concern and action seems to depend on the amount of noise made by the trade unions rather than upon any rigorous and systematic evaluation. Considering the scale and prominence of this issue a more consistent and transparent approach is urgently needed. It is a rich irony that while the CBI (172) tentatively speaks of considering the “wider implications” of procurement for public service workers, the Chancellor extols the further extension of markets into public services (173).

Furthermore, while New Labour has presided over a revival of public service employment, there has been no corresponding renewal of a public service ethic or a new settlement on labour standards. Instead, any “innovation” is delegated to the private sector. This has allowed the degradation of terms and conditions in many public services. The concessions that have wrung from the government have been attained with great difficulty and seeming reluctance. Seven years into a New Labour administration, these gains remain partial and uneven.

Moreover, the failure to embed a new consensus around fair employment standards for public service workers generally renders such gains highly fragile and vulnerable to a change of government. If action is not taken swiftly, a major opportunity to protect many thousands of public service workers will be lost. A change of government could find the Prison Service “model” for pay and conditions could be extended to health and education, with sharply reduced pay and conditions being the source of any public spending “savings” sought, regardless of their impact on the workforce itself.

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