



Public sector pay and procurement in the UK during the crisis: Contested processes of levelling down jobs and pay

Damian Grimshaw, Stefania Marino and Jill Rubery

European Commission project: 'Public sector pay and social dialogue during the fiscal crisis'
VS/2011/0141, October 2012

EXECUTIVE SUMMARY

During the post-2010 austerity crisis in the UK, government public sector reforms have targeted pay and procurement policy in a two-sided effort to correct what are perceived to be imbalances in the wage structure of the UK's mixed economy and to open up public services delivery to greater market competition through more extensive procurement policy. These reforms raise a variety of questions for analysis and present a number of practical challenges that may hinder the effective functioning of public sector labour markets, impede or reverse efforts to improve equity in pay and employment and undermine longstanding processes of social dialogue.

This report has two broad objectives:

1. to present a detailed review of the UK government's approach to public sector pay and procurement against the backdrop of previous reforms and the polarisation of employment relations in the public and private sectors;
2. to assess the consequences of austerity measures for jobs, pay and procurement from the perspectives of managers and trade unions, drawing on an original investigation of local government during 2011-2012.

Public sector pay reforms during the crisis

Pay reforms are at the centre of the UK government's post-2010 austerity measures. It imposed a two-year pay freeze and announced a further two years of a 1% cap on pay rises. Implementation is not straightforward because unlike other European countries the UK has multiple forms of pay determination for public sector workers that are not all directly controlled by central government and this fragmentation makes coordination difficult. However, to date the policy has been implemented relatively consistently through collective bargaining (for local government workers for example) as well as 'quasi-collective bargaining' (pay review bodies for workers in the health sector, school teachers and doctors and dentists among others). Nevertheless, the pay reforms have been controversial, generating a number of tensions in policy debates and among unions and employers, including the following.

- The two-year pay freeze was accompanied by a government recommendation to award £250 to workers earning less than £21,000 (full-time, pro rata), but this was not extended to local government where the incidence of low pay is high.
- Government claims that public sector pay far outpaced private sector pay growth prior to 2010 are contradicted by the earnings data.

- The pay policy is one feature of a government drive to level down so-called ‘privileged’ conditions of public sector employment but the public sector pay premium reflects a higher skill/qualification composition, pay discrimination in the private sector, differential age-earnings profiles, differential access to bonuses and company share schemes and a very high incidence of unilateral employer pay determination in the private sector compared to joint wage-setting in the public sector.
- Ongoing policy efforts to scrap national pay systems in favour of local methods have not been informed by the lessons from similar attempts in the 1980s and 1990s which largely failed for good reasons. The public sector pay premium over the private sector, especially for low paid female part-time workers, continues to drive policy discourse about the need to make public sector wage-setting more ‘market-facing’ at the local level.

Using procurement to shrink the public sector and reduce wages

Procurement of public services from the private and voluntary sectors is long established in the UK and has been promoted for its presumed benefits for innovation, modernisation, value for money and collaborative partnerships. Transformation of the employment relationship is at the heart of procurement practice since many workers are transferred from the public to the private/voluntary sectors and a growing proportion of workers delivering public services are employed in the profit-making private sector. Changes to pay, pensions and other conditions reflect the wide public-private gaps for many workforce groups. Also, job security is compromised by recurrent contracting and change of employer.

Labour market regulations modify and smooth the transition experienced by workers outsourced to the private sector to some extent, but these rules are relatively weak and, since 2010, have been weakened further: employment dismissal protection now applies only after two years service; TUPE regulations that protect terms and conditions at the point of transfer from one employer to another are under an ongoing review; the ‘two-tier code’ that provided for extension of collective agreements in the health sector to subcontractors has been abolished; and rises in the national minimum wage are below inflation.

Worsening pay inequalities

Private sector pay in the UK is characterised by higher levels of gender pay discrimination (according to multivariate decomposition analyses), a higher incidence of low-wage employment (32% compared to 12% in the public sector) and greater wage inequality between high and low paid. Consequently, government reforms to make the public sector more ‘market-facing’ can be expected to inject more of these characteristics into the structure of public sector pay. The impact will be especially disadvantageous for women:

- at the median level, female full-timers and female part-timers in the public sector both earn more than 40% than in the private sector;
- the pay structure for female part-timers in the public sector is similar to that of female full-timers in the private sector while female part-timers in the private sector are mostly low paid (64% earn less than two thirds of median pay for all workers);
- among personal service occupations, women working in the public sector whether full-time or part-time are far less likely to be low paid than comparable jobs in the private sector;
- outsourcing of elementary occupations (e.g. cleaning services) has had a clear depressing effect on the pay of women employed in public sector part-time jobs, leading to a narrowing of the gap with private sector pay where the practice is to pay at or just above the national minimum wage.

New evidence from local government

The specific UK context is one of major budget cuts in local government (2011-12 was the first of four years of planned cuts of a cumulative 40% in real revenue), limited autonomy to raise additional revenues through local taxation despite a new policy rhetoric of ‘localism’, heightened demand for local government services as a consequence of increases in unemployment, poverty and homelessness, uneven regional distribution of spending cuts (with greater spending cuts imposed on more deprived localities) and rapid downsizing of the local government workforce (a 7% cut during 2011).

Interrogation of original data from a survey of six local authorities in the north and south of England addresses three key questions:

1. What types of downsizing practices were used to adjust to recent budget cuts?
2. Did employers seek to legitimate job cuts and real pay cuts with compensating measures?
3. Are there any brakes on outsourcing?

➤ ***What downsizing practices were used?***

Job cuts ranged from 6% to 30% of the workforce across the six local authorities, measured over the 2010-2012 period. A mix of practices were used: two local authorities had formal or informal agreements to avoid compulsory redundancies; redeployment of remaining employees was a well developed human resource practice in four authorities; and pay protection for those demoted ranged from six months to 3 years.

Amidst the uncertainty and instability of downsizing, two local authorities took the radical step of dismissing all remaining employees in order to re-engage them onto a new employment contract with worse terms and conditions (abolished pay premiums for weekend work at one organisation and a pay cut at the other). Unions organised strikes and other protests at both local authorities and managers and unions face considerable challenges to rebuild processes for social dialogue.

➤ ***Did local employers impose the national pay freeze?***

The response to the government imposed pay freeze varied among the six local authorities. A key finding is that unions and employers in five of the six organisations negotiated an additional local increase for the lowest paid:

- two organisations paid the £250 low pay supplement despite its rejection by the national employers’ association;
- four organisations set the minimum rate significantly higher than the rate negotiated in the national pay agreement (the highest set a ‘living wage’, 14% higher than the national base rate of pay, in an effort to alleviate poverty among the local population);
- two organisations used performance-related pay while four organisations awarded seniority pay increments (although around half the workforce were at the top of their pay band and therefore received no pay rise);
- all six organisations adapted one or more of the nationally agreed conditions for pay premiums for unsocial and overtime working hours in an effort to simplify and save money.

➤ **Are there any brakes on outsourcing?**

A focus on four service activities – waste services, cleaning, elderly care and school catering – suggest spending cuts have encouraged local authorities to continue their efforts to adapt their approach to commissioning services. Savings have been made both by sharing contracts with neighbouring local authorities and by renegotiating contracts with suppliers (including the reduction in contract spend on elderly care services from £30 million to £22 million at one local authority). Waste services and elderly care have been mostly outsourced for many years across local government, while provision of cleaning and school catering services is mixed. Despite national policy initiatives there was only one example of a new approach to outsourcing, which was a joint venture for waste services, street lighting and parking services.

Local authority procurement has been frequently designed to avoid existing labour market protections. Despite managers recognising that TUPE rules (which provide some protection of terms and conditions of transferring workers outsourced to a new subcontractor) offer both advantages and disadvantages, there is widespread use of the practice of ‘fragmenting’ services contracts (by geography, by contractor, or over periods of time). This practice avoids the legal applicability of TUPE since it is difficult to identify which employees were previously assigned to which activity. However, the local authority carries a large risk of high redundancy costs if they are unable to redeploy remaining staff. Social clauses are rarely used in procurement due to a fear this would contravene rules against ‘non-commercial considerations’.

Lessons for research, policy and practice

UK austerity measures have targeted local government budgets. The consequences can be expected to include cuts in services for the elderly and vulnerable and levelling down of pay and job opportunities especially for women and low-wage workers. The research evidence draws four main lessons.

1. The national collective agreement is at risk of losing its role in coordinating pay rises unless unions and employers reverse the deterioration of basic pay and improve the margin between the lowest rate of pay and the national minimum wage in recognition of the success of some local deals to improve wages for the lowest paid (payment of the £250 supplement and/or higher basic rates).
2. The range of local responses to austerity – both positive (supplements for low-wage workers) and negative (dismissals and pay cuts) - highlights the need for improved understanding of the variety of local factors that influence approaches towards adjustment and restructuring.
3. Rules governing outsourcing and employment protection need to be strengthened so as to reduce the unfair labour practice of fragmenting services to maximise the labour cost savings of outsourcing to the private sector.
4. The targeting of UK austerity measures on local government needs to be halted in order to protect the quality of services provision, which is being undermined by an increasing emphasis by local authorities on saving costs by reducing pay and employment conditions and reducing contract expenditures.