

# Public sector pay and procurement in the UK

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## 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.

## Introduction

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 better and more extensive procurement policy. These reforms raise a variety of questions for analysis, as well as challenges for the functioning of public sector labour markets and for the role of trade unions.

This report presents a detailed review of the government's current approach to public sector pay and procurement against the backdrop of the last couple of decades of reforms and an appreciation of the distinctiveness of employment relations in the public sector as compared to the private sector. Part one seeks in particular to understand the implications of a government imposed pay freeze in the context of a relatively fragmented and uncoordinated model of wage-setting. It also explores the conditions that drive, and result from, the outsourcing of public services in light of a polarisation of employment relations and pay conditions across public and private sectors among low-wage workers in particular.

Part two investigates these same issues in greater depth through case studies of local government. Drawing on case-survey data of six local authorities it considers three key questions concerning the implementation of local responses to spending cuts and outcomes for pay and employment conditions:

- i) what were the practices used to downsize workers?;
- ii) did local authorities implement the nationally imposed pay freeze and what other changes were made to pay?; and
- iii) how has austerity impacted on local authorities' approaches towards outsourcing local services?

A final conclusion section identifies the lessons for policy and practice.

## Part One: The UK model of public sector pay and procurement

### 1. Pay reforms during the crisis: Problems with the government's approach

An important feature of the government's austerity measures was the unilateral imposition of a two-year pay freeze for public sector workers (starting early 2011 for most workers), followed by a 1% cap on pay rises for a further two years during 2013-2015. Central government argues the policy is necessary to meet the wider goal of eliminating the structural deficit and 'to share the burden' with private sector workers who experienced pay cuts, job losses and pension restrictions during the 2008-2009 recession. However, it has faced wide-ranging criticisms:

- the chief secretary of the Trade Union Confederation warns of 'a permanent deep cut' in living standards of public sector workers and is coordinating strikes and work-to-rule actions among an increasingly unified group of public sector unions;
- high inflation of 4.6% in 2010 and 5.2% in 2011 has cut real wages significantly and the associated damage to the image and reputation of the public sector is blamed by the CIPD (the UK's national association for HR professionals) for its poor performance in recruitment and retention in a 2012 survey;
- private sector pay deals, especially in the finance sector, have bounced back since 2010 leading to claims, even by the Governor of the Bank of England, that public sector workers are unfairly shouldering the cost of a recession caused by bankers - he told the Treasury Select Committee in 2011 that, 'The price of this financial crisis is being borne by people who absolutely did not cause it ... Now is the period when the cost is being paid, I'm surprised that the degree of public anger has not been greater than it has.'<sup>1</sup>

While the four-year programme to reduce real wages in the public sector has been designed and implemented by the Conservative-led coalition government, elected in May 2010, pay policy had already come under scrutiny under the former New Labour government in the knowledge that bank bailouts would require the reining in of public spending. In late 2009, the Labour government warned of problems of a 'culture of excess' among some higher paid groups such as senior civil servants, judges and doctors. Ignoring the recommendations of the independent body responsible for setting their pay (the Senior Salary Pay Review Body), it imposed a pay freeze in 2010-11 to be followed by two years of a 1% cap on basic pay rises. The pay deal over three years was estimated at the time to generate a £3.4 billion saving.<sup>2</sup>

This policy of a nominal pay freeze was picked up by the incoming coalition government and applied across all areas of the public sector for two years from 2011-12. For local government workers the policy was especially difficult since they had already had their pay frozen the

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<sup>1</sup> [www.guardian.co.uk/business/2011/mar/01/mervyn-king-blames-banks-cuts](http://www.guardian.co.uk/business/2011/mar/01/mervyn-king-blames-banks-cuts) (accessed 13/02/2012).

<sup>2</sup> Available from Hansard's written ministerial statements for 24 March 2010, [www.publications.parliament.uk/pa/cm/cmtoday/cmwms/archive/100324.htm#hddr\\_15](http://www.publications.parliament.uk/pa/cm/cmtoday/cmwms/archive/100324.htm#hddr_15).

previous year, resulting in three successive years of pay freeze. The one exception to the freeze was the recommendation that a small fixed annual supplement of ‘at least £250’ be awarded to the lowest paid, defined as having annual full-time earnings less than £21,000, and paid pro rata to part-time workers. Notably, however, the low pay supplement excluded local government workers following a controversial and rather clumsy ruling by government (made after the pay announcements) that they were not directly employed by central government.

This example is illustrative of the challenges the government faces in imposing a uniform policy of pay restraint (with a token measure of legitimacy) on a framework of wage-setting that is fragmented across multiple arenas. The mix of wage-setting bodies means that the government’s policy of imposed wage restraint has in practice been experienced in slightly different forms across the different parts of the public sector. While all groups have been subject to a two-year pay freeze (three years in local government), the two key features of differentiation are:

- Different starting points of pay freeze;
- Different agreements on payment of a low-wage supplement

Table 1.1 contains the summary details for each wage-setting group. We examine this framework in detail in Section 2.

### **1.1. Three problems with the government’s approach**

Several features of the government’s approach towards public sector pay can be questioned, but three stand out as resting on rather flimsy empirical evidence. First, government claims pay restraint is necessary in part because private sector pay was more adversely affected by the 2008-9 recession. This is not true for the initial phase during 2008. During 2009, an estimate of the penalty suffered by the private sector depends on whether or not bonus payments are excluded or included; the large fall in private sector earnings growth during the first quarter of 2009 was the result of a collapse in bonus payments – the public-private gap considering earnings without bonus payments is smaller during 2009. Moreover, the rate of earnings growth in the public sector was below that of the private sector for most of the three years prior to 2008 (figure 1.1).

A second problem with the government’s approach towards public sector pay concerns the lack of strong empirical support for the performance-enhancing effects (in the labour market or otherwise) associated with a shift to a decentralised ‘market-facing’ model of pay determination. In 2010, the government asked four pay review bodies (NHS, teachers, prisons and senior salaries review bodies) to consider how to make their pay structures more ‘market-facing’ at a local level, including collecting data on the factors used by the private sector in setting local pay and conditions and researching the level of disparity between public and private sector pay. It set out its position as follows:

*‘The Government argues that differentials between public and private sector wages vary considerably between local labour markets and this has the potential to hurt private sector businesses that need to compete with higher public sector wages, lead*

Table 1.1. Main public sector pay agreements (more than 10,000 employees covered) during 2010, 2011 and 2012 (ranked by workforce size covered)

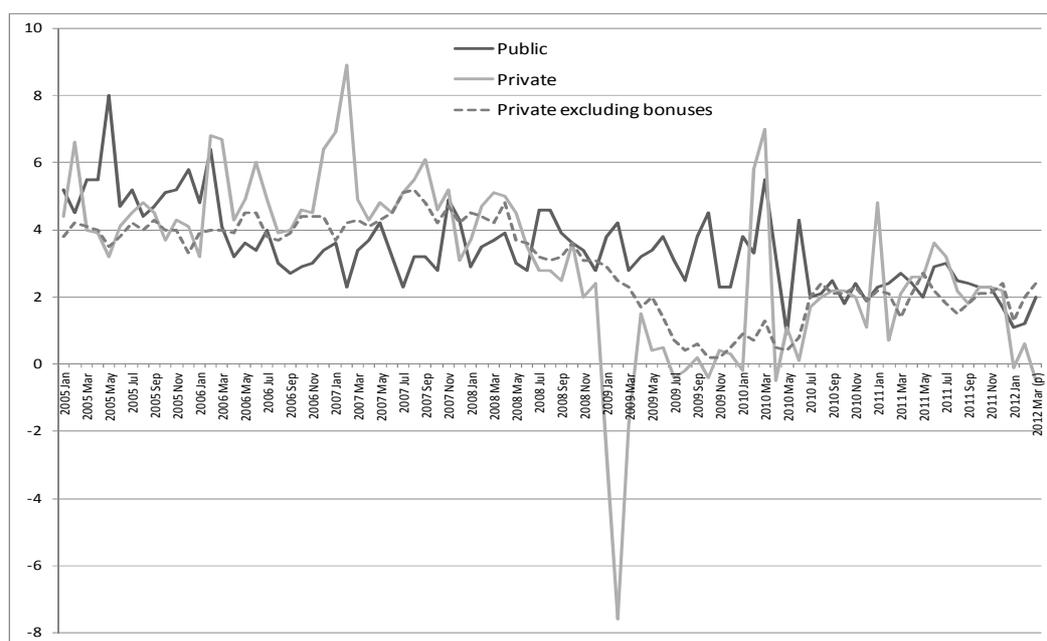
Name of agreement	No. of employees covered	Unions	Date	Pay rise	Special supplement for lowest paid?	Multi-year pay deal (current stage)
<b>Local government NJC</b> (England & Wales)	1,400,000	Unison, Unite, GMB	April 2010	Freeze	--	--
			April 2011	Freeze	No	--
			April 2012	Freeze	No	--
<b>NHS Pay Review Body</b>	1,220,616 (FTE)	GMB, NIPSA, RCM, RCN, UCATT, Unison, Unite, USDAW	April 2010	2.25%	£420 flat rate for lowest pay bands	3 years (3)
			April 2011	Freeze	£250 for earnings of £21,000 or below	2 years (1)
			April 2012	Freeze		2 years (2)
<b>School teachers</b> (England and Wales)	482,000	ATL, NAHT, NASUWT, NUT, PAT, SHA, UCAC	Sept 2010	2.3%	--	3 years (3)
			Sept 2011	Freeze	£250 for earnings of £21,000 or below	--
			Sept 2012	Freeze		--
<b>Universities</b>	387,430	UCU, EIS, GMB, Unison, Unite	August 2010	0.4%	--	--
			August 2011	£150 (0.5% for starting lecturer grade)	No	--
<b>Local government</b> (Scotland)	220,000	Unison, Unite, GMB	April 2010	0.65%	--	3 years (1)
			April 2011	Freeze	No	3 years (2)
			April 2012	Freeze	No	3 years (3)
<b>NHS doctors &amp; dentists</b>	202,817		April 2010	1% registrars & junior doctors, freeze consultants, GPs	--	--
			April 2011	Freeze	No	2 years (1)
			April 2012	Freeze	No	2 years (2)
<b>Armed Forces</b>	175,000	None	April 2010	2%	--	--
			April 2011	Freeze	£250 for earnings £21,000 or below	--
			April 2012	Freeze		--

<b>Greater London provincial council</b>	160,000	GMB, Unison, Unite	April 2010	Freeze	--	--
			April 2011	Freeze	No	--
			April 2012	Freeze	No	--
<b>Police Negotiating Board</b>	151,500 (England, Wales, Scotland, Northern Ireland)		Sept 2010	2.55%	--	3 years (3)
			Sept 2011			
<b>Police Staff Council (England &amp; Wales)</b>	71,000	Unison, Unite, GMB	Sept 2010	2.6%	--	3-year deal (3)
			Sept 2011			
<b>Department for Work &amp; Pensions</b>	104,000	PCS, Prospect, FDA	July 2010	Freeze	2.2%-3% (£400-£540 for <£21000)	2 years (1)
			July 2011	Freeze		2 years (2)
<b>HM Revenue and Customs</b>	75,500	PCS, ARC	June 2010	1% basic award; 2.4% increase for staff in post	--	3-year deal (3)
			June 2011	Freeze	£250 for earnings up to £21,000	--
			June 2012	Freeze		--
<b>Police Staff Council (England&amp;Wales)</b>	71,000	Unison, Unite and the GMB	September 2010	2.58%	2.58%	3-year deal (3)
<b>School teachers (Scotland)</b>	51,650	EIS, SSTA, PAT, NASUWT	April 2010	2.4%	--	3 years (3)
			April 2011	Freeze	No	2-year deal (1)
<b>Fire Brigades</b>	53,000	FBU, NAFO	July 2010	Freeze	--	
			July 2011	Freeze	No	
<b>Further Education Colleges (England)</b>	50,000	UCU, ATL, Unison, ACM, GMB, Unite	August 2011	Flat rate rises of £125-£309	£309 for staff on bottom pay rate (2.2%), £200 for earnings below £21,000 and £125 for earnings above £21,000	--
<b>Ministry of Defence (staff)</b>	43,500	PCS, Prospect, FDA	August 2010	3.7%	--	3-year deal (3)
			August 2011	Freeze	£250 for earnings up to £21,000	2 years (1)
<b>Local authority craft and associated employees JNC</b>	40,000	AEEU, GMB, Unite, UCATT	April 2010	Freeze	No	
			April 2011	Freeze	No	
<b>Prison Service (Officer/support)</b>	34,354	Prison Officers' Association, Prison	April 2010	1% on max of pay scales	--	
			April 2011	Freeze	£250 for earnings up to	

grades, England & Wales)		Governors' Association, PSTUS	April 2012	Freeze	£21,000	
<b>Ministry of Justice</b>	26,849 FTE	FDA, PCS, Prospect	August 2010	1.9% basic award; 3.4% increase for staff in post (4th year of 4-year deal)	--	4 years (4)
			August 2011	Freeze	£250 up to £21,000 and pay progression for low pay bands	--
<b>Home Office</b>	23,000	FDA, ISA, PCS, Prospect	July 2010	Basic pay freeze	£250 for staff earning £21,000 and below	
<b>Metropolitan police staff</b>	19,391	Prospect, Unite, PCS and FDA	August 2010	2.6%	--	3-year deal (3)
			August 2011	Freeze	£250 for earnings up to £21,000	--
<b>Further Education Colleges (Wales)</b>	13,800	UCU, ATL, Unite, GMB, Unison, ACM	August 2010	2.3%	--	--
			Sept 2011	Freeze	£250 for earnings up to £21,000	--

Source: IDS Pay Reports and 'The LRD Pay Survey' (October 2011); own compilation; see appendix 1 for other smaller agreements.

Figure 1.1. Rates of pay growth in the public and private sectors, 2005-2012



Note: Average weekly earnings  
Source: ONS (own compilation).

*to unfair variations in public sector service quality and reduce the number of jobs that the public sector can support for any given level of expenditure’<sup>3</sup>*

The approach can be interpreted as a repeat of the 1980s and 1990s when the former Conservative government lay the foundations for local wage-setting. It did so then not only by pushing for the abandonment of national agreements, but also, and perhaps more importantly, by establishing the foundations for a new devolved decision-making governance structure (Cutler and Waine 1994). This included the right of centrally controlled hospitals to apply for self-governing ‘Trust’ status (since 1991), schools to apply for ‘grant-maintained status’ and the splitting up of civil service departments in 1988 and rebranding into almost 100 ‘Executive Agencies’. All new organisational structures were granted the autonomy to implement local pay structures and conduct local pay bargaining. Nevertheless, despite the radical scope of these reforms national pay arrangements proved surprisingly resilient in local government, health and education. Only the civil service structures were collapsed: already by 1995, 36 agencies conducted local pay negotiations and half had introduced new local pay and grading structures (Elliott 1995).<sup>4</sup>

An important question for today’s government is therefore how and why did national pay arrangements withstand the government pressure to shift to local pay determination. Past

<sup>3</sup> As stated in the government’s ‘Call for evidence on how to make pay more market-facing in local areas for certain groups of public sector workers’ (Office of Manpower Economics, [www.ome.uk.com/Article/Detail.aspx?ArticleUid=1fb5693f-71c7-4619-bf9f-79353b89925e](http://www.ome.uk.com/Article/Detail.aspx?ArticleUid=1fb5693f-71c7-4619-bf9f-79353b89925e)).

<sup>4</sup> The largest bargaining unit is the Department of Work and Pensions (DWP) covering 104,000 staff in 2011 and overall around three in four civil servants work in the four largest departments (DWP, HM Revenue and Customs, Ministry of Defence and the Home office) (see table 1.6).

analyses suggest good reasons for a rethinking of current political pressures to disintegrate or erode national arrangements. They can be summarised as follows:

- Stability of national arrangements – risk of ‘anarchy’ of local pay bargaining (Buchan 1992) versus ‘comfort factor’ of national level approach;
- Character of professional groups fits a national approach – including the importance of national labour markets for professional groups and national systems of skill formation (Bach and Winchester 1994);
- Difficult to operationalise local pay – including high resource costs and limited expertise (Corby 1992, IRS 1993, Thornley et al. 2000);
- Countervailing power of unions is strong – underpinned by high trade union density and a strong political profile (Bach and Winchester 1994, 2003);
- Mid-1990s austerity policies – including evidence that the freeze of the public sector paybill restrained innovations towards local pay (Grimshaw 2000).

Nevertheless, it is important to recognise developments in local wage-setting in local government, education and health in three forms – local pay supplements to national rates; outsourcing of low-skilled groups to private firms that paid local pay rates; and local pay for a new grade of nurse assistant introduced in 1989 (Grimshaw 1997). One might describe the trend as a form of ‘institutional layering’ (Streeck and Thelen 2005) whereby new features were introduced with the objective over time of supplanting the old system, in this case the national pay arrangements.

During the period from the late 1990s to 2010, however, the layering of new forms was to a partial extent reversed under the New Labour government. The new national framework for the health service restricted possibilities for local pay supplements. A ‘two-tier code’ agreed between unions, government and employers provided a basis for the collective negotiation of extended national terms and conditions to outsourced workers in local government and health sectors. And the new grade of nurse assistant was incorporated into the national framework for all NHS workers (Grimshaw 2009).

However, pockets of local pay determination remained and even expanded. Privatisation of prisons meant increasing shares of operational staff on local pay outside of the public sector pay review body (Sachdev 2004). Privatisation of care for the elderly (residential care homes and domiciliary care) led to a massive shift of a public sector workforce to the private sector - out of the national framework for pay bargaining in local government and into an almost completely non-unionised environment of local pay setting (Rubery et al. 2011). And while the two-tier code was followed up in the health sector by a positive ‘Joint Statement’ (agreed by the unions, employers and contractors) that establishes precisely how the national ‘Agenda for Change’ pay agreement ought to be extended, no such commitment was made for local government where workers employed by private sector contractors do not enjoy the benefits of a quasi-extended national agreement (see below).

A further lesson from past analyses is that pay and conditions have worsened as a direct result of local wage-setting. Prison officers in privatised prisons have lower basic pay, longer hours,

less favourable overtime and annual leave and less generous pensions than their public sector counterparts (Sachdev 2004).<sup>5</sup> A survey of the elderly care sector finds the average minimum pay rate for care workers in local authority domiciliary care providers is one third higher than in the private sector (Rubery et al. 2011: 143; see Section 3). Also, studies of outsourcing of low-skill workers show that the new model of competition erodes pay and conditions in both public and private sectors (Escott and Whitfield 1995, Szymanski 1996). A key finding from these studies is that variation in local pay typically does not reflect differences in local labour market conditions, such as unemployment rates.

A third related problem of the government's approach to public sector pay is shaped by its ideological ambition to level down what are perceived as 'privileged' conditions of employment. Government and the popular media have made of the apparent wage premium earned by workers in the public sector. In 2011, median gross hourly earnings in the public sector exceeded those in the private sector by 28% (male full-time), 43% (female full-time) and 43% (female part-time) (ASHE, excluding overtime and bonuses). However, comparison of unadjusted wage levels between public and private sector workers is not appropriate for five reasons:

- i) It does not account for differences in composition of workers by level of skill and qualification, as well as age. Decomposition of the wage gap that controls for years of schooling, age and qualifications suggests approximately half the premium is associated with the higher share of professionally qualified and higher skilled employees in the public sector (eg. Bozio and Disney 2011);
- ii) Median private sector pay is significantly diminished by the employer practice of setting pay for low-level employees at or close to the statutory minimum wage. We interpret this practice as the misuse of the minimum wage as the going rate of pay instead of setting pay in line with the varying skill, qualification and performance characteristics of the job or individual. In 2011, 6% of jobs in the private sector were minimum wage jobs compared to less than 1% in the public sector (LPC 2011: figure 2.1). Throughout 2005-2011 the bottom decile wage of female part-timers in the private sector has been equivalent to the statutory minimum while in the public sector female part-timers enjoyed a premium over the minimum wage of 10-15% (ASHE data);
- iii) Differences in pay between the sectors and the composition of workers by skill and qualification are especially strong for women. Given the number of studies that identify an unexplained gender pay gap in the UK labour market it can be legitimately argued that attempts to level down public sector pay will import discriminatory pay practices into the public sector and reduce opportunities for women to earn a similar return to their investment in education and experience as men;
- iv) Static comparisons of pay gaps wrongly presume similarity of earnings profiles with age. Wages among full-timers are more compressed in the public sector than the private sector for men and women, suggestive of less steep age-earnings profiles. A decomposition analysis that examines pay gaps over an individual's life-cycle

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<sup>5</sup> Also, pay scales are more truncated in private sector prisons; Sachdev (2004) reports that the minimum to maximum range was one quarter the range found in the public sector for equivalent prison officer job positions.

estimates the adjusted public sector pay premium of 2-3% is further reduced to 0% for individuals with a low risk of unemployment (Postel-Vinay and Turon 2007); and

- v) Pay is only one part of the reward package. Workers in the public and private sectors have varying access to bonuses, overtime pay, fringe benefits (eg car and travel expenses), annual leave, company share schemes and pensions. However, reliable estimates of pay gaps controlling for bonuses are difficult since the best source of earnings data collected by the ONS does not include annual private sector bonuses paid between December and March, which are estimated to make up around 7% of all private sector earnings (IDS 2012: 5).<sup>6</sup>

*Table 1.2. Summary of public sector pay reforms and their effects during the crisis, 2010–2012*

Pay issue	Pay reform	Effects on wage levels and wage structures
Annual pay settlement	Unilateral government imposition of a 2-year freeze (most from April 2011), followed by 2-year imposed 1% limit	3% cut in public sector real earnings 2010-11; likely to be higher in 2011-12; falling real pay will continue until at least 2014-15; cut in 'raw unadjusted gap' between public and private sector
High-wage earners	High profile independent review commissioned to examine 'culture of excess' in public sector, but no mention in 2012 budget	None to date
Low-wage earners	Government provision of £250 fixed supplement for earnings < £21k	Limited impact in reducing real pay cut among lowest paid. Not applied in local government
Local pay	Government aims to dismantle national agreements and hopes to implement local/regional pay; responses from pay review bodies for health, education, prisons in July 2012.	Likely to increase public sector wage inequality, widen inter-regional pay inequality and worsen pay for the lowest skilled who are least protected
Automatic seniority-related pay increments	Government pressure on pay bodies to freeze pay increments	Mixed response – eg. no increments for civil servants at the Dept Work & Pensions but honoured for prison service workers.

To date the austerity reforms have been met with a series of national and regional protests, strikes and work-to-rule actions. In 2011, four major unions<sup>7</sup> staged one-day strikes in June over pay reforms and the proposed changes to public sector pension schemes, supported by between 100,000 and 200,000 civil servants and disrupting around 50-85% of state schools. In 2012, the two largest teachers' unions begin an indefinite work-to-rule protest from September and the GMB and Unison are preparing for staged walkouts in early 2013 if pay negotiations break down.

<sup>6</sup> See the ONS report on this issue at [http://www.ons.gov.uk/ons/dcp171776\\_261716.pdf](http://www.ons.gov.uk/ons/dcp171776_261716.pdf).

<sup>7</sup> The unions involved were the National Union of Teachers (NUT), the Association of Teachers and Lecturers (ATL), the University and College Union (UCU) and the Public and Commercial Services Union (PCS).

## 2. Imposing pay restraint on a fragmented model of public sector pay

The UK's complex and fragmented model of public sector pay determination inevitably means the government's policy of pay freeze (with low wage supplement) is refracted in multiple ways across the different public sector workforce groups. The main local government pay agreement already applied a pay freeze in 2010, as did some parts of the civil service. Other pay groups tended to be in the second or third year of a multi-year pay deal in 2010. By 2011, however, most groups did implement a pay freeze and most have negotiated or recommended a small fixed supplement for the lowest paid.

It is perhaps surprising that in the context of multiple forms of pay arrangements for different public sector groups that a relative degree of unity in pay settlements has been achieved to date. Nevertheless, there are substantive differences in forms of negotiation and implementation of the austerity pay reforms. The following section characterises the main features of the UK's model of public sector pay – the organisation of unions and employers and the fragmented structure of wage-setting arrangements - and explores the shifts away from 'free' collective bargaining to 'quasi' collective bargaining in the form of Pay Review Bodies. A key issue for debate is the future impact on the status and reputation of the independence of Pay Review Bodies, which recommend separate pay awards for school teachers, healthcare workers and prison staff among others, given that each have had to bow to government demands to freeze pay. For their part, the trade unions have argued the bodies ought to have at least questioned the government's approach; Unison said the NHS Pay Review Body was 'hidebound' by government 'diktat', the National Union of Teachers said the School Teachers Pay Review Body had 'colluded' with ministers and the Prison Officers' Association argued the pay review body had failed in its duties by not compensating for prison officers' inability to take strike action.<sup>8</sup>

### 2.1. Employers and unions in the public sector

Union presence in the public sector is much stronger than in the private sector (figure 2.1). Trade union presence in workplaces was nearly three times higher amongst public sector employees (86%) compared with the private sector (30%) in 2010; moreover, public sector employees accounted for 62% of all trade union members (Achur 2011). Two features have contributed to the relatively strong union position in the public sector - the formalized and largely centralized collective bargaining procedures with explicit provision for arbitration and relatively well developed systems of workplace representation (Pendleton and Winterton 1993).

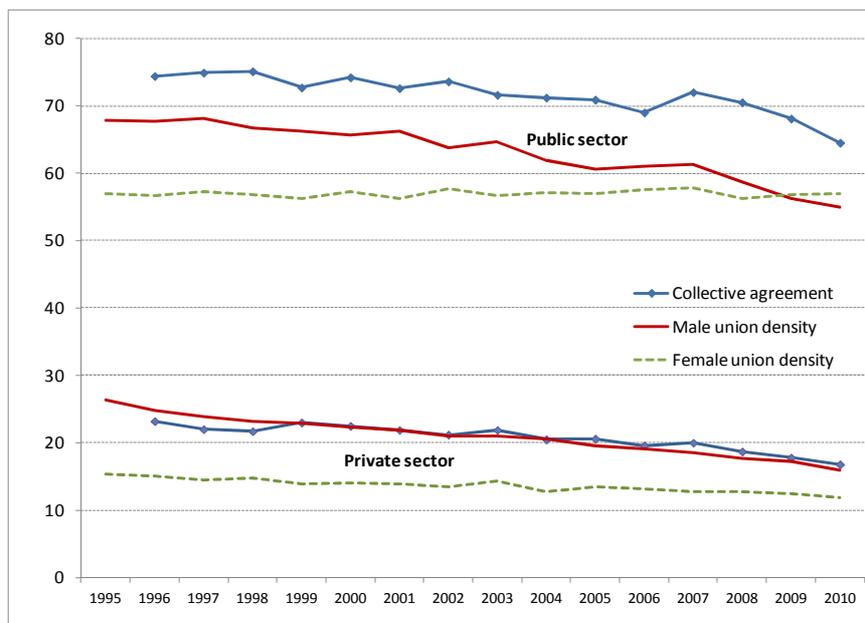
Public sector unions differ widely with respect to their size, function and types of workers they represent. Some operate as general trade unions, with members in both public and private sectors (eg. Transport and General Workers' Union), while others operate wholly or predominantly within the public sector (eg. Unison, the largest public services union, and unions for professional groups such as the National Union of Teachers) (see Cunningham and

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<sup>8</sup> In the three months to September 2011, the median private sector settlement was 2.6% and the public sector 0.0%.

James). Also, membership domains of unions typically overlap thereby providing public sector workers with a choice of union or professional association. For example, primary and secondary school teachers can join the National Union of Teachers (NUT) or the National Association of Schoolmasters Union of Women Teachers (NASUWT) among others and unqualified nurses can join Unison or the Royal College of Nursing.

Figure 2.1 Trade union density and collective bargaining coverage in the public and private sectors, 1995-2010



Source: Labour Force Survey data presented in Achur (2011).

The TUC, the peak union organization for UK unions, provides a coordinating role for public sector policy actions, campaigns and protests. Currently the most representative unions are Unison, the Royal College of Nursing and the National Union of Teachers (table 2.1). Despite the adverse effects of privatization and subcontracting, union membership in the public sector increased during the late 1990s and 2000s from 3,728,000 members in 1995 to 4,068,000 in 2010 (Labour Force Survey, ONS). However, it did not keep pace with the expanding public sector and union density in fact dropped from 61% to 56% over the period 1995-2010 (op. cit.).

Efforts to reverse a decline in overall public sector union density include the TUC's Organising Academy programme aimed at promoting the culture of union organizing. However, Carter et al. (2003) argue the focus on union renewal during the 2000s moved from an organizing model towards social partnership with the aim of promoting more consensual employment relations and accommodation with the New Labour agenda.<sup>9</sup> This strategy is

<sup>9</sup> According to several studies (Bacon and Samuel, 2009; Bach et al, 2005, Tailby et al, 2004) increased public spending by the New Labour government was linked to the active promotion of employer-union partnership agreements in order to secure union cooperation with the reorganization of public services delivery. Most partnership agreements signed in the 2000s were public sector agreements and by 2007 the public sector accounted for more partnership agreements than the private sector by a ratio of around three to two (Bacon and Samuel, 2009).

said to have resulted in increased dialogue and consultation during the period of New Labour government. Since 2010, the Conservative-led coalition government's unilateral approach to reform has weakened social dialogue and set off a new adversarial phase in British industrial relations.

*Table 2.1 Major trade unions with some or most members in the public sector (more than 100,000 members)*

<b>Trade union</b>	<b>Professional group</b>	<b>Membership</b>
Unite the Union	General union with no formal demarcation of membership domain.	1.572.995
Unison	Public sector union, (largest healthcare sector trade union)	1.374.500
GMB - British General Union	General union with no formal demarcation of membership domain	601.730
Royal College of Nursing (RCN)	Nurses and healthcare assistants	409.801
Union of Shop Distributive and Allied Workers (USDAW)	Retail sector, transport, distribution, food manufacturing,	386.572
National Union of Teachers (NUT)	Teachers	376.797
National Association of Schoolmasters Union of Women Teachers (NASUWT)	Teachers	326.659
Public and Commercial Services Union (PCS)	Most in government departments and other public bodies	301.562
Communication Workers Unions (CWU)	Telephone, cable, DSL and postal delivery companies	217.807
Association of Teachers and Lecturers (ATL)	Teaching and lecturing staff	216.739
British Medical Association (BMA)	Doctors	141.448
Union of Construction Allied Trades and Technicians (UCATT)	Workers in construction and allied trades	127.433
University and College Union (UCU)	Lecturers and teachers in higher education	122.062

Source: Certification Office for Trade Unions and Employers Association, 2010-2011.

Public sector employers are represented by a smaller group of associations defined by sector and public service profession, including, for example, Local Government Employers and NHS Employers (table 2.2). The Local Government Employers, for example, facilitates consultations between employers and trade unions on issues such as pay, pension, workforce issues and social partnership. It also negotiates specific contracts with trade unions and provides evidence to pay review bodies. Its remit covers local government staff, teachers, school support staff, firefighters, coroners, police and police support staff, forensic medical examiners. For example it provides the Employers' Side of the Police Negotiating Board (PNB) and of the Police Staff Council (PSC). It also provides the secretariat for the employers' side of the School Support Staff Negotiating Body – the National Employers of School Support Staff (NESSS) and for the employers' sides of the National Joint Council for Local Authority Fire and Rescue Services, the Middle Managers' Negotiating Body, and the NJC for Brigade Managers of Local Authority Fire and Rescue Services.

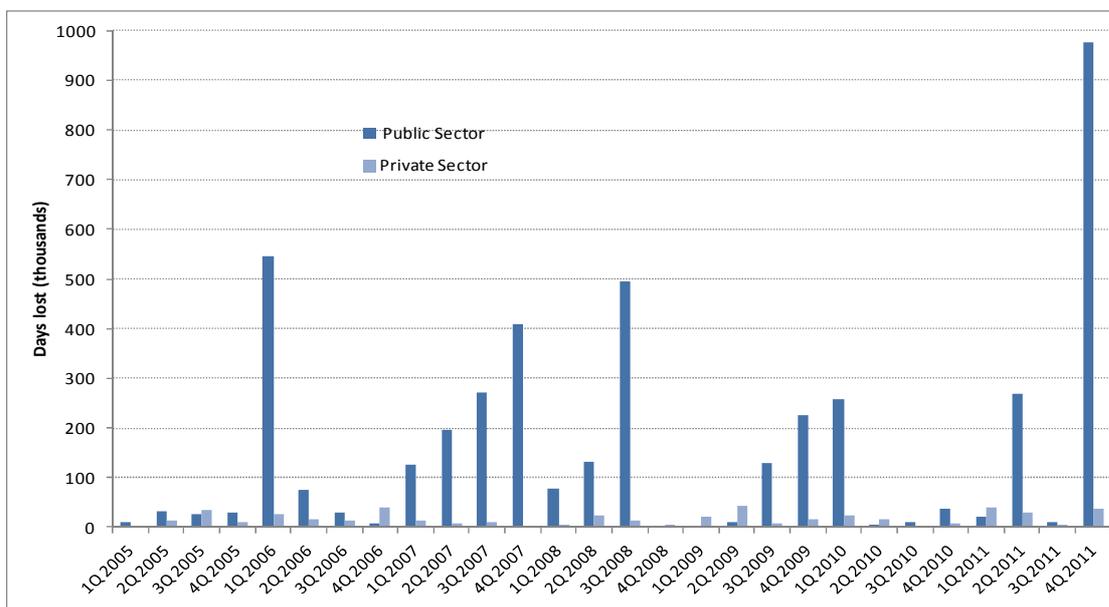
*Table 2.2. Major employers' associations in the public sector*

<b>Employer association</b>	<b>Area of representation</b>
Association of Colleges	UK college sector

Convention of Scottish Local Authorities	Scottish local authority employers
Local Government Employers	UK local government sector
NHS Employers	UK national health sector
University and College Employers' Association	UK higher education sector
National Employers' Organization for School Teachers	UK schools employers
National Employers for School Support Staff	UK School support staff employers
National Organization of Employers of Local Authority Fire and Rescue Services	UK fire service

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Figure 2.2. Numbers of days lost to strikes in the public and private sectors, 2005-2011



While the organization of unions and employers would suggest that social dialogue is stronger in the public sector than in the private sector, with its more powerful union presence it is also the case that strikes and other work stoppages are far more common among public sector workers. Like the private sector, workers in the UK public sector have never enjoyed an explicit legal right to strike but, with the exception of the police and armed forces, are covered by immunities from common law liabilities.<sup>10</sup> Prior to the current austerity measures, major strikes during the 2000s include: the first national strike by UK civil servants for more than a decade (in November 2004) against government plans to cut a large number of civil service posts; a public sector workers' strike of more than one million workers (March 2006) over planned changes to the local government pension scheme; a protest by postal workers at Royal Mail (2007) against pay and company modernisation plans; a teachers' strike involving around 200,000 workers (2008) following the government's refusal to improve a 2.45 per cent

<sup>10</sup> The right to strike results from immunities from common law liabilities in pursuit of a legally defined trade dispute; such immunities are guaranteed to all public sector workers with the exceptions of the police and the armed forces.

pay offer; and a strike by local government workers (2008) against the employers' refusal to award a 2.45% pay increase (figure 2.2).

## 2.2. The fragmented model of public sector pay

In common with the UK private sector, a voluntarist tradition of industrial relations underpins the design and application of separate pay scales and separate systems of wage-fixing for different public sector occupational groups, such as teachers, police, nurses and civil servants. Moreover, these different institutions of wage-setting have been characterised over the years by an unbalanced development of change and transformation, which in part reflect the efforts of government to meet conflicting demands of controlling the public sector paybill (in line with economic performance), pursuing pay comparability (both among public sector groups and with private sector comparators) and establishing closer links between pay and flexibility (variously defined as productivity, performance, etc.). These same challenges are very much present in today's context of austerity but in their application follow a legacy of problems in the UK's particular policy approach towards public sector pay.

### *Very different to the private sector*

Unlike most other European countries, there are stark differences in systems of wage-setting in the public and private sectors in the UK. Two sources of data provide an indication of the difference between sectors. WERS data for 2004 suggest that the proportion of workplaces that used collective bargaining with unions in setting pay for at least some of their employees was 83% in the public sector and 14% in the private sector. In terms of the share of employees covered by collective bargaining the estimates are 82% and 26%, respectively (Kersley et al. 2006: table 7.1). More recent Labour Force Survey data for 2010 record a smaller gap – the share of employees whose pay was affected by a collective agreement was 65% in the public sector and 17% in the private sector (Achur 2011: table 4.1). LFS data suggest the gap has been around 50 percentage points since at least the mid-1990s and both sectors have witnessed a downward trend in coverage (figure 2.1 above).

*Table 2.3. Pay determination in the public and private sectors compared, 1998 and 2004*

<i>% of workplaces that use:</i>	1998			2004		
	Public	Private	All	Public	Private	All
<i>Only collective bargaining</i>						
- multi-employer	28	2	8	36	1	7
- single employer	19	4	7	12	4	5
<i>Only set by management</i>						
- higher level management	9	24	21	7	23	20
- workplace management	1	32	25	1	43	35
- individual negotiations	0	6	5	0	5	4
<i>Mixture of methods</i>						
Any collective bargaining	79	17	30	77	11	22
Any set by management	21	81	69	28	79	70
Any individual negotiations	1	16	13	2	15	13
Any other method	39	8	14	32	2	7
- Pay Review Body <sup>1</sup>	--	--	--	32	0	6

Note: 1. Specific data on wage-setting by Pay Review Bodies were not collected in the 1998 survey.

Source: WERS data presented in Kersley et al. (2006: table 7.4).

In the few private sector workplaces where collective bargaining is used to set pay it is almost always at the single company level. In the public sector, by contrast, collective bargaining is most likely to occur at the national level in the form of sector agreements, covering all schools for example, or all local authorities. Unilateral wage-setting by management is the exception in the public sector (8% of workplaces used this as the single method of pay determination) whereas in the private sector it is the norm (table 2.3). Nevertheless in its role as employer, the government does exercise unitarist authority in certain periods. Incomes and wage control policies in the 1970s gave expression to the government's (and public's) concern with size of wage settlements and implications for inflation, limiting the operation of 'free' collective bargaining; the visibility and large size of many of the public sector collective bargaining units made them particularly vulnerable to attempted control via incomes policies (Beaumont 1992: 98-102).

### *Integrated or fragmented wage-setting?*

Compared with other European countries, the UK model of public sector pay is highly fragmented. Yet compared to the UK private sector the public sector represents an area where wage-setting is relatively coordinated. Today's model of public sector pay is an eclectic mix of wage-setting systems that includes collective bargaining, wage indexation and independent pay review bodies, although the trend since the 1980s has been towards a greater proportion of the public sector workforce covered by pay review bodies (table 2.4). Free collective bargaining used to be the primary mechanism of wage-setting but today the main arrangement is the independent pay review body, a form of 'quasi' collective bargaining (described below). The largest unit of free collective bargaining is local government with coverage of approximately 1.4 million workers. Local authority manual and non manual workers have been covered by an umbrella framework known as the General Whitley Council in at least a partial form since 1918 (Bailey and Trinder 1989, Beaumont 1992).<sup>11</sup>

National pay arrangements for police and the fire service rely on separate pay formulae, or wage indexation, introduced in 1978 for both groups following an inquiry (in the case of the police) and a prolonged strike (in the case of the fire service) (Brown and Rowthorn 1990). For both groups, a contentious issue has been the benchmark for the pay formula. For police, earnings were initially tied to the average earnings index, then in 1995 to the median settlement of private sector non-manual workers (IDS 1995) and in 2007 to a public sector wage index (see Box 2.1). For the fire service, pay was linked for many years to the upper quartile of male manual workers' earnings but in the early 2000s trade unions argued for a change due to falling real wages of manual workers in industry and the increased job responsibilities of fire service workers.<sup>12</sup> Strikes in 2002 were accompanied by a review of

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<sup>11</sup> Workers from the National Health Service were also covered by the General Whitley Council from 1948 but, as we discuss below, have since moved to a system of pay review.

<sup>12</sup> The General Secretary of the Fire Brigades Union at the time argued, '*In recent years however occupational change in the workplace and the labour market has accelerated dramatically and also firefighters and fire control operator's responsibilities have broadened considerably. In the fire service more emphasis is now placed on fire prevention and community liaison. The demands of the job have become increasingly technical and complex both in front line fire fighting and in fire control rooms. In short the old formula based on comparisons with industrial manual workers no longer fits the bill. Also the issue of the current level of pay needs addressing.*' (cited in the union magazine *FireFighter* March 2002).

*Table 1.5. Characteristics of multiple forms of pay determination in the public services sector*

<b>Workforce group</b>	<b>System to determine pay</b>	<b>Special Inquiries</b>	<b>Details</b>
<b>Central government:</b>			
Armed forces	PRB (1971-)		--
Senior civil servants, judges & senior military	PRB (1955-)		--
Civil servants	CB	1955 Priestley Commission; 1982 Megaw	Megaw ruled pay comparisons should have less influence in favour of the principles of paying sufficient to recruit, retain and motivate; growing use of performance-based schemes since mid-1980s; decentralised pay bargaining to Executive Agencies leading to variation in pay structures (grades, pay progression, etc.)
<b>Healthcare:</b>			
Doctors & dentists	PRB (1963-)		--
Nurses, midwives	CB (1948-1982); PRB (1983-)	1974 Halsbury; 1980 Clegg; 2004 'Agenda for Change'	Initially the PRB only covered nurses & allied health professionals. In 2004 extended to cover all healthcare professionals, clinical support workers & technicians. In 2007 extended to include all other groups covered by 'Agenda for Change' (ancillary & admin staff previously covered by collective bargaining)
Other health professionals	CB (1948-2003); PRB (2004-)		
NHS ancillary workers	CB (1948-2006); PRB (2007-)		
<b>Education:</b>			
School teachers	CB (1919-1987); PRB (1991-)	1974 Houghton; 1980 Clegg;	The 1987 Teachers' Pay and Conditions Act abolished the 68-years old Burnham collective bargaining structure; eventually replaced by PRB
School support staff	PRB (2010 -2011); CB (2012-)		New School Support staff Negotiation Body set up in July 2009, made a statutory body in January 2010 but abolished with effect from February 2012 and returned to local government pay arrangements
<b>Local government:</b>			
Police officers	Indexation (1978-1993; 1994-2006); Arbitration tribunal (2007); CB (2008-)	1978 Edmund-Davies; 1993 Sheehy; 2007 Booth; 2012 Winsor	1978 Edmund-Davies review established a pay formula linked to average pay rise of all workers. 1994 adapted to private sector pay settlements. 2007 index halted - arbitration decision (2007) and negotiated 3-year deal (2008-10); Winsor recommends replacing with a PRB by late 2014
Police staff	CB	2012 Winsor	Integrated with local government National Joint Council until 1996 and separate since. No recommendations to change CB arrangement in 2012 Winsor report
Fire service	Indexation (1978-2002, 2005-)	2002 Bain review; 2003 White Paper;	1978 pay formula linked pay to upper quartile of 'industrial workers'; 2002 strikes; 2003-4 pay uplift; 2005 new pay formula linked to Associate Professional and Technical employees (SOC code 3)
Local government	CB (1918-)	1980 Clegg	
Prison service	PRB (2001-)		Operation staff only – clerical staff working in prisons excluded.

Note: Details of wage-setting systems for workers employed in public sector corporations excluded; PRB = Pay Review Body, CB = Collective bargaining.

pay and working conditions (Bain 2002) and a government White Paper, resulting in staged pay uplifts and a new formula in 2005 linked to the occupational group of associate professionals (SOC code 3).

*Box 2.1. The ongoing dispute over police pay and conditions*

The introduction of an objective indexation formula for determining police pay was argued for on the grounds that this provided the best means of ensuring fair pay for a group of workers deprived of the right to strike (1978 Edmund-Davies Committee of Inquiry). The formula proved to a great extent acceptable to all parties until government concerns of affordability were raised in 2006. For the first time since its introduction in 1979, the government rejected the 3% pay rise resulting from application of the indexation formula. It went to arbitration and the award was upheld. However, the index system was halted.

The then Labour government commissioned a special review of police pay to inform the 2007 pay round, including in its remit the option of a new pay review body for police. The 2007 Booth review recommended a new approach to applying the pay index, which was opposed by the Police Federation, representing police officers. The Booth review stated:

*‘The negotiations in 2007 should not be limited to discussion of indexation in the sense of producing a uniform percentage increase for all ranks. There should be a more flexible approach. The index should be regarded as producing a “pot” of money that can be applied differentially according to the needs of the service, including modernisation.’*

It recommended a pay rise of 2.35%, accepted by the police employer body but rejected by the Police Federation, which tabled a rise of 3%. The arbitration decision of 2.5% was accepted by government but not backdated (although it was in Scotland) thereby reducing its value and causing controversy among the staff side who argued ‘Police officers should either have full industrial rights or independent binding arbitration; currently we have neither’. The Booth review also recommended a new Pay Review Body for Police Officers (constables, sergeants, inspectors and chief inspectors), while retaining the existing Police Staff Council for Police Staff for now. In its response the then government made clear it was open to the prospects of a new unified pay machinery for police officers and staff.

Under the new coalition government, another review of policy pay and conditions (the Winsor report) was published in March 2011. Its remit was wide – covering deployment of officers and staff, shift allowances and overtime, entry into the police force and merit and other supplementary payments. The report emphasised the police pay premium over other public sector emergency services. It recommended:

- reform of payments of unsocial hours premiums (given only 57% of officers regularly worked unsocial hours);
- suspension of bonuses for all chief officers and superintendents;
- a freeze of incremental pay progression; and
- the scrapping of the £1,212 competence-related threshold payment.

Asked to consider the Winsor recommendations (Part I), the Pay Negotiating Board failed to agree 18 recommendations, leading to a decision in early 2012 by the Police Arbitration Tribunal. The staff side opposed the recommended two-year freeze on incremental progression, arguing it was the main source of saving in the Winsor report (pay freeze awarded by the tribunal except for the bottom three pay grades). The staff side also opposed replacing the norm of a consolidated unsocial hours payment for all constables, sergeants, inspectors and chief inspectors with a 10% premium for the actual number of unsocial hours worked (awarded). Other controversial points concerned the amendment of the Police Regulations such that chief officers should be required only to consult, as opposed to agree, with the local joint branch board over the issue of variable shift arrangements (awarded); the removal of the time and a third rate of overtime payable to officers for ‘casual’ overtime (rejected by the tribunal); and the 2-year suspension of bonus payments for chief officers and superintendent ranks (awarded). Overall, the tribunal approved 10 of the 18 recommendations, issued no award on three recommendations and modified five of them.

Part two of the report, published in March 2012 and running to nearly 800 pages, presents a

comprehensive review of internal and occupational labour market structures of policing (including equity of pay progression for officers and staff, flexibility of typical service length, entry routes of officers into the police service) and the institutional mechanisms for pay determination. In particular, it recommends abolishing the Police Negotiating Board and replacing it with a pay review body by 2014 and retaining the Police Staff Council. It also recommends that the new pay review body undertakes a periodic (5-year) review of the development of the police workforce in order to advise government as to the feasibility of harmonising terms and conditions of police officers and police staff.

The report recommends:

- an increase in the pension age for all officers from 50 years (after the completion of 30 years of work) to 60 years;
- an annual fitness test for all officers and pay cuts for those who fail to pass it;
- an increased minimum educational standard for new recruits (up to three A-levels);
- direct entry for recruits to inspector rank and above with about 80 places a year targeted at top graduates from the best universities;
- fast-track promotion to inspector within three years instead of the current 17;
- a possible scheme of direct entry for the ranks of superintendent and above to attract skilled specialists from the military, security services, industry and business;
- introduction of performance-related pay with scales linked to skills and performance rather than length of service;
- a new shorter pay scale for constables in order to move to the maximum more quickly;
- a lower starting salary (from the current £23,500 to either £19,000 or £21,000 depending on experience);
- higher pay rates for more demanding officer and staff jobs; and
- the introduction of compulsory severance across all ranks (replacing current practice whereby only long-service officers can be forced to retire on cost grounds) with financial compensation offered on the same terms as the Civil Service Compensation Scheme 2010.

In total, Winsor estimates a cumulative saving of £1.9bn by 2017/2018. Two thirds of the cumulative savings would be reinvested in a reformed system of pay and conditions to 'ensure that such a significant sum of public money is concentrated and spent on rewarding and incentivising the most effective and efficient police officers and staff' (Winsor, 2012:19). Described by media as 'the most radical shakeup of policing for more than 30 years', the package of recommendations has encountered strong opposition from the police side. Paul McKeever, Chairman of Police Federation of England and Wales, declared:

*'Police officers have had enough of the constant state of uncertainty and the deliberate, sustained attack on them by this government. They want to get on with the job they joined to do, serving their communities, and they expect the support of government. Instead they find themselves contending with cuts to pay and conditions of service, increased stress and pressures, falling numbers of police officers, low morale and the privatisation of essential police functions. Despite a growing list of demands and the reality of the cuts, they are doing their very best, but they know the government cuts are jeopardising public safety and the quality of service they are able to provide. The service cannot take anymore; enough is enough'*

Sources: Keter (2011) 'Police pay: Booth review (2008-2011 pay deal) *House of Commons Library*, SN/BT/4139; The Guardian "Police could face annual fitness tests and compulsory redundancies" 15 March 2012 <http://www.guardian.co.uk/uk/2012/mar/15/police-annual-fitness-tests-compulsory-redundancies>, <http://www.polfed.org/613D5ED0488D416CBC7F876FF28BC4D1.asp>; Winsor, T.P. (2012a) Independent Review of Police Officer and Staff Remuneration and Conditions Final Report – Volume 1 (pp. 9-319); Winsor, T.P. (2012b) Independent Review of Police Officer and Staff Remuneration and Conditions Final Report – Volume 2 (pp.325-779).

Pay review bodies differ substantively in form from collective bargaining: members are appointed by government, they make recommendations on the size of the pay settlements (on the basis of evidence presented by government, the unions and the local employer) and government reserves the right of veto. The first UK pay review bodies were established for senior civil servants, judges and senior military, for doctors and dentists and for the armed forces. In each case, the pay review body was intended to provide a fairer system of wage-setting since these groups were unable or unwilling to use strike action as a pay bargaining strategy (Bailey and Trinder 1989).

In the 1980s and 1990s two further pay review bodies were established, one for nurses, midwives and professions allied to medicine (in 1982-83 in response to industrial action) and another for school teachers (1991). The setting up of these two review bodies changed the logic of the public sector pay model. Until then review bodies were rationalised as the proper form of pay determination for employees who relinquished recourse to industrial action. While the nursing pay review body was described by government as a 'reward' for not participating in industrial action (Seifert 1992: 278), the Royal College of Nursing reversed its longstanding no-strike policy in 1996. Also the teachers' pay review body was opposed by all sides at the time: by government because it feared a run of generous settlements, by public sector employers who feared a knock-on effect to other local authority workers and by unions who opposed the loss of their negotiating rights (Bailey and Trinder 1989).

Further expansion of the pay review model occurred in the 2000s. First, the nursing review body was extended in 2004 to include all healthcare professionals and clinical support workers and technicians and again in 2007 to include ancillary and administrative workers covered by the new national framework 'Agenda for Change' (box 2.2). This widened coverage in practice replaced ten separate agreements (for different occupations with the National Health Service) with a harmonised set of terms and conditions organised around three inter-related pay structures (for doctors and dentists, for nurses and other health professionals and for other NHS staff except senior managers) (Grimshaw et al. 2007). Second, a new pay body was set up in early 2010 for school support staff with the remit to establish a national framework for pay and conditions. However, this body was abolished (with effect from February 2012) by the incoming coalition government with the argument that it 'does not fit well with the government's priorities for greater deregulation of the pay and conditions arrangements for the school workforce'.<sup>13</sup>

These multiple groups of wage-setting are not integrated through a formal system of rules that coordinates the processes of bargaining and pay recommendations in different parts of the public sector. However, it might be argued that there is a degree of informal coordination through both the unions (since Unison, Unite and the GMB represent members in different bargaining units and have the opportunity to apply a common strategy) and government (since the Treasury inputs a consistent view, as exemplified by the present austerity policy).

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<sup>13</sup> Stated in a letter from the Secretary of State for Education to the former Chair of the School Support Staff Negotiating Body, dated 28 October 2010 (Office of Manpower Economics, [www.ome.uk.com/example/School\\_Support\\_Staff\\_Negotiating\\_Body.aspx](http://www.ome.uk.com/example/School_Support_Staff_Negotiating_Body.aspx)).

*Box 2.2. A new national pay agreement for nurses integrated with other NHS workforce groups*

The majority of working nurses in the UK are employed in the NHS. Their pay was negotiated in a separate bargaining unit for nurses and midwives, under the umbrella of the General Whitley Council, until 1983 and thereafter it was set by a pay review body. Nurses are represented by multiple bodies, although most are members of the Royal College of Nurses, the largest professional body for nursing in the UK. Its 400,000 plus members include nurses, midwives, health care support workers and students from across a range of nursing disciplines; unqualified nurses can also join the RCN.

Following more than a decade of failed efforts by the Conservative governments of the 1980s and 1990s to abandon national pay arrangements, the Labour government sought to ‘modernise’ NHS pay with the 1999 pay reform, ‘Agenda for Change – Modernising the NHS Pay System’. The new system aimed to introduce more local flexibility, link pay with performance and link career progression to individuals’ responsibilities and performance (DoH 1999a, 1999b). After rounds of negotiations with 17 unions and professional associations – described as ‘one of the most complex and lengthy pay negotiations in the world’ (Bevan et al., 2004: 8) - the 2004 introduction of Agenda for Change put in place:

- a harmonized system of national pay and conditions;
- a national job evaluation scheme based on agreed job descriptions; and
- job evaluation and a new competency-based career framework (the ‘Knowledge and Skills Framework’).

Agenda for Change covers all non-clinical staff in the NHS, around 35% of which are qualified nurses. By 2006, 99% of NHS staff were covered by the new pay arrangements (Buchan & Evans 2007). Perkins and White (2010) argue that significant pay increases (an average 10% for frontline professionals in the 3 years to 2007) were awarded to NHS employees. Some research raised concerns about an absent productivity increase and limited transformation in practices (eg. King’s Fund 2007; NAO 2009). Other studies emphasized its success at establishing a modernized framework for coordinated pay-setting and pay reform with a significant uplift for the lowest paid (Grimshaw 2009); the NAO (2009) report also identified the benefits it presented managers in their estimations of labour costs and management of budgets.

### 3. Procurement of public services and the interconnections with the labour market and pay inequalities

#### 3.1. Procurement of UK public services

Government procurement of public services can be defined as the use of public finance to purchase services from the non-public sector (including private sector, non-profit, voluntary, mutuals and self-employed) for public consumption. In the UK, there are a range of forms of procurement due to differences in models of public finance, the locus of decision-making, the form of provision and the type of public use or consumption.

Three drivers underpin the policy discourse, as well as academic study, of procurement policy and practice in the UK (table 3.1). The first is the capacity of private sector firms (and voluntary/non-profits) to bring innovation and new, more modern forms of expertise to the delivery of public services in ways that are said (as part of ‘New Right’ discourse that flourished first in the late 1980s and again today) to be more difficult within large, bureaucratic public sector organisations (Cutler and Waine 1994, Thompson 2007). Innovation is expected to be encouraged by the private sector’s capacity to raise financial investment<sup>14</sup> (especially relevant during a period of austerity), its greater specialisation in particular areas of services and production activity and its ability to bring new practices from operations in other sectors and countries (Entwistle and Martin 2005, Lowndes and Skelcher 1998, IPPR 2001). One strand of literature has investigated evidence of ‘lean practices’ in the supply chain across a variety of public sector settings (eg. Hines and Lethbridge 2008, Hines et al. 2008, Radnor and Walley 2008). Nevertheless, a curious feature of some private sector firms that bid for public services contracts is their lack of experience in the service in question. Instead, as several studies show, they bring expertise in contract design, as well as in some cases supply chain management – although as Crouch (2003: 16) argues, this skill is only necessary because of the policy to procure public services.

A second driver, and one that is far more strongly emphasised in policy documents, is value for money. There are two features to this. On the one hand, value for money for the taxpayer is expected from the usual simplistic assumptions that the operationalisation of a competitive market for public services will drive down unit costs and deliver efficiency savings (Torres and Pina 2002). Issues that arise in studies arguing for the need for market competition include the limitations of ‘soft budget’ constraints in the public sector compared to the cost focus inspired by market discipline, the tendency for over-staffing in public sector organisations, the weak focus of some public sector organisations on meeting user needs and the cost efficiencies of many private firms able to draw on larger scale economies (see review by Wood 2007). Value for money is an especially strong feature of current procurement policy in the new political economy of austerity, deficit reduction and retrenchment of the public sector but suffers from many of the same limitations identified in Cutler and Waine’s (1994: 90-95) critique of 1980s procurement policy – namely, lack of regard for market transaction costs (eg. billing and collection), inability to separate out cost reductions from

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<sup>14</sup> Although, see Hall (2008) for a critical analysis of this expectation in his study of water privatisation.

changed specification of services provided (eg. reduced scope or quality), problem of not measuring or capturing adverse spillover effects on other areas of in-house public sector services (eg. poor quality private sector cleaning in a hospital leading to more work for nurse assistants) and subjectivity of standards of quality in services provision.

*Table 3.1. The drivers, benefits and limitations of outsourcing public services*

Drivers	Assumed benefits	Limitations
<b>Innovation/modernisation</b>	<ul style="list-style-type: none"> <li>- access to private sector capital</li> <li>- expertise of specialist firms with international operations</li> <li>- modernisation of supply chain operations</li> <li>- access to leading technologies</li> <li>- modern business and management practices</li> <li>- innovation in services delivery</li> </ul>	Innovation in contract design only necessary because of procurement of services; contractor expertise often reliant on staff transfer from public sector; provision of new technologies expensive; private sector management practices not always relevant or appropriate.
<b>Value for money</b>	<ul style="list-style-type: none"> <li>- cost efficiencies of market discipline superior to public sector ‘soft budget constraints’</li> <li>- regular market benchmarking of services costs</li> <li>- flexible contract tariff payments</li> <li>- exploit the pay gap with the private sector</li> </ul>	Cost control focuses on labour costs with adverse consequences for service quality; evidence that government is not a ‘smart’ purchaser of procured services allowing contractors to respecify contracts and win add-on service contracts; procurement process generates additional administrative costs; difficulties of evaluating value for money associated with quality rather than unit costs
<b>Partnership</b>	<ul style="list-style-type: none"> <li>- ‘collaborative advantage’ brings win-win, mutual benefits to public and private sector</li> <li>- provides a basis for effective monitoring of service delivery</li> <li>- synergies enable continuous innovations, improved quality and cost reductions</li> </ul>	Tendency for contractual rather than relational management; imbalanced relationships facilitate opportunistic behaviour/ abuse of trust; ‘lock-in’ of partnerships can restrict supply-side competition (and may conflict with EU competition law)

On the other hand, government policy has responded over a rather drawn out period of time to criticisms (not least by the government’s Public Sector Accounts Committee) that it has not acted as a ‘smart’ purchaser of contracted services by reforming procurement policy. Empirical studies find that UK government bodies are both losing expertise in the procured activity relative to the private sector supplier (because the activity is transferred to the private sector and so expertise diminishes over time and memory is lost as managers who negotiated the contract leave) and are at a lower level of expertise in the design and negotiation of procurement contracts – especially with respect to the understanding and management of risk sharing (Grimshaw et al. 2002; see, also, HM Treasury 2003). Loader (2010) provides a review of the development of UK public sector procurement. A 1984 review of government purchasing introduced the notion of ‘value for money’ (Cabinet Office 1984) and this principle was reaffirmed in all subsequent policy reforms and reviews (table 3.2). Cost

efficiencies were a key objective of the 2004 Gershon report that outlined proposals to deliver £20 billion of public spending cuts by 2007-8 and, notably, lead to the establishment of the Office of Government Commerce which in 2011-12 managed £18 billion of expenditures under nine categories of goods and services. Other reviews followed, centring on further potential for achieving value for money, more innovative services delivery through procurement and better leadership on the public sector purchasing side.

Most recently, a review of procurement commissioned by the coalition government (Green 2011) argues for greater efforts to centralise government procurement policy, drawing attention to the extraordinarily fragmented landscape of procurement and lack of harmonised governance principles (repeating a similar argument made in the 1995 government White Paper, see table 3.2). There are approximately 50 professional purchaser organisations and individual public bodies managing procurement. The Government Procurement Service is the largest Professional Buying Organisation in the public sector and the only one with a legal remit to trade across the entire UK public sector.<sup>15</sup> The coalition government response includes a policy of ‘Lean Review’ aimed at uncovering wasteful practices and unnecessary complexity in government procurement. It seeks to reform the approach to procurement, to upskill public sector procurement managers and to share best practice across government departments. The coalition government has also stated an aspiration to award 25% of government contracts to small and medium-sized firms, to publish online all government tenders (see HM Government 2011) and to renegotiate contracts where necessary to make cost savings.<sup>16</sup>

*Table 3.2. Development of UK government procurement policy*

Year	Report/initiative	Themes
1984	‘Government purchasing: a Multi-department review of government contract and procurement procedures’ (Cabinet Office)	- Primary goal to provide taxpayer with value for money from expenditure on procurement
1995	White Paper ‘Setting New Standards: a Strategy for Government Procurement’ (HM Treasury)	- Primary goal is value for money - Partnership encouraged (‘mutually satisfactory relationships are in the best interests of both sides’) - Inter-departmental cooperation on procurement
1998	‘Efficiency in Civil Government Procurement’ (HM Treasury/Cabinet Office)	- All procurement based on value for money - Strategic purchasing - Co-operation - Collaboration
1999	‘Modernising Civil Government Procurement’ (Gershon, 1999)	- Value for money - Proposed the creation of the Office of Government Commerce
1999	Government Procurement Website and Government	

<sup>15</sup> In 2010-11, this agency managed almost £8 billion of public expenditures and worked with 14,500 organisations in central government, health, local government, devolved administrations, education and the not-for-profit sector (reference?).

<sup>16</sup> During July 2010-June 2011 the government claims to have renegotiated contracts with over 50 suppliers and made cost savings of approximately £800 million

	Procurement Service established	
2000	Office of Government Commerce established	
2004	'Releasing resources to the front line' (Gershon Review, HM Treasury)	<ul style="list-style-type: none"> <li>- Value for money</li> <li>- Cost savings</li> <li>- Enhancing procurement</li> <li>- Capability</li> <li>- Strategy and leadership</li> </ul>
2007	Transforming Government Procurement HM Innovative, outcome-based procurement	<ul style="list-style-type: none"> <li>- Value for money</li> <li>- Sustainability</li> </ul>
2008	Procurement capability reviews (OGC)	<ul style="list-style-type: none"> <li>- Procurement capability in:</li> <li>- Leadership</li> <li>- Skills development and deployment</li> <li>- Systems and processes to deliver value for money</li> <li>- procurement-driven public service improvements</li> </ul>

Source: adapted from Loader (2010: table 1).

The third driver is the assumed benefits of a collaborative, partnership approach to public services delivery that is said to maximise the shared strengths of public and private sector approaches, to encourage sharing of information and the risks of long-term investment and to ensure continuous improvements in cost and quality (Bovaird 2006, Erridge and Greer 2002). In the management literature this form of joint working is said to establish 'collaborative advantage' (Kanter 1994, Huxham 1995). A closer, collaborative approach may also herald a shift from use of contractor as a support function for the delivery of an ostensibly peripheral activity to their input in shaping the strategic functions of the public sector organisation, similar to trends in the private sector (Miozzo and Grimshaw 2011, Morrissey and Pittaway 2004). A partnership approach was emphasised in the 1995 White Paper, 'Setting new standards' where it states 'Although [public sector departments] will press suppliers to reduce cost and improve quality, they will recognise that mutually satisfactory relationships are in the interests of both sides and will avoid an unnecessarily adversarial approach' (HM Treasury 1995: 13, cited in Loader 2010). Subsequent policy reforms have sought in a similar manner to improve on an overly cost-focused procurement policy, although principles of market competition and a focus on costs are still very much in place.

### 3.2. The interconnections between procurement and the labour market

Because the bulk of procurement expenditures on services goes towards the costs of labour and because procurement typically involves a shift in status among affected workers from public sector employer to private (or voluntary) sector employer, it is imperative to analyse the multiple set of influences between procurement policy and practice and labour market rules and conditions. Figure 3.1 presents a graphical interpretation of these two-way interconnections.

#### *Labour market rules*

Various interlocking labour market institutions influence the form and practice of government procurement of public services. The most significant are the following. First, a national statutory minimum wage establishes a floor to wage competition. This is important for procurement of low-wage services given that labour costs often represent a key source of competitive advantage among bidding contractors. The problem, however, in the absence of effective pay policy within the organisation, is that managers set pay at the minimum wage level and rely on ‘hard’ forms of human resource management (threat of dismissal, weak pay incentives, surveillance technologies) to performance manage workers rather than job quality measures such as pay progression, training and job ladders. In the care sector, for example, a recent survey found that three quarters of contractors paid modal wages below £7 per hour and half paid below £6.51 (compared to the then minimum wage of £5.73) (Rubery et al. 2012).

A second influential labour market rule concerns TUPE regulations<sup>17</sup>, which provide for the terms and conditions of employment set by one employer to be carried over to another employer following merger or some form of contracting out. These rules affect not only the impact of contracting on employment conditions but also the incentive for public sector organisations to engage in contracting. During the 1980s they were ineffective due to legal confusion about their application. Legal amendment in 1993 (following several legal cases and a challenge in the European Court of Justice<sup>18</sup>) meant they were more effective and provided for continuity of employment post-transfer, protection of pay, working hours, sickness benefit and holiday entitlement. However, problems remained including lack of protection about work rules (level of effort and strictness of performance monitoring) and absence of attention to the informal norms governing the organisation of working time (Cooke et al. 2003). Further amendments were made in 2006 to clarify and extend the scope of TUPE’s application to service provision changes. At present, TUPE regulations are subject to a review in light of government concerns ‘that some businesses believe they are ‘gold-plated’ and overly bureaucratic’ (BIS 2011: 3). The risk for government is that in proceeding in its desire to dilute labour market regulations it ignores evidence from industry that TUPE in fact has facilitated procurement by enabling employees to transfer smoothly with their valuable skill and experience to contractors, as well as diffusing antagonistic feelings among transferring employees towards outsourcing and privatisation (Grimshaw and Miozzo 2006; Julius 2008: 39).

A third rule is an outgrowth of TUPE in the form of a recently abolished government policy known as the ‘two-tier code’. Following a union campaign against the practice of private sector contractors to set terms and conditions of non-transferred workers at a significantly lower level than those of workers transferred over with TUPE protection, the government introduced a ‘two-tier code’ initially for local government procurement (2003) and then the National Health Service (2005). The code establishes the principle that contractors ought to offer all workers engaged in public services employment ‘on fair and reasonable terms and

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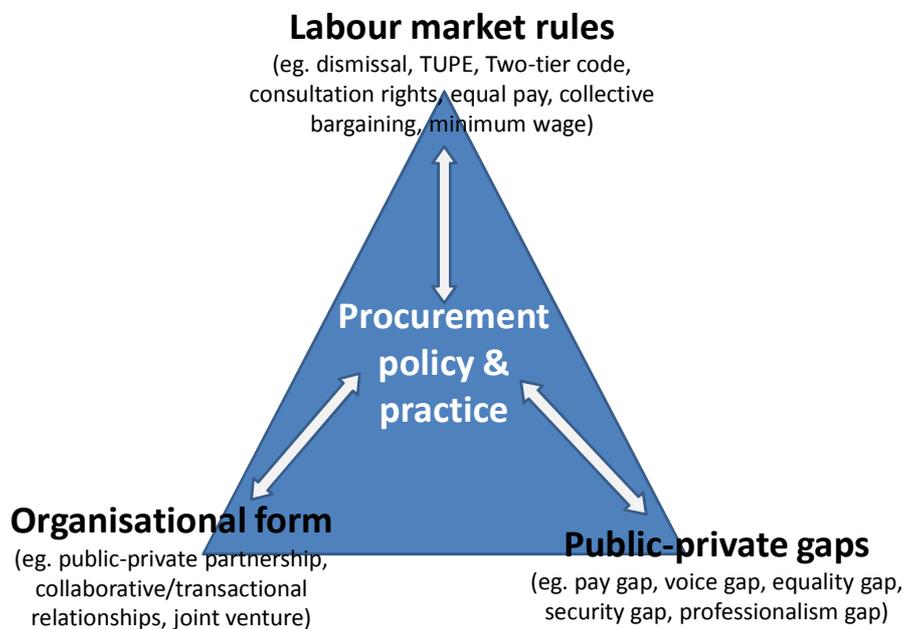
<sup>17</sup> The Transfer of Undertakings (Protection of Employment) regulations were originally introduced in 1981 to comply with the 1977 EC Acquired Rights Directive. They were designed to protect employees where a business or part of a business or area of service provision in which they are involved changes ownership. They also benefit employers by clarifying the terms of transfer and smoothing the process of transition.

<sup>18</sup> Until the 1993 amendment TUPE rules were only upheld in cases of employee transfers between private sector firms.

conditions, which are, overall, no less favourable than those of transferred employees'. Once agreed by employers, unions and contractors as an annex 'Joint Statement' to the national pay agreement this code was put into practice in most NHS outsourcing contracts, in effect extending the conditions of the national pay agreement to private contractor firms.

Nevertheless compliance was not universal. There are no official data on extent of coverage of the pay agreement among outsourced public services providers. In the NHS, Unison informally estimates around 20% of contractors are non-compliant (Grimshaw et al. 2010: 30). In late 2010 the coalition government abolished the two-tier code arguing that it was bad for business and workers. The practice among many contractors is nevertheless likely to continue for some time, at least in the NHS, since the protections are agreed in the Joint Statement to the national pay agreement.

Figure 3.1. Procurement policy and the labour market



### Organisational forms

Procurement of services is not a simple make/buy decision. It typically requires consideration of the type of organisational form most appropriate for the management and delivery of the particular service activity. There are two key issues. First, what is the ownership structure of the provider organisation. It can range from 100% private for profit to 100% public not for profit, with a raft of public/private/for profit/not for profit mixes of ownership in between.

Public-private ownership structures can be found across all areas of UK public services. Examples include Independent Sector Treatment Centres for healthcare run by private and non-profit organisations (Pollock and Kirkwood 2009) and mega-outsourcing contracts for the provision of IT services (Lacity and Willcocks 2001). The most high profile partnerships involve those procured within the rules of the Private Finance Initiative, which generally involve a private sector firm (or consortium of firms) financing and building new facilities

and managing a range of services. There are currently 49 PFI projects in the process of procurement, ranging in value from £3 to £581 million.

The second issue is the type of inter-organisational relationship between the public sector purchasing organisation and the provider. Empirical studies of collaborative partnerships in the UK identify many limitations and various authors question the wisdom of partnership as a model for public services procurement (Erridge and Greer 2002, Kirkpatrick 1999, Lonsdale et al. 2010). In social care, research casts doubt on whether longer-term and higher trust relationships have developed; contracts continue to be short-term and cost focused with limited involvement of contractors in shaping delivery (see Rubery et al. 2012 for a review). In the procurement of IT services, public sector organisations are at risk of becoming 'locked in' to a long-term contracting arrangement with a provider and lack the expertise to negotiate effectively the re-specifications of contracts that arise in a context of fast-changing information and communication technologies (Grimshaw et al. 2002). And critiques of PFI partnership models draw on evidence that they do not necessarily deliver value for money, that risk is inappropriately distributed and that some contracts appear to be designed and awarded in part in response to lobbying of powerful private sector firms (Crouch 2003, Froud and Shaoul 2001).

### **Public-private gaps**

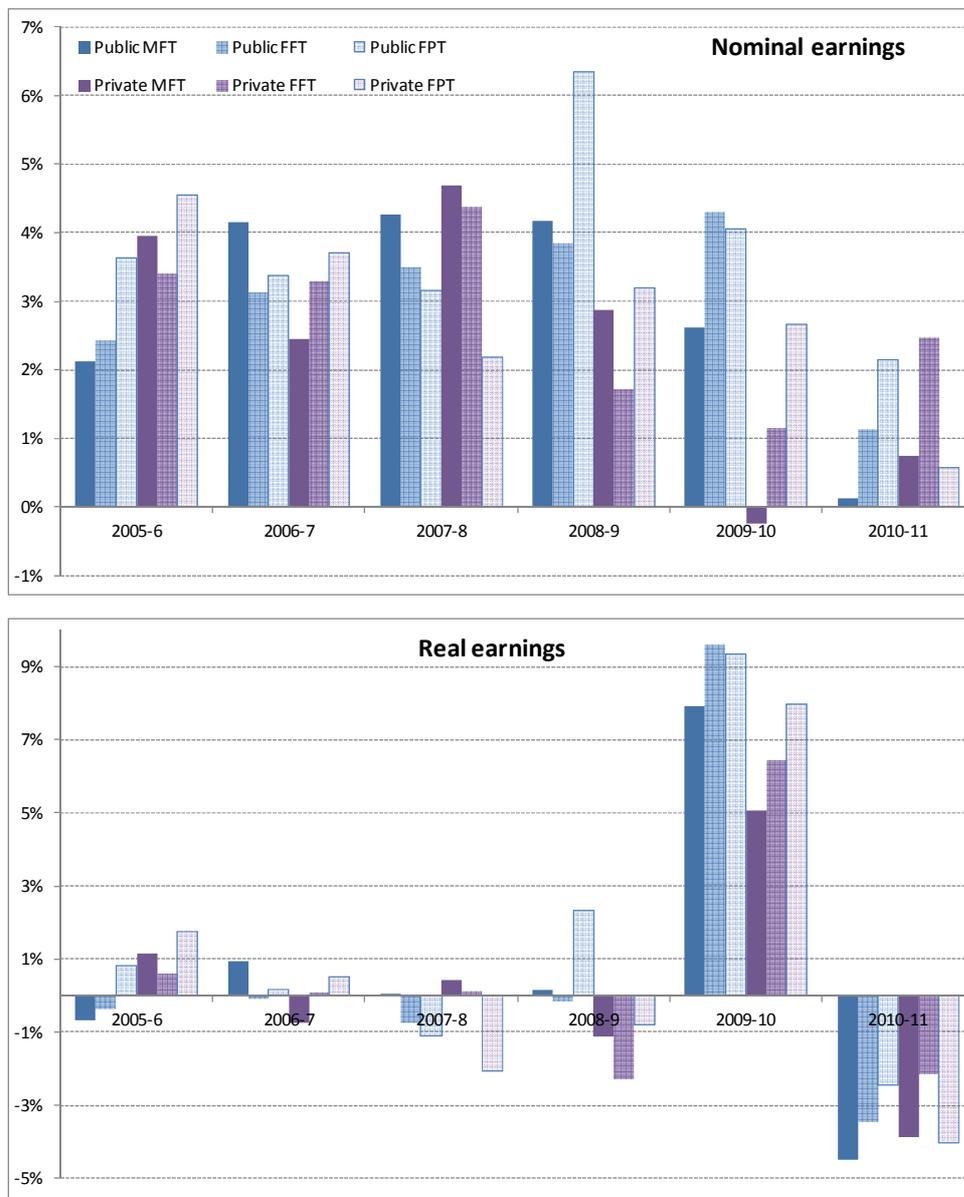
Gaps in pay and employment conditions between the public and private sectors as an important driver of procurement decisions, especially in a context of austerity-led cost-cutting. Moreover, the relationship is dynamic. Increasing procurement of public services from outside the public sector changes the nature of public-private segmentation with incremental effects that may involve both a levelling down and narrowing of pay gaps, as well as a spiralling and widening of gaps. For reasons of brevity, we focus here on gaps in pay with an emphasis on differences by sex and by low/high pay.

Figure 3.3 shows trends in nominal and real median hourly earnings in the public sector compared to the private sector for different workforce groups. The trend in real earnings tended to be flat during 2005 to 2009, although women in public sector part-time jobs fared relatively well. Indeed, it is remarkable that by 2011 the median level of hourly pay for female part-time workers in the public sector caught up with that of female full-timers in the private sector (£9.98 and £9.99, respectively). During 2009-10, the year following the recession, the UK economy was deflationary (retail price inflation was around -5%) and as such all workforce groups experienced an increase in real earnings, even male full-time workers in the private sector who were the only group to experience a cut in nominal earnings that year. But with a return to high inflation in 2010-11 (RPI at 5%), all workers have witnessed a significant fall in real pay, ranging from a cut of 2% for female full-timers in the private sector to almost 5% for male full-timers in the public sector. The public sector pay freeze is apparent from the 0% nominal rise for male full-timers and 1% rise for female full-timers during 2010-11.

In 2011, gross hourly pay for the three groups of male full-timers, female full-timers and female part-timers was higher in the public sector than in the private sector by a considerable margin at all points of the pay distribution except the very top for full-time employees. At the

median level, women in full-time and part-time jobs both earned approximately 42% more in the public than in the private sector and men in full-time work earned 27% more (figure 3.4). Moving up the pay distribution the public sector pay premium remains relatively similar for female full-timers up to the 60<sup>th</sup> percentile point (37-43%) and then diminishes sharply to 12%. For male full-timers the pattern is similar, but at a lower level of pay premium (24-32% up to the 60<sup>th</sup> percentile and falling to 1% at the 90<sup>th</sup> percentile). Pay for female part-timers is different. The public sector premium in fact increases moving up the pay distribution, from 13% at the bottom decile to 77% at the 80<sup>th</sup> percentile point, falling to 62% at the top decile. The reason for the very small premium among low paid female part-timers is very likely to be associated with competition with the private sector as a result of procurement.

Figure 3.3. Change in median gross hourly pay in the public and private sectors, 2005-2011



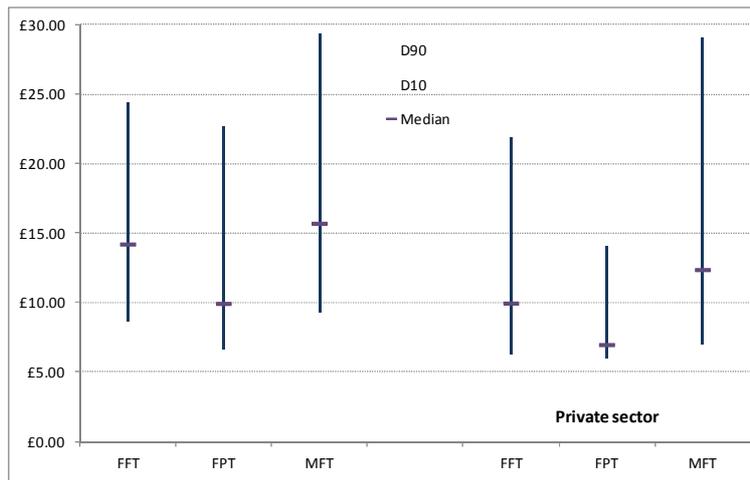
	Public MFT	Public FFT	Public FPT	Private MFT	Private FFT	Private FPT
2005	£13.20	£11.89	£7.99	£10.62	£8.50	£5.93
2006	£13.48	£12.18	£8.28	£11.04	£8.79	£6.20
2007	£14.04	£12.56	£8.56	£11.31	£9.08	£6.43
2008	£14.64	£13.00	£8.83	£11.84	£9.48	£6.57
2009	£15.25	£13.50	£9.39	£12.18	£9.64	£6.78
2010	£15.65	£14.08	£9.77	£12.15	£9.75	£6.96
2011	£15.67	£14.24	£9.98	£12.24	£9.99	£7.00

Source: ASHE (ONS pay data). Gross hourly earnings for all employees excluding overtime.

If we plot the same data as a percentage of median pay for all employees in the economy (£11.20 in 2011), we find a striking disparity between sectors (figure 3.5). Median pay for full-time workers of both sexes in 2011 is significantly higher than the overall median in the public sector (27% for women and 40% for men) but close to the median in the private sector (11% penalty for women and 11% premium for men). For female part-timers, median pay is lower than the overall median in both sectors but the gap is substantially wider in the private sector – penalties of 11% and 38%, respectively).

Over the last decade, this basic pattern has proven resilient with one exceptional change – namely a substantial improvement in the position of female part-timers in the public sector relative to the all employee median level (figure 3.5). Median pay for female part-timers working in the public sector was 24% less than the all-economy median in 2002 yet just 11% less in 2011. Change at the top of female part-timers’ pay distribution has been even more significant; the premium at the 90<sup>th</sup> percentile position increased from 65% to 102%. This change in high pay was not witnessed among public sector female full-timers who saw no change at the 90<sup>th</sup> percentile and is very likely to be the result of women exercising their right to request flexible working hours among the higher occupational grades. Male full-timers also experienced a rise in the premium at the 90<sup>th</sup> percentile from 148% to 162% relative to the all employee median. These patterns are not replicated in the private sector, suggesting that they reflect particular composition, pay policy and job design effects in the public sector that have not occurred in the private sector. For example, median pay for female part-timers in the private sector remained at a similar level relative to all employees’ pay and top pay for male full-timers in fact decreased in relative terms in the private sector. This curious segmentation of trends in inter-decile wage inequality also raises questions about the relevance of traditional economic theories of the skill-bias of technical change, given the rather stronger evidence of rising inequality in the public sector over the last decade.

*Figure 3.4. Pay distributions in the public/private sectors (FFT, FPT and MFT), 2011*



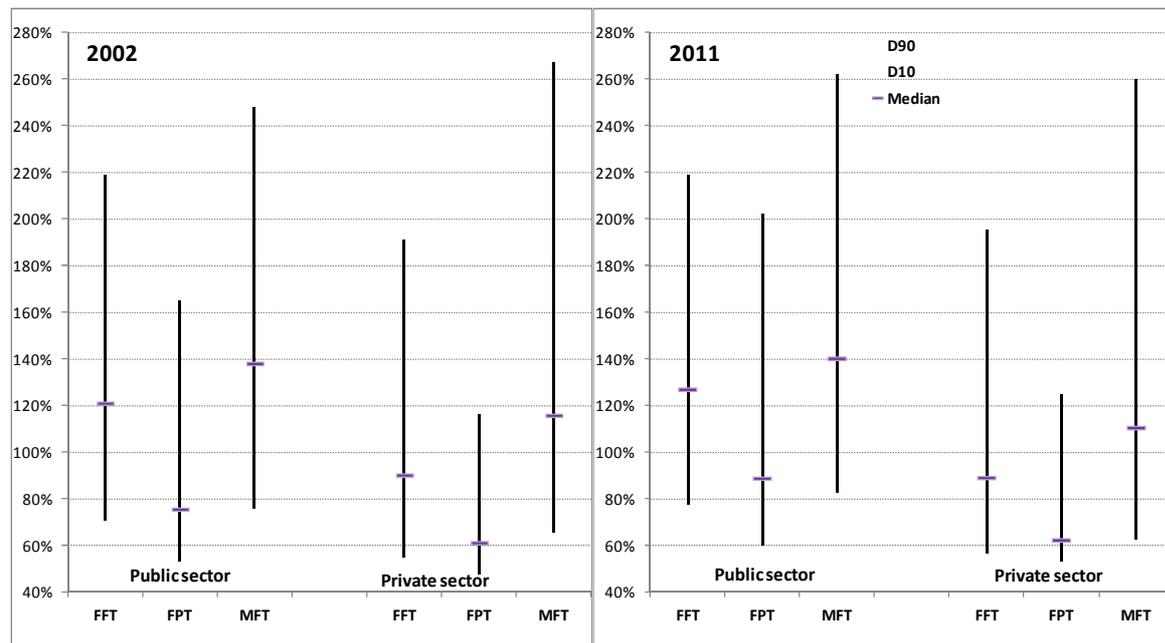
Public sector pay relative to private sector pay for same worker group and percentile point

	10	20	30	40	50	60	70	80	90
FFT	1.37	1.40	1.41	1.43	1.42	1.39	1.34	1.25	1.12
FPT	1.13	1.24	1.31	1.38	1.42	1.52	1.65	1.77	1.62
MFT	1.32	1.31	1.31	1.30	1.27	1.24	1.19	1.10	1.01

Note: gross hourly pay excluding overtime for all employees.

Source: specially requested ASHE earnings data (Office for National Statistics), own compilation.

Figure 3.5. Trend in pay distributions relative to all employee median pay, 2002-2011



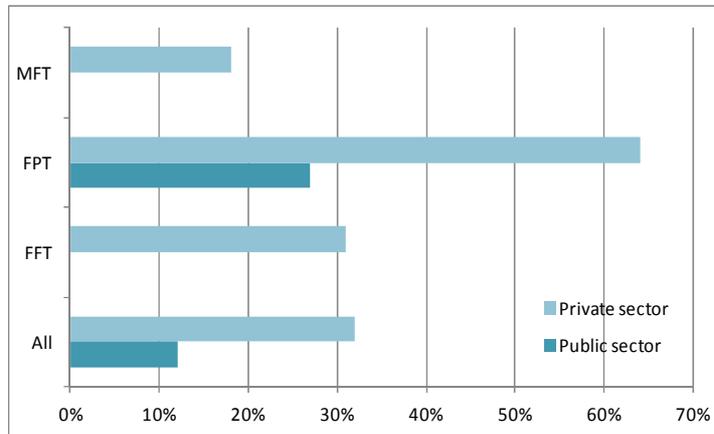
Note: gross hourly pay excluding overtime for all employees.

Source: specially requested ASHE earnings data (Office for National Statistics), own compilation.

While lower levels of pay at the bottom of the wage structure in the private sector may provide an incentive for outsourcing of public services, cost-led procurement may also be a contributing factor to holding down pay levels. Cost-led procurement of relatively low-skill activities may be one cause of the far higher incidence of low pay in the private sector. Estimates from the ASHE pay data suggest the incidence of low pay among all employees in

the public sector is approximately 12% and in the private sector it is 32%. Among full-timers, less than 10% are in low-wage work in the public sector (males and females) but in the private sector it applies to 31% of women and 18% of men. The largest gap is among female part-timers, with 27% low paid in the public sector and 64% in the private sector (figure 3.6).

*Figure 3.6. Low pay incidence in the public and private sectors, 2011*

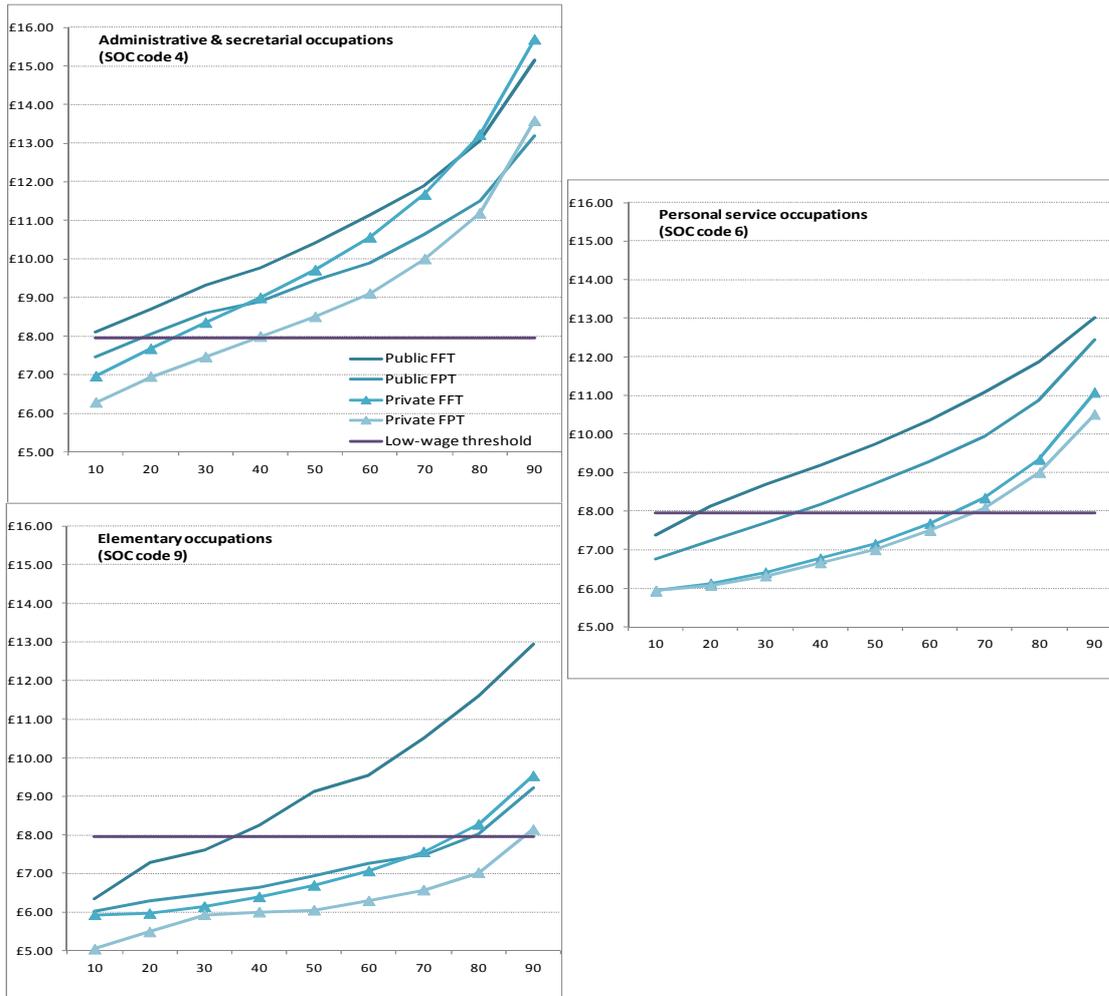


Note: gross hourly pay excluding overtime for all employees. Low-wage threshold is two thirds of median hourly pay for all employees (£7.95 in 2011). Incidence is estimated using the available decile earnings data and assuming a linear inter-decile pay distribution.

Source: specially requested ASHE earnings data (Office for National Statistics), own compilation.

Further interrogation at the occupational level for female employees sheds light on these public-private gaps. Figure 3.7 presents pay distribution data for the three occupations (1-digit level) – administrative and secretarial occupations, personal service occupations and elementary occupations, all groups facing active procurement decisions. In all three occupations, relative pay among the lowest paid female workers follows a similar ranking – public sector full-time, public sector part-time and then the two private sector groups. Among higher paid workers within each occupation the ranking changes significantly for the administrative and secretarial occupation where female full-timers in the private sector earn higher pay than female part-timers in the public sector approximately above the 35<sup>th</sup> percentile.

*Figure 3.7. Pay distributions for female workers in the lowest paid occupations (1-digit SOC), relative to low-wage threshold, 2011*



Note: gross hourly pay excluding overtime for all employees. Low-wage threshold is two thirds of median hourly pay for all employees (£7.95 in 2011).

Source: specially requested ASHE earnings data (Office for National Statistics), own compilation.

The low-pay incidence gap among female workers in these occupational groups is striking and highlights the key role of public-private wage differences as well as full-time/part-time differences to varying degrees. Among personal service occupation workers the key division is public-private much like the overall sector differences. Women's pay in the private sector is very similar all the way up the pay distribution regardless of full-time or part-time employment status with close to two thirds of both groups in low-wage personal service jobs. But among women workers in elementary occupations the pay pattern is different: female part-timers in the public sector follow the pattern of full-timers in the private sector and female part-timers in the private sector appear to bear a substantial pay penalty with approximately 88% in low-wage jobs.

Table 3.3 compares pay for detailed occupational groups for whom the introduction of competition through procurement policy acts as an important influence - care assistants/home carers, and cleaners/domestics. Despite the fact that both occupations might be classed as relatively low skill – neither job requires a particular level of educational qualification – women earn a significant wage premium in the public sector at all points of the pay distribution. At the median point care workers earn 45% more in the public sector than the

private sector and cleaners earn 16% more. The premium is lower among the lowest paid (bottom decile) at 28% and 3%, respectively.

*Table 3.3. Public-private sector pay comparisons for care workers and cleaners, 2011*

	Public sector				% of private sector			
	D10	D25	D50	D90	D10	D25	D50	D90
<b>Care assistants and home carers, SOC 6115</b>								
All employees	£7.64	£8.72	£10.26	£14.36	128.4%	138.9%	145.3%	144.9%
Female full-time	£7.83	£8.99	£10.79	£14.57	131.4%	143.0%	154.1%	148.5%
Female part-time	£7.42	£8.53	£9.90	£13.72	125.1%	136.5%	140.4%	139.3%
<b>Cleaners, domestics, SOC 9233</b>								
All employees	£6.10	£6.45	£7.26	£9.72	102.9%	108.4%	115.6%	114.1%
Female full-time	£6.21	£7.16	£8.01	--	104.7%	119.3%	123.2%	--
Female part-time	£6.08	£6.38	£7.03	£9.03	102.5%	107.6%	113.8%	111.2%

Note: gross hourly pay excluding overtime for all employees.

Source: specially requested ASHE earnings data (Office for National Statistics), own compilation.

Research into the procurement practices that influence these two occupational groups provides a clue as to the reasons for the difference in public sector pay premium. When local authorities commission care services, public and private sector providers are typically not in competition with each other since local authority in-house provision is often focused on higher skill ‘enablement care’ and most other care services are contracted out to private and voluntary sector organisations (Rubery et al. 2010). Higher public sector pay is the result of, on the one hand, more limited competition for the specialist care services and, on the other, trade union influence in shoring up decent pay through collective bargaining agreements. By contrast, studies of outsourcing of public sector cleaning point to a clear depressing effect on pay from the procurement process arising from the intensive competition between the in-house provider and external contractors. The data in table 3.3 support the wage-dampening competitive effects, especially at the bottom where there is virtually no wage premium for public sector cleaners, the result also of weak union strategies to boost low pay in public sector pay agreements.

A range of studies have sought to interrogate the implications of government procurement for pay and employment conditions of the public services workforce. Table 3.4 presents a summary of findings.

*Table 3.4. Summary of evidence of the effects of procurement on employment conditions*

Employment condition	Effects of procurement of public services	Study
Pay	<ul style="list-style-type: none"> <li>Deterioration in manual workers’ pay following transfer to private firm</li> <li>Teams of workers in private firm experience a range of different rates of pay and payment systems including protected pay (where TUPE applies) and new firm rates</li> </ul>	<p>Ascher (1987); Bach (1989); Colling (1993); Escott and Whitfield (1995); Unison (2000) Walsh and O’Flynn (2000)</p> <p>Rubery and Earnshaw (2005)</p>

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	<ul style="list-style-type: none"> <li>• Improvements in pay among transferred white-collar workers</li> </ul>	Kessler et al. (1999)
Work effort	<ul style="list-style-type: none"> <li>• Work intensification following transfer to private sector firm</li> </ul>	Kessler et al. (1999); Cooke et al. (2004)
Job ladders	<ul style="list-style-type: none"> <li>• Transferred low wage workers face weakened bridges to more extended internal labour market in public sector organisation</li> </ul>	Grimshaw and Carroll (2006)
Skill development	<ul style="list-style-type: none"> <li>• Improvement in perceived career prospects</li> </ul>	Kessler et al. (1999)
	<ul style="list-style-type: none"> <li>• Specialist private sector firms narrow range of skills required in jobs and strengthen monitoring of work effort</li> </ul>	Grugulis et al. (2003)
Empowerment	<ul style="list-style-type: none"> <li>• Multiple layers of control and authority, caused by involvement of multiple contracting partners, reduce potential for worker empowerment</li> </ul>	Rubery and Earnshaw (2005)
Worker commitment	<ul style="list-style-type: none"> <li>• Emphasis on private sector profit-related values conflicts with traditional public sector ethos for some workers</li> </ul>	Hebson et al. (2003)
Job security	<ul style="list-style-type: none"> <li>• Direct negative impact caused by redundancies associated with outsourcing</li> </ul>	Escott and Whitfield (1995); Walsh and Davis (1993)
	<ul style="list-style-type: none"> <li>• Negative qualitative impact on perceived job security caused by change in employer and recurrent contracting</li> </ul>	Morgan et al. (2000), Rubery and Earnshaw (2005)

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Source: Grimshaw and Roper (2007: table 11.1).

## Part Two: Local government case study – multiple responses to downsizing, pay cuts and outsourcing

In part two of this report we present evidence from a case survey of six local authorities to consider three key questions concerning the implementation of local responses to spending cuts and outcomes for pay and employment conditions:

- what were the practices used to downsize workers?;
- did local authorities implement the nationally imposed pay freeze and what other changes were made to pay?; and
- how has austerity impacted on local authorities' approach towards outsourcing of local services?

The analysis builds on the previous review of public sector pay reforms during the crisis. Section 4 sets out the context of budget cuts in local government. Section 5 traces the changing dynamics of collective bargaining in local government and section 6 describes the research method. Section 7 assesses the empirical evidence against the three main research questions.

### 4. Budget cuts in local government

The year 2011-12 was the first of four years of planned cuts in local government revenues, estimated to amount to a 26% reduction of the 2010-11 level by 2014-15 (Audit Commission 2011; 28% excluding fire and police); in real terms, one forecast estimates it adds up to a 40% cut excluding police and fire services – ‘unprecedented in modern times’ (Hastings et al. 2012: 13). In the first year alone, the real level of funding to councils from central government fell by 11.8% (£3.5 billion or €4.4 billion) and this combined with a drop in local income of a further £1.2 billion.<sup>19</sup> This is significantly higher than cuts in other core public services (Grimshaw 2012) and suggests the coalition government is targeting local government for spending and workforce cuts. This is the case despite warnings that on the one hand the ongoing economic depression has increased demand for locally provided services due to rises in child poverty, youth unemployment, homelessness and repossessions (Audit Commission 2010) and, on the other hand, demographic changes are increasing the population at both ends of the scale, among the very old and the very young - two groups that also rely very much on local government services.

The impact of central government imposed austerity is especially severe because the UK is a relatively centralised country (compared with the constitutional federations of Germany and the United States for example) with limited tax and spending powers at local or regional

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<sup>19</sup> The October 2010 comprehensive spending review set out cuts in the central government grants to local authorities (excluding schools) from £28.5 billion in 2010/11 to £26.1 billion in 2011/12, £24.4 billion in 2012/13 and £22.9 billion by 2014/15 (Hastings et al. 2012).

levels. It has become more decentralised following the granting of devolved powers to Scotland, Wales and Northern Ireland in 1997-98. For England tax and social security policy is almost entirely the preserve of central government meaning that devolved and local authorities have almost no control over their total budgets (Adam et al. 2007). Moreover, since 1999 English local authorities have become subject to an unprecedented level of external inspection and financial control from the centre (Lowndes 2002). During the New Labour government, they benefited from large year-on-year increases in the level of central government grants to local authorities but ministers retained the power to limit council tax rises and tightened controls on how councils spent the funding.<sup>20</sup> Under the coalition, spending cuts have been imposed alongside strong pressures on local authorities to look at outsourcing a wide range of local government services and, with the passing of the 'Localism Bill', the granting of new legal powers to community groups to take over services delivery, among other reforms (since June 2012). The politics of reform have radically changed. Stoker (2011) refers to 'an anti-state vision of localism, a particular ideological brand rather than an expression of a consensual commitment to decentralisation'. And Martin (2011) makes the following argument:

'Localism might be seen as a way for ministers to put some distance in the voters' minds between themselves and reductions in local services. Whereas the Blair/Brown governments handed local authorities additional funding in the expectation of significant improvements in performance, Prime Minister Cameron is offering local government freedom from central controls in return for doing the dirty work of cutting services' (p. 80).

#### **4.1. Uneven distribution of spending cuts**

The spending cuts are placing at risk a wide range of local government services that encompass schools, elderly care, social work, police, social housing, libraries, parks and sports facilities, fire service, waste and public transportation (box 4.1). However, some services are more at risk than others. Funding for education, the largest item of expenditure, is ring-fenced; the 'dedicated schools grant' provided by central government is fixed at a flat nominal level and has to be passed direct from local authorities to schools.<sup>21</sup> Cuts to other services vary. A survey of single tier and county council local authorities' spending plans for 2011-12 finds that adult social care is relatively protected (median level of 2.5% cuts) while planning and development services are being reduced by 28% (Audit Commission 2011: 27-28); to date, councils have used the smaller services functions (planning and development, culture, housing) to make disproportionate contributions to overall cost savings but this increases the probability that future cuts will have to target adult and child care services.

The main sources of funding for services excluding education are the central government 'Formula Grant', specific grants that target socio-economic needs of the local population, as

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<sup>20</sup> For instance, central government increased the number of 'ring fenced' grants, especially in education which accounts for almost 40% of local authority spending (Travers 2004).

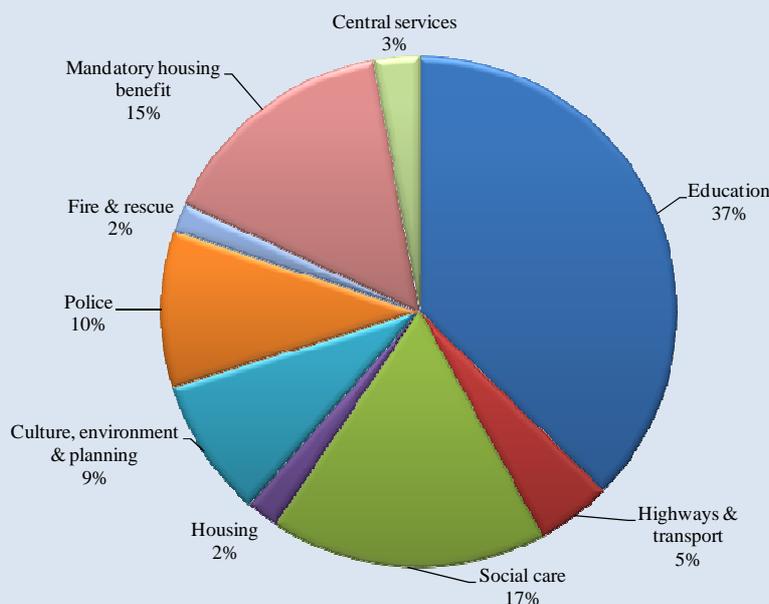
<sup>21</sup> School reforms now mean, however, that most schools are funded directly by the Department of Education in their new status as 'academies'.

well as various local revenues including council tax (a local property tax) and income from planning fees, car parking and commercial rents (Audit Commission 2010: 14-16). Local authorities have to adapt to substantial cuts in the formula grant and reductions and withdrawal of specific grants. They also face restrictions on local revenue-raising powers since the government imposed a two-year council tax freeze during 2011-12 and 2012-13 and instead offered local councils an additional grant to cover a 2.5% tax rise. The problem of course is that the policy means a local source of revenue has been replaced by a central government grant and councils are therefore more vulnerable in future to reductions or withdrawal of the grant.

*Box 4.1. Expenditures on services provided by UK local government*

Local government in the UK is responsible for the delivery of a wide range of public services and the direct employment of a diverse workforce. The largest expenditure item is education services, including nursery schools, primary schools, secondary schools and special schools. Social care services, including adult care and child care, accounted for 17% of net spending in 2010-11. Other major areas of spending include housing benefits, police services and culture, environment and planning (including museums, sports and waste services). Smaller areas of spending include highways and transport, fire and rescue services, central services and housing.

*Figure 2.1. Total net current expenditure by service, England 2010-11*



Source: 'Statistical Release' Department of Communities and Local Government ([www.communities.gov.uk/documents/statistics/pdf/2123508.pdf](http://www.communities.gov.uk/documents/statistics/pdf/2123508.pdf)).

The spending cuts are distributed unevenly across the country depending on the structure of the local authority and the local level of income deprivation. Firstly, local authorities vary between 'single-tier' or unitary authorities (most English towns and cities and the whole of Scotland, Wales and Northern Ireland), which deliver the full range of local services, and 'two-tier' structures, which typically divide services provision in an area between a County council and a larger number (between 4 and 14) of smaller District councils; County councils

typically look after schools, social services and public transport while District councils deliver services such as housing, sports and recycling. The picture is complicated by a trend of sharing services (eg. public transport, fire services) between unitary local authorities or between a unitary authority and a county council. Analysis of spending cuts shows that the smaller District councils experienced the largest proportionate cuts during the first year of austerity (16%) - primarily because they don't receive the ring-fenced school funds -, Unitary authorities and London boroughs experienced a medium-level cut (12%) and County councils the lowest (8%) (Audit Commission 2011: table 1). In the smaller district councils, central government funding only accounts for 39% of all revenues on average, while in the single-tier structures it accounts for 69% because of the inclusion of the schools funding (Audit Commission 2010: 31-33).

Secondly, there is substantial variation in income deprivation across local areas in the UK and, because part of central government funding is designed to reflect differences in local needs, poorer areas are more dependent on central government funding and therefore harder hit by cuts. One estimate suggests central government funding accounted for 72% of local government revenues in the most deprived areas compared to 25% in the least deprived areas (Audit Commission 2011: 14). Another analysis shows that change in revenue correlates very strongly with the index of multiple deprivation<sup>22</sup> for local areas in England – a correlation measure of -0.89 (figure 4.2). The updated 2010 index shows that deprivation is strongly skewed around the north-south axis of England with more than half of the 10% most deprived local areas concentrated in the north of England (North East, North West and Yorkshire) and this rises to a full two thirds of the 5% most deprived areas of England concentrated in the north.<sup>23</sup> Local government cuts can therefore be expected to hit the north of England disproportionately.

*Figure 4.2. Change in revenue 2010-11 to 2011-12 by index of local deprivation (2007)*

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<sup>22</sup> Collected by the government department of Communities and Local Government, this index combines 38 separate indicators across seven domains of income, employment, health and disability, education, skills and training, barriers to housing and other services, crime and living environment ([www.communities.gov.uk/documents/statistics/pdf/1871208.pdf](http://www.communities.gov.uk/documents/statistics/pdf/1871208.pdf)).

<sup>23</sup> See update at [www.communities.gov.uk/documents/statistics/pdf/1871208.pdf](http://www.communities.gov.uk/documents/statistics/pdf/1871208.pdf).



Source: Hastings et al. (2012: figure 1); unitary and urban authorities only.

## 4.2. Cuts in the local government workforce

Because the local government sector is relatively labour-intensive, austerity has had, and will continue to have, a major impact on the size of the workforce. The costs of its directly employed workforce account for almost half of all local government expenditures (table 4.1).<sup>24</sup> Moreover, much of the remaining expenditures cover workforce costs in the private and non-profit sectors through procurement contracts; this explains why only 27% of social care costs cover the directly employed workforce.

*Table 4.1. Direct employee costs as a percentage of total local government expenditure, 2010-11*

Service	Total expenditure in £ thousand	% spend on direct employee costs
Education	50,901	63.7
Social care	26,992	26.6
Central and other services	13,969	46.2
Police	12,940	83.2
Highways & transport services	8,515	15.6
Environmental & regulatory services (waste, street cleaning, etc.)	6,895	25.5
Cultural services (museums, sports, libraries, etc)	4,718	38.7
Housing services	3,467	22.7
Planning & development	3,390	37.5
Fire & rescue	2,250	77.4

<sup>24</sup> Source: 'Statistical Release' Department of Communities and Local Government ([www.communities.gov.uk/documents/statistics/pdf/2123508.pdf](http://www.communities.gov.uk/documents/statistics/pdf/2123508.pdf)).

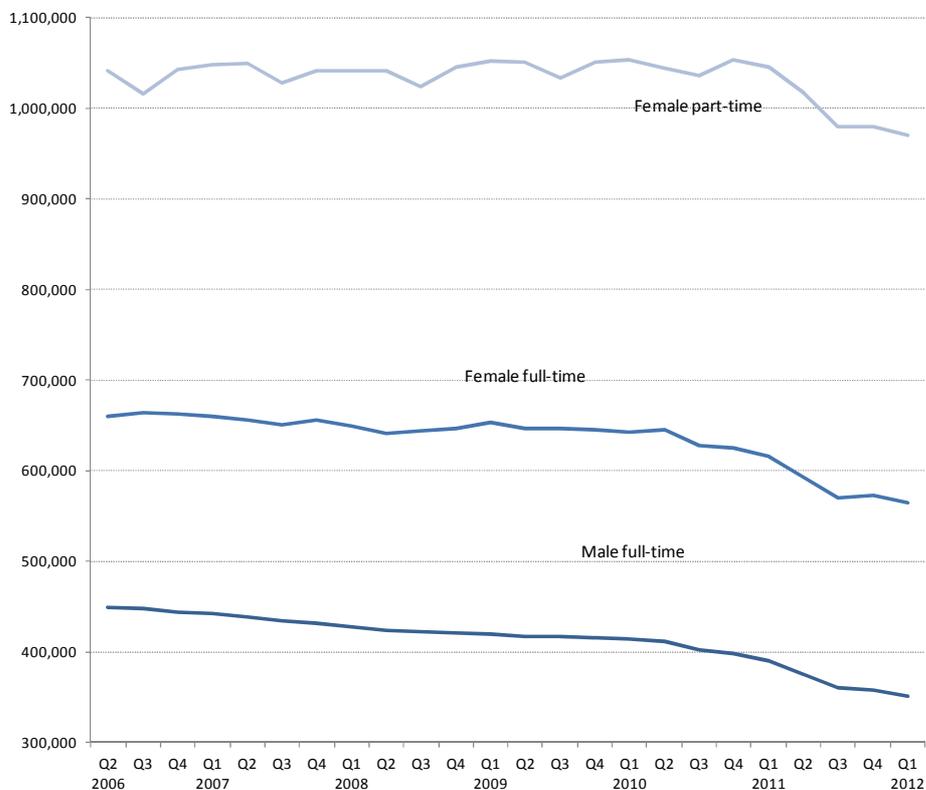
<b>Total local government expenditure</b>	<b>134,037</b>	<b>48.9</b>
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Source: ‘Statistical Release’ Department of Communities and Local Government (www.communities.gov.uk/documents/statistics/pdf/2123508.pdf).

In the four years prior to 2010 local government employment in the UK fluctuated around 2.3 million. Then, from the first quarter of 2010 it started to drop, from 2.25 million down to 2.20 million by the start of 2011 and then further at an accelerating pace as local authorities reacted to the growing budget pressures, leading to a drop of almost 200,000 employees during the four quarters of 2011 down to 2.02 million (first quarter 2012). The net change in 2011 is an 8.2% reduction in the local government workforce between the first quarters of 2010 and 2012.

The workforce cuts have affected women more than men because of women’s over-representation in the sector. In England and Wales, detailed data show that two in three jobs (67%) cut were women’s jobs, amounting to 159,000 over the 2010-2012 period. Moreover, women in full-time jobs were more likely to be affected than women in part-time jobs, respective cuts of 12% and 8% (figure 4.3). Among men, overall job losses were less but in fact the percentage cut was significant – a 15% fall in male full-time employment and 11% in male part-time employment, some 78,000 jobs altogether. More permanent jobs were lost than temporary/casual jobs, reflecting the greater use of permanent employment contracts in local government, but the percentage change was very similar during 2010-12 – 10% and 12%, respectively.

Figure 4.3. Job cuts in local government, by sex and full-time/part-time, 2006-2012 (England and Wales)



	Total	MFT	FFT	MPT	FPT	Permanent	Temporary/ casual
Q1 2007	2,295,300	442,600	660,500	144,000	1,048,100	1,936,800	358,500
Q1 2008	2,260,400	427,700	649,500	142,000	1,041,000	1,926,400	334,000
Q1 2009	2,268,800	419,800	653,000	144,900	1,051,200	1,931,500	337,400
Q1 2010	2,254,700	413,700	641,800	146,500	1,052,700	1,925,100	329,700
Q1 2011	2,197,900	390,300	615,200	147,200	1,045,300	1,874,000	323,900
Q1 2012	2,017,800	351,500	564,900	130,900	970,500	1,727,800	290,000

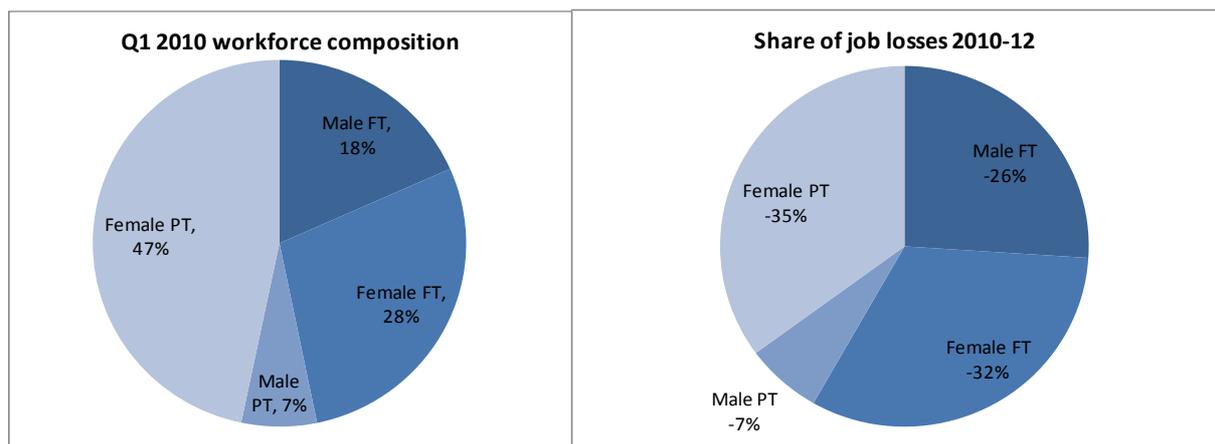
Note: male part-time employment is excluded from the figure due to their low level.

Source: ONS public sector employment data published by the Local Government Association ([www.local.gov.uk/web/guest/local-government-intelligence](http://www.local.gov.uk/web/guest/local-government-intelligence)). Author's compilation.

The unevenness of job cuts by gender and full-time/part-time is further illustrated in figure 4.4. Given women comprised 75% of the local government workforce in 2010, they have so far been slightly under-represented among employment losses despite experiencing the bulk of job cuts. Most jobs lost were full-time and this has caused a further increase in the representation of part-time jobs in local authorities, which by early 2012 accounted for more than half (55%) of all jobs.

Because the public sector is often a very important source of employment in local areas, these nationwide job cuts can have substantial local impacts. The Audit Commission's (2010: 53-54) analysis estimates local government accounts for between 4% and 30% of employment across different localities – 16% on average, rising to 24% for women. The geographical areas with high shares of public sector employment are characterised by a weak local private sector and therefore likely to suffer excessively from austerity reforms, with especially severe consequences for women's employment opportunities.<sup>25</sup>

Figure 4.4. Composition of local government employment losses by sex and full-time/part-time, Q1 2010 to Q1 2012 (England and Wales)



Source: Quarterly local government data from ONS, <http://www.lga.gov.uk/lga/core/page.do?pageId=1955843>.

<sup>25</sup> The Audit Commission made the following warning in 2010:

*The map at Figure 16 shows the areas where women are most dependent on local public service jobs. Public sector job losses here may have a significant impact on the economy of the areas. At worst, they might contribute to lowering consumer confidence, further accelerating localised downward economic spirals. (2010: 55).*

## 5. The changing dynamics of collective bargaining

Formal national-level collective bargaining over pay for local government workers developed first for manual workers between the wars, following the setting up of the National Joint Industrial Council in 1919, and only gathered momentum for non-manual workers during the second world war years with a first agreement on uniform national pay scales in 1946 and gradual inclusion of all local government workers during the 1950s. A main obstacle was limited organisation and participation among employers – a central employers’ organisation was only established in 1947 (Beaumont 1992: 103-5; LGPC 2003: appendix 8).

Reflecting its hesitant beginnings, the national structure of collective bargaining has not enjoyed a stable history (Beaumont 1992). The introduction of local bonus schemes in the 1970s responded to evidence of low pay in local government and recommendations from the National Board for Prices and Incomes for incentives to improve productivity. The early 1970s also witnessed the first moves towards equal pay with an agreed rise in female manual workers’ pay. The late 1970s was a period of major strikes across the public sector and a recommendation by the Clegg Commission that there should be a linkage between the three lowest manual grades in local government, the NHS and universities.

In the late 1980s the local authorities’ employer body consulted its members on the relative merits of national and local pay bargaining. 1987 witnessed a national dispute among local government non-manual workers against employers’ proposal to abolish all national grade and age points and the exit of several local authority councils from the national agreement. The first was Kent County Council ostensibly in response to tight local labour market pressures that required the freedom to pay higher rates to recruit and retain. By the 1990s, research by the trade union NALGO (now part of Unison) found that around half of the terms and conditions set for non-manual and manual workers were described as ‘national conditions modified by local variations’ and only a quarter (non-manual) and a third (manual) could be described as ‘national conditions unmodified’ (Beaumont 1992: table 5.8).

The two bargaining groups of manual and non-manual workers were finally brought together in a national ‘single status’ agreement in 1997, referred to as ‘The Green Book’ of terms and conditions (see box 5.1). Its aims were to harmonise terms and conditions for the local government workforce, to set national pay spines but apply local flexibility in job grading (using an agreed national job evaluation scheme), to ensure pay structures were ‘equal pay proofed’ and to encourage pay progression through ‘contribution’ rather than simply seniority (Perkins and White 2010: 249). The need to combat equal pay was an especially significant pressure for reform; the NJC recognised that while use of job evaluation is not a legal requirement in the Equal Pay Act ‘a non-discriminatory analytical job evaluation scheme’ can be used as a defence against an equal pay claim (NJC 2005: 4.9.6)

However, three factors stalled progress in implementing harmonised conditions in local government.

1. Unlike the subsequent NHS ‘Agenda for Change’ pay agreement (Grimshaw 2009), local government did not benefit from additional central government

- funding to cover implementation costs (back-pay for those upgraded and pay protection for those not). Instead the whole cost had to be met from 'efficiency savings' (Perkins and White 2010).
2. Employers and unions were already embroiled in dealing with hundreds of equal pay legal claims by employees supported by 'no win no fee' lawyers fighting for back pay of up to six years. For Perkins and White (2010: 254) the 'overriding preoccupation with equal pay issues has compromised the basis for realistic jointly negotiated agreements'; unions have supported claims for the maximum compensation for individual members in Employment Tribunals, despite the challenges these pose for the affordability limits of the employer, and employers argued for legal force to collective agreements (2010: 249-250).
  3. 2002 witnessed a major strike by an estimated 400-750,000 local government workers (mostly women workers) in support of a 6% pay claim, the first strike since 1989 (LGPC 2003). The strike led to the establishment of a special Local Government Pay Commission (LGPC) with the remit to evaluate pay conditions for local government workers and identify the obstacles to implementing single status. Following the LGPC report the National Joint Council specified a timetable for implementing the new agreement with the final outcomes due by 2007 (box 5.1); however, by 2009 most local authorities had still not implemented agreements (Perkins and White 2010).

*Box 5.1. The 'Green Book' of harmonised terms and conditions for local government workers*

The 1997 'single status' agreement between the national employers' body for local government and the trade union replaced the separate agreements for non-manual and manual workers and established for the first time single-table bargaining in the form of a new National Joint Council for Local Government Services. It has been amended several times, most recently in 2007. As well as harmonising terms and conditions, the national agreement drew up a national job evaluation scheme that grades all jobs on a common basis (excluding Chief Officers) across a single pay spine (points 4 to 31) and was designed 'to incorporate the principle of equal pay for work of equal value' (p. 4.1.2).

The National Joint Council (NJC) represents local authorities in the UK and their employees. Its principal role 'is to reach agreement, based on our shared values, on a national scheme of pay and conditions for local application throughout the UK' (p1.1). Furthermore its 'guiding principles' include the support and encouragement of: high quality services, well trained employees, employment security, equal opportunities and promotion of positive action, flexibility that serves employees and employers and stable industrial relations, negotiation and consultation between social partners.

A key reform was the harmonisation of the full-time working week to 37 hours. Previously non-manual employees worked 35 hours and manual workers 39 hours per week.

In light of slow progress in implementing the new harmonised conditions (p.4.9.1) and following recommendations from the Local Government Pay Commission report in 2003 the National Joint Council agreed a timescale for implementation in 2004 requiring local pay reviews to be 'completed and implemented by all authorities by 31 March 2007' (p1A.7). The local pay reviews involve implementation of a new pay and grading system and proposals for pay protection, premium rates, progression and back pay, as well as an equality impact assessment and an equal pay audit.

While the new agreement is national it provides for some conditions to be adapted locally. The 'Green Book' separates terms and conditions in two parts: 'part two conditions' are national provisions to be applied by all local authorities to all employees covered by the NJC; while 'part three conditions' are national provisions that may be modified by local negotiation. A full listing of these conditions is

provided below:

**Part 2 conditions (national)**

Equalities; official conduct; training & development; health, safety & welfare; pay & grading; working time; leave; part-time & temporary employees (pro rata conditions); sickness leave; maternity scheme; car allowances; expenses; continuous service; notice of termination; grievance & disciplinary procedures; union facilities; London & fringe area allowances

**Part 3 conditions (national with local modifications)**

Pay & grading (local pay review and provisions for acting up); working arrangements (overtime and unsocial hours premiums or consolidated in a higher rate of pay); sickness scheme; child care and dependants; car allowances; payments in the event of death or disablement arising from assault; meals & accommodation charges; schools retained employees & nursery employees

Source: The Green Book – *National Agreement on Pay and Conditions of Service*, July 2005, National Joint Council for Local Government Services.

*Box 5.2. The main social partners for local government*

• **Three trade unions represent the local government workforce in pay negotiations:**

The lead union is *Unison*, formed in 1993 from the merger of three public sector trade unions, the National and Local Government Officers Association (NALGO), the National Union of Public Employees (NUPE) and the Confederation of Health Service Employees (COHSE). With 1,374,500 members, it is the second largest trade union in the UK and the most representative of the public sector. Its largest membership is composed of local government employees (over 50 per cent on the total), health sector workers (over 30 per cent on the total) and workers from higher education, energy, water and the police. Unison represents a wide-range of occupational groups ranging from social workers, nurses and health care assistants to clerical and administrative staff. It is structured across 1200 branches with elected voluntary officers who are responsible for local negotiations.

A second union is *Unite*, which is the largest union in the UK but represents fewer local government workers than Unison. Unite was formed in 2007 by the merger of Amicus and the Transport and General Workers' Union. Altogether it represents 1,572,995 workers across 23 industrial sectors. In local government, it represents workers employed in a diverse range of jobs, including estate management and maintenance, finance, administration, vehicle maintenance, street lighting and community projects. With its relatively strong presence in the private sector, Unite represents many members in private sector companies that provide outsourced services to local authorities. The third union is the *GMB*, a general union with no formal demarcation of membership domain. It represents 601,730 workers across all sectors of the economy.

• **Local authority employers are represented by one national association, the LGA:**

The Local Government Association was created in 1997 when the UK local government reform created unitary authorities<sup>26</sup>. It is the national body that represents local authority employers in England and Wales, including all types of local authority structures - county councils, metropolitan borough councils, London borough councils, non-metropolitan district councils and unitary authorities. Separate employer associations exist for Scotland and for Northern Ireland. The LGA is part of a wider Local Government Group that also includes the Local Government Improvement and Development, the Local Government Employers, the Local Government Regulation, the Local Government Leadership and the Local Partnerships (a joint venture between the LGA and Partnerships UK). Within LGA there are Special Interest Groups representing groups of authorities like the County Councils Network, the Special Interest Group of Municipal Authorities and UNISIG which represents Unitary Authorities. The LGA provides a range of services to its members to facilitate consultations between employers and trade unions on issues such as pay, pensions,

<sup>26</sup> The unitary authorities combine the powers and functions attributed to councils of non-metropolitan counties and non-metropolitan districts. Unitary local authorities in the UK have been mostly established in the 1990s (46 between 1995-1998 and 9 in a second round in 2009). The body responsible of this restructuring was the the Local Government Commission for England established under the Local Government Act of 1992.

workforce issues and social partnership.

- ***Other relevant stakeholders:***

The Public Sector People Managers' Association (PPMA) represents Human Resources and Organisational Development professionals working within the public sector. Its membership consists of HR specialists in England, Wales and Northern Ireland employed by a range of organizations including local authorities (other than a parish, town or community council), police, fire and civil defence authorities, as well as national and regional employers' organisations.

The Society of Local Authority Chief Executives (SOLACE) represents senior strategic managers working in the public sector. Its membership consist of local authority Chief Executives, Senior Executives of local authorities (or other related organisations), members of related International organisations, past service members, public sector graduates, members operating in senior positions in health authorities, police and fire authorities and central government. Beside its 1700 members, SOLACE also consists of 26 business partners, one trading company and one charitable foundation. SOLACE promotes public sector management excellence and provides professional development for its members.

The Local Government Association Labour Group gives voice to Labour councillors and activists with the aim of influencing policy and political decisions through frequent individual and group meetings between leading members and senior ministers. The LGA Labour group has also a dedicated office within the Local Government Association, staffed by four permanent members of staff. The LGA Labour Group has a leadership team of officers elected annually from amongst all Labour councillors in the country, which directs the work of the group. Other Labour councillors are then appointed to the range of LGA boards, panels and commissions.

The Society of Procurement Officers in Local Government (SOP) advises local authorities across the UK on the procurement of goods and services. It represents 3,300 members and aims to develop and share best practice and influence the national policy agenda.

## 6. Research design

The research is based on a qualitative methodology consisting of 23 semi-structured interviews with key actors and analysis of relevant documentation. The data collection involved two stages of interviews. A first stage was designed to collect national and regional data on the current situation of pay policies and services procurement strategies in the public sector and a second stage was designed to interrogate organisation responses through six case studies (appendix 2).

The first-stage interviews focused on the various responses of local government to centrally imposed austerity measures and their impact on employment and employment conditions. They involved national and regional union officials from Unison with responsibility for local government, senior representatives from the local government employers' association (LGA), as well as other individuals with expertise on related areas of public sector pay, including on police pay and teachers' pay. In more detail, collected data relate to the following issues:

- local pay policies and differences across local authorities;
- procurement strategies in specific services (waste, elderly care, school catering, cleaning);
- impact on employment and workforce composition (male/female, full-time/part-time); and
- local negotiations/arrangements related to the redeployment of workers and staff transfers to private/third sector employers.

On the basis of this first-stage data, a second stage of six case-study local authorities were selected in two contrasting regions: three in the North West of England (North-West LA1, North-West LA2, North-West LA3) and three in the South (South-East LA1, South-East LA2 and East LA1) (table 6.1). The sample is not at all representative but instead reflects the need to investigate different responses in varying local industrial relations contexts. The two regions and six local authorities offer a very interesting set of contrasts between the strength of union representation, impact of spending cuts, levels of income deprivation, suburban, urban and rural areas and commitment to the national structure for pay bargaining.

This second round of interviews targeted three senior informants in each case study: a Unison official with knowledge of pay bargaining, a senior HR manager and a senior procurement manager. We also collected relevant documentation related to staffing levels, pay, procurement strategies and employment conditions. In detail, the following data were collected in each case:

- local authority structure, including the influence of central government budget decisions and discretion to raise other local revenues;
- workforce composition and staffing trends;
- industrial relations and pay arrangements, including the structure/strategy of employer/management, degree of union influence, levels of decision-making;
- impact of pay freeze;

- pay setting – national/local influences in pay determination; pay scales/pay levels/ entry wages for main occupational groups (value of external/ ‘market-facing’ benchmark for setting pay);
- overall assessment of trends towards procurement of local government services, central government reforms and local strategy towards procurement of services;
- local influence of labour market rules on procurement (TUPE, 2-tier code); and
- pay/procurement issues with respect to the four target services.

*Table 6.1. Characteristics of six case-study local authorities*

	Council type	Local population	Political balance	Workforce size
<b>North-West LA1</b>	Metropolitan borough (unitary)	498,800	Labour	8907
<b>North-West LA2</b>	Metropolitan borough (unitary)	308,800	Labour	1859
<b>North-West LA3</b>	Unitary authority	327,300	Conservative	12281
<b>East LA1</b>	District council	125,700	Lib Dem/ Labour	1010
<b>South-East LA1</b>	County council	1,427,400	Conservative	12,652
<b>South-East LA2</b>	Unitary authority	239,700	Labour	3,888

## 7. Case-study findings

### 7.1. Spending cuts and job cuts

All six local authorities have implemented a programme of job cuts, ranging from 6% at East LA1 city council to 30% at North-West LA1 city council in terms of the target, or actual, percentage reduction of posts (excluding school teachers) (table 7.1). Most interviewees agreed that local government has been unfairly targeted for spending cuts, largely because of a public misperception about what council workers actually do:

‘Everybody hates council workers and they all think they are overpaid pen-pushers doing nothing. When you actually analyse what most people do as a job, most of them are essential front-line workers’ (Unison 5).

‘You really get attacked for efficiencies and everything you do is scrutinised. You’ve got to be whiter than white, which is right when it’s public money but you get such a bad press don’t you about, you know, fat cats in local government ... and you look at the pay you get in local government compared to the private sector...’ (North-West LA3 17)

At East LA1, spending cuts were far less severe than for North-West LA1. Like other local authorities North-West LA1 had in fact already introduced workforce cuts prior to the 2010 budget – a ‘transformation programme’ involving cuts to 1,000 FTE posts and £35m labour cost savings. However, this was dramatically revised in early 2011 in light of the council’s new funding settlement from government leading to a revised target of 2,000 FTE posts and a doubling of labour savings (document). The resulting change in workforce by headcount was 3,732, from 12,639 to 8,907 (March 2010 to March 2012). A strong emphasis was placed on reducing management posts – a target 41% reduction where the feeling among managers was, ‘we know we can continue those services by taking out management layers without detriment to those services’ (North-West LA1 4).

A key problem for all authorities is that this current round of job cuts only achieves part of the cost savings needed over forthcoming years. At North-West LA2 where close to one in five workers had already been laid off this generated £24 million of an anticipated total of around £60 million savings. More radical downsizing is therefore likely:

‘We’ve probably exhausted, bar a few hundred, as many people as we can afford to leave. ... So each department is going to have to review everything it does and review those [services] against [the question] do we stop doing them? ... We have got to find the money from somewhere and if it can’t be through less people the other options need to come higher up the agenda’ (North-West LA2 13).

There is significant variation in the practice of staff downsizing. Two councils, North-West LA1 and North-West LA2, used voluntary redundancy and voluntary early retirement and the other four councils added compulsory redundancy to this mix. Both North-West LA1 city council and North-West LA2 have an informal customary practice, agreed with unions, of not using compulsory redundancies. The practice has been adhered to during the period of downsizing according to Unison officials interviewed.

‘They say we’ve never had a non-compulsory redundancy [scheme] but we have always insisted it’s a voluntary scheme and it has been used as a voluntary scheme so we’ve always got around it on that basis’ (North West LA2, Unison 7).

Table 7.1. Employment downsizing and compensation measures in six local authorities

	North West			East and South East		
	North-West LA1	North-West LA2	North-West LA3	East LA1	South-East LA1	South-East LA2
<b>Workforce reduction</b> (headcount excluding school teachers)	30% over 24 months (12,639 March 2010 to 8,907 March 2012)	18% over 18 months (5,941 June 2010 to 4,873 Dec. 2011)	8% over 24 months (6,520 March 2010 to 6,028 March 2012)	6% over 12 months (1,079 April 2011 to 1,010 March 2012)	14% (14,719 March 2010 to 12,652 March 2012)	27%
<b>Use of compulsory redundancy?</b>	No, applies a customary practice of non-compulsory redundancy	No, applies a customary practice of non-compulsory redundancy	Yes	Yes	Yes	Yes
<b>Redundancy compensation equivalent to statutory regulation?</b> <sup>27</sup>	3 weeks’ pay per year of service, capped at 30 weeks	Yes	Double the statutory but capped at 52 weeks	Yes (no ceiling)	Yes	--
<b>Redeployment policy?</b>	Yes plus job flexibility	Yes	No, dismissal & re-engagement on new contract (leading to strike action)	Yes	Yes	No, dismissal & re-engagement on new contract (leading to strike action)
<b>Pay protection for redeployed</b>	3 years pay protection	1 year pay protection capped at £2,000 (but payments up to £4000 cap in 2012)	6 months full pay protection, 6 months half	1 year full pay protection, 2 <sup>nd</sup> year half pay protection, 3 <sup>rd</sup> year 25% pay protection	3 years pay protection	--

<sup>27</sup> Employees with two years’ or more continuous service are entitled to a redundancy payment whether the redundancy is compulsory or voluntary. Statutory redundancy payments are based on a) the age at the date of termination of employment; b) the length of continuous service (counted in complete years), subject to a maximum of 20 years; c) the final gross (actual) ‘weekly pay’. The government sets a statutory maximum for the calculation of ‘a week’s pay’ that is £430 with effect from 1 April 2012. The statutory redundancy payment is calculated for each complete year of service: 1) up to the age of 21- 0.5 of a week’s pay; 2) between 22 and 40 years old- 1 week’s pay; 3) 41 years old and older- 1.5 of a week’s pay. No more than 20 years’ service can be used in the calculation, which means that the maximum statutory redundancy payment is currently 20 x 1.5 weeks x £430 = £12,900.

We were unable to collect data on the share of redundancies that were compulsory. A survey of UK local authorities reported 32% of redundancies in England and Wales during 2010-2011 were compulsory. There was significant regional variation, reflecting strength of union organisation, among other factors, with the lowest use of compulsory redundancies, a 15% share in the North West, and the highest, 60%, in the South East (LRD 2012).

During this period of instability and uncertainty, two councils – North-West LA3 and South East LA2 - took the controversial and questionable step of announcing a wholesale dismissal of their workforces in order to re-engage everyone onto a new employment contract with changed terms and conditions. This policy measure ran parallel to the downsizing exercise and it provided an effective way, from a legal perspective, of ensuring savings could be made by reducing some of the terms and conditions of employment. At North West LA3 this involved the dismissal and re-engagement of approximately 8,500 staff (including school support staff) onto a new contract that includes a clause enabling performance-related pay and abolished pay premiums for weekend working among other conditions (see below). According to Unison officials, signing the new contract was in practice the only option available to employees:

‘Well you didn’t have to sign them but if you didn’t you were dismissed. And if you tried to sign them under protest or say you were signing under duress they were sent back to you and told that’s not acceptable – either you sign them with nothing else on the paper or if you sign under duress we’ll treat you [as if] you haven’t signed it’ (Unison 10).

For many staff who remained in employment, four of the six councils used redeployment to reorganise employees into new posts. This generally required a high degree of flexibility in job moves and was especially evident at North-West LA1 in the form of a specially tailored redeployment scheme that predates the austerity cuts; the measure was agreed with trade unions and requires a substantial commitment among council workers to flexible job moves whether or not their post is retained.

Whatever the form of redeployment, all councils apply pay protection for those employees moving to a post at a lower level of pay (no information available for South East LA2). A norm of three years pay protection for redeployed staff appears to have been widely applied during the 1990s, but many councils have moved away from this, especially in preparation for the current downsizing. Only two of the five councils for which we have data have retained this level. North-West LA2 reduced pay protection to 12 months and initially imposed a new cap of £2,000 per employee. However, after lobbying from unions and an internal equality audit, managers increased the cap to £4,000 ‘as a one-off’ ‘because we felt [the salary reductions] were more drastic than we had anticipated’ (North-West LA2 13). Also, North-West LA3 reduced pay protection to six months full pay and six months half pay. Again, the union identified female workers were losing most - in this case care workers were identified as losing up to 15% of their pay. Council managers compromised for the reduced terms and conditions by paying a lump sum amount to compensate for six months lost earnings (amounting to £2-3,000), described by the union official as ‘a very poor buyout’ but the only offer on the table.

## 7.2. Pay freeze? Differences in local forms of legitimation and trade-offs

Despite the fact that local government lies outside the direct control of government, the National Joint Council negotiated a pay freeze one year earlier than other parts of the public sector, starting in April 2010, and this continued for a second and a third year through 2011-12 and 2012-13.<sup>28</sup> In principle, this means local councils in England, Wales and Northern Ireland apply the same pay levels as defined in the national pay spine in April 2009, extending from a minimum annual salary of £12,145 (£6.30 per hour). For the employer side, government imposed pay discipline is a welcome mechanism to assist councils in achieving local spending cuts. For the main union, Unison, the pay freeze is unwelcome but any national agreement is better than multiple local agreements that risk de-recognition of unions (Unison 2). The following quotes are illustrative of the respective positions:

‘For three years, we have been able to nationally, in effect, save councils money by not adding to their paybill and ... allowed councils to say to their own workforces, ‘I know it’s terrible, it’s those nasty people in London who won’t give you a pay rise’’ (LGA 9).

‘The prize for us is implied recognition, because of the National Joint Council, if the bargaining machinery were to go, then I have absolutely no doubt that we would be de-recognised in quite a number of councils’ (Unison 2).

Among the six case-study local authorities, four imposed the three-year pay freeze as required by the national agreement, South-East LA1 applied a pay freeze for two years (April 2010 and April 2011) but agreed a 1% increase in April 2012 and South-East LA2 imposed a pay freeze in 2010 and a pay cut in 2011 (table 7.2). South-East LA1 is distinctive since it withdrew from the national pay agreement in 1989 and has since operated its own local pay arrangements - jointly with unions since 2004 following a period of derecognition. This was the main reason for its selection as a case study - to explore the situation that applies in 38 out of 74 local authorities in the south east region (while all 41 local authorities in the North West are signed up to the national agreement, Unison data).

South-East LA2 is one of only a handful of local authorities in the country that cut pay during 2011-12 – on a sliding scale from 5.5% for workers earning more than £65,000 to 2% for earnings between £17,000-21,000 (and no change for earnings below £17,000). The method was controversial since the council dismissed all employees and obliged them to sign a new employment contract on the lower rate of pay. Unison and Unite have subsequently filed around 1,000 unfair dismissal claims and coordinated a series of targeted strikes, including waste services, cleaners and social workers among other services. A change of political control in the May 2012 elections led to a decision to reverse the pay cuts.

But local councils are not expected to restrict their pay policy to the implementation of frozen national rates. The national agreement anticipates three fundamental features of local pay policy, decided through joint negotiation with unions. First, each local authority is able to

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<sup>28</sup> In February 2012 the unions requested the pay settlement be referred to the independent conciliation service ACAS in response to the employers’ refusal to make a pay offer. However, the employer side declined the request arguing ‘it would be irresponsible to leave councils exposed to potential expenditure that they have told us they could not afford’. (LGA letter to unions, [www.lge.gov.uk/lge/dio/15980967](http://www.lge.gov.uk/lge/dio/15980967)).

determine through a local job evaluation where it places its staff on the national pay spine. Of interest to our analysis is the fact that this means there is scope for local variation in the setting of the lowest, entry level rate of pay. Differences in the negotiated bottom rate of pay are likely to reflect political differences in the need to provide some form of legitimation for the radical programme of job cuts and the deterioration of real wages.

Table 7.2. Pay policy at national and local levels

	NATIONAL PAY AGREEMENT	North- West LA1	North- West LA2	North- West LA3	East LA1	South- East LA1	South- East LA2
<b>Council applies national pay-scale?</b>	--	Yes	Yes	Yes	Yes	No	Yes
<b>Date of implementation of single status pay agreement?</b>	Agreed in 1997	2005	2008	2002	2004	2003	2000
<b>3-year pay freeze? (2010-2013)</b>	Yes	Yes	Yes	Yes	Yes	Yes 2010-12, pay rise of 1% 2012-13	Yes 2010-2012, then pay cut of 2%-5,5%
<b>Low pay supplement? (£250 for earnings &lt; £21k)</b>	No	No	Yes	No	No	No	Yes
<b>Minimum collectively agreed hourly wage (2012)</b>	£6.30	£7.00 per hour	£7.20 'living wage'	£6.30	£ 7.20	£6.75	--
<b>Seniority increments or PRP during pay freeze?</b>	--	No	Yes	Yes	Yes (PRP only)	Yes (PRP only)	No

Second, each local authority is expected to construct its own system of pay bands or pay grades, using the national pay spine as the main reference for pay points, and to decide what principles ought to regulate pay progression. The national agreement leaves open the question of how many pay grades a council ought to apply, or even as to whether there ought to be a pay scale for each grade or a single fixed rate of pay (a 'spot rate'). It supports relatively short pay scales since this is said to be more aligned with the goals of gender pay equity, and also recommends incremental progression based on a combination of seniority and 'contribution-based pay progression', including for example pay rises in reward for acquisition of skills or qualifications (NJC 2005: part 4.9). Local discretion extends to the question as to whether or not councils ought to honour pay increments during the period of pay freeze, as well as whether or not they shift away from automatic seniority-related pay progression (see table 7.2).

A third issue involves a sub-set of terms and conditions – so-called Part 3 conditions -, which are purposefully designed for adaptation at local level (see box 5.1 above). These include the core conditions of pay premiums for unsocial and overtime working hours and car allowances. At stake is the degree to which some councils have reduced terms and conditions

in a context of budget cuts, despite the penalties imposed on workers with a high share of unsocial working hours or reliant on overtime income or car use. We consider these dimensions of local variation in the following analysis.

### *Legitimation by paying the lowest paid more?*

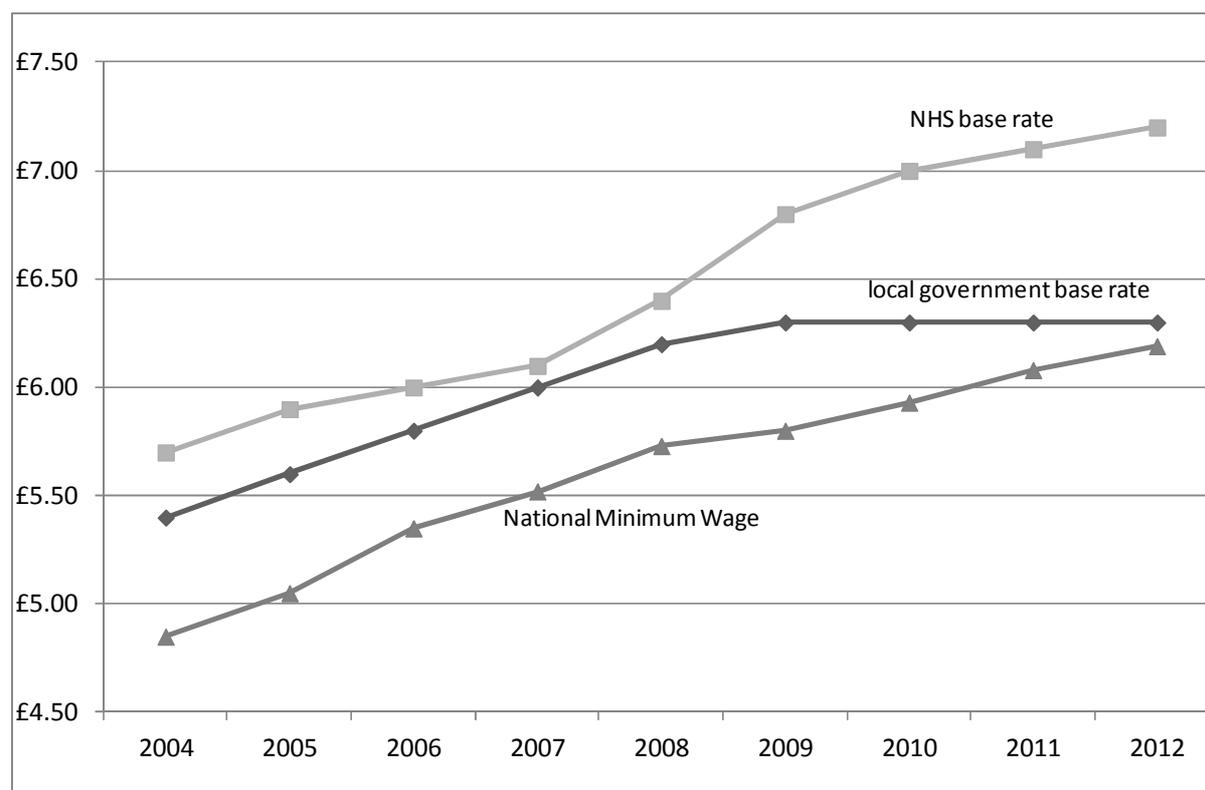
The government's public sector pay policy was accompanied by provision of an annual payment of £250 to employees earning less than £21,000 in 2011 and 2012 (see Part One). However, the Local Government Association made clear they were not obliged to follow this policy: 'local government pay remains a matter for free collective bargaining between the national employers and trade unions through the National Joint Council' (cited in IDS 2012: 57). Behind this public statement, our interviews reveal three problems from the employers' point of view:

1. government did not discuss or consult with the Local Government Association prior to its announcement;
2. government did not realise the significant impact on the paybill for councils given that close to 70% of the local government workforce earned less than the threshold salary level; and
3. local councils for the most part 'have absolutely no problem recruiting into those lower paid, lower skilled jobs' (LGA 9).

Failure of the employer body to approve the award of the £250 low pay supplement directly conflicts with the unions' stated objective of improving the position of the lowest paid, especially in light of evidence that local government workers are lower paid than other comparable workers in the public sector and that this gap has widened since 2010. For the year 2012-13, the collectively agreed national base rate is £6.30 per hour, more than 10% lower than the bottom rate of £7.11 for workers in the National Health Service, and only 22 pence above the statutory National Minimum Wage of £6.08 (figure 7.1). Also, one in four local government workers earned less than £6.63 in 2010 compared to a threshold of £7.66 for all public sector workers (Kenway et al. 2012: 11).

Among the five case-study councils (no pay information for South East LA2), only one (North-West LA3) has stuck with the base rate of pay that is set in the national collective agreement. The other four have eliminated one or more of the bottom pay points and recruit workers at a higher rate of pay (table 7.2). Our data suggest the decision to uprate base pay was not a response to local labour market factors. This is clearly evident at the two North West councils where both councils face high levels of local unemployment and limited problems of recruitment. Two other factors are decisive. First, a higher base rate was believed necessary to address evidence of poor living standards and high levels of economic deprivation among the lowest paid local government workforce; three councils (North West LA1 and LA2, East LA1) also aimed to set a wage standard for employers in the local area, although to date none include wage conditions in procurement contracts (see below). Second, the higher base rate was believed by some managers to be appropriate compensation for a downsized workforce obliged to work harder. There is no evidence that higher rates of pay were traded off with job losses.

Figure 7.1. Trends in the local government national base rate, the NHS national base rate and the National Minimum Wage, 2004-2012



Source: national agreements and Low Pay Commission.

Our evidence fits with wider developments around the role of local government in introducing a living wage, a voluntary measure to encourage payment higher than the statutory national minimum wage. The area that has had the greatest impact to date is London, where a voluntary living wage was introduced for local government in 2005 at £6.70 per hour and increased by the Greater London Authority every year since, including the years of spending cuts since 2010, up to £8.30 in 2012. However, not all London councils have volunteered to pay the living wage. And those that do, do not necessarily extend the pay practice to their subcontractors; data for May 2011 show only 5 out of 32 councils require all subcontractors to pay a living wage.<sup>29</sup> It has nevertheless been a popular measure and since its introduction by a Labour party Mayor has been championed by the current Conservative party mayor who claims to have presided over a three-fold increase in the number of employees who benefit from a living wage.<sup>30</sup>

Of the five case-study authorities, two (North-West LA2 and East LA1) introduced a living wage in 2012 – the accepted outside-London rate of £7.20<sup>31</sup> - set in collective agreements for 2012-13. This living wage is some 14% higher than the nationally agreed base rate for local

<sup>29</sup> [www.bbc.co.uk/news/uk-england-london-13266095](http://www.bbc.co.uk/news/uk-england-london-13266095).

<sup>30</sup> [www.mayorwatch.co.uk/mayor-announces-increase-in-london-living-wage/201114673](http://www.mayorwatch.co.uk/mayor-announces-increase-in-london-living-wage/201114673).

<sup>31</sup> Estimated by the Centre for Research in Social Policy at Loughborough University (see Hirsch and Moore 2012).

government workers. Moreover, in its pay policy statement submitted to government North-West LA2 council commits to 'become an advocate of a living wage'. In addition, North-West LA2 is the only one of 41 local authorities in the North West region (and one out of just four across the country) that in 2011 and 2012 paid the £250 low pay supplement to workers earning less than £21,000. The decision was directly associated with longstanding work by the Labour group within the council to address child poverty, but involved rounds of negotiations to win the collaboration of school governing bodies (since schools have autonomy over their budgets) and benefited by its promotion by Conservative and Liberal Democrat leaders in the run-up to local council elections.

'The Labour group at the time ... were taking reports to committee in relation to child poverty and the poverty situation on the [North-West LA2]. So we started talking to the Labour group in relation to getting them to accept the £250 for those people who were earning £21,000 and less. ... If you are real about poverty, if you're real about child poverty, you've got to have a decent living wage to do the things that you need to do with children, etc. ... That's how we bought into it. ... I just thought there's an opportunity here. They're talking about child poverty, let's test them. ... Let's see what they want to do about it.' (Unison 7).

The £250 payment is not consolidated into the salary, nor is it pensionable, but the council paid the tax and national insurance so that the £250 was the net payment, pro rata for part-time employees. The HR manager interviewed argued that while the pay decisions were in part 'political', they were justifiable in a context of downsizing – 'We are starting to get very stretched in terms of the number of people we let go so we are putting quite a bit more on our staff ...' (North-West LA2 13).

At East LA1 city council, prior to its agreement of a living wage in 2012-13 it uprated the base rate to £7.04 as a result of a wide-ranging reform of the pay, terms and condition of all staff agreed in early 2012, following negotiations with unions. The review of the local pay structure sought to minimise overlapping bands and shorten the length of bands (to a maximum of six pay points) to reduce the risk of equal pay anomalies. During negotiations, three options were considered – to remove the upper pay points in each pay band, to remove top and bottom pay points or to remove bottom pay points. The agreement eliminated the bottom pay points in all nine pay bands (ranging from three to seven pay points) such that 'no member of staff will be affected by a pay loss at the point of assimilation to the new bands' and nearly one in four employees gain (Council document). For the lowest paid on the bottom pay band there are six pay points starting at £7.04, equivalent to the sixth pay point on the national pay-scale.

North-West LA1 council increased its base rate of pay in 2009, prior to the national pay freeze; at £6.84 it was more than £1 higher than the then national minimum wage of £5.73. It was estimated at the time to directly improve the pay of 851 mostly part-time workers at a cost of £87,000.<sup>32</sup> In 2012 the rate was increased to £7.00, 11% higher than the nationally agreed base rate. Managers were focused both on its impact in addressing local levels of

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<sup>32</sup> North-West LA1 DocWeb 1.

poverty and its positive effect on staff retention. This included research into the impact of higher pay on staff turnover in the council's catering unit:

'In 2008 ... turnover in [the catering unit] ranged between 15 and 25%. Because basically what people were doing was thinking I can get the same amount of money doing hours that I choose somewhere else ... People say, 'Well I can get the same money there, I can pick my hours'. ... When you factor in the disruption to scheduling, service planning, arranging cover, induction, training people – so we pay a bit more. Turnover currently stands at something like 7.6%.' (North-West LA1 4).

Unlike the other five local authorities, South-East LA1 does not abide by the national pay agreement. Since 1989 it has set pay and other terms and conditions entirely at the local level, jointly with trade unions, and therefore pays unique locally determined rates of pay. The bottom pay band starts at £6.75, higher than the national base rate, and extends to £7.38.

The exception among our non-representative sample of six local authorities is North-West LA3 council which has stuck with the national base rate to the consternation of the Unison official: 'Ours is still the national level [base rate] which is £6.30 and the actual [statutory] national minimum wage is catching us up. If [the minimum wage] goes up 5% we will probably have people on the minimum wage because of the pay freeze.' (Unison 10). Because four local authorities were recently consolidated to form the new unitary local authority in North-West LA3, some of the lowest paid are on protected pay rates because one of the district councils had abolished the bottom four pay points and used a base rate of £6.84. However, pay protection runs out after three years.

### ***Local variation in awarding pay increments and performance-related pay***

The conventional pay scale involves automatic, seniority-related progression up a pay band as defined through local job evaluation. Following the 2004 national implementation agreement, local authorities were encouraged to consider applying a combination of seniority and 'contribution-based pay progression'. The nationally agreed three-year pay freeze also left open the question of whether or not councils ought to honour pay increments in councils where employees were entitled to automatic seniority-related pay progression within their pay band. Payment of increments provides a potentially significant boost to pay at a time when the national pay scale is frozen; across the first ten pay points, each increment represents an average 2.6% rise in gross pay. However, payment of increments is conventionally restricted to the first few years of an individual's employment; once at the top of a pay band for a job position there is no further entitlement to incremental pay progression. Thus, while a joint LGA-Audit Commission (2011: 37) report identifies 72% of local authorities as rewarding staff through automatic annual increments this needs to be weighted by the proportion who benefit in practice.

Four of six case-study local authorities continued to award pay rises on the basis of incremental or performance-related progression during the period of the national pay freeze (table 7.2). However, in councils where pay bands are relatively short, such as North-West LA3, around half of the workforce is estimated to be paid at the top of their pay band and therefore received no pay rise during the pay freeze of the last three years (Unison 10). By

comparison in East LA1, where each pay band averages six pay points, around 40% of staff are at the top of their pay band (public document January 2012). In the five local authorities that use pay bands with identified pay points, three apply a hybrid system that involves some time-served pay progression and some subject to a performance or competency test. Only North-West LA2 council does not link pay progression to a performance test.

Both East LA1 city council and South-East LA1 county council link pay progression entirely to an annual performance appraisal. East LA1 implemented a new pay banding structure in 2012 and progression up the ladder of increments within each band is entirely contingent upon passing a performance review, the terms of which were agreed with trade unions.

Unlike the other five authorities, South-East LA1 has abandoned pay points within defined minimum-maximum pay bands. Since 2010 it has appraised all staff on a four-step ranking and adjusted pay rises according to the budget available and the distribution of staff across rankings. In 2012 it awarded the 1% of staff who were below expected performance a 0% pay rise, the 80% of staff who achieved their targets 1.4%, the 18% who were above their targets 3.0% and the 1% who were judged outstanding 5.0% (South-East LA1 21). The pay rises awarded in April 2011 were 0%, 1.7%, 2.5% and 3.3%, respectively. Staff at the top of their pay band (estimated at around one third of the council workforce) are awarded a non-consolidated pay rise in order that their pay remains within the maximum threshold.

### ***Local variation in supplementary pay premiums***

All six local authorities have adapted the nationally agreed terms and conditions for pay premiums for working unsocial hours and/or overtime. Some have implemented a new structure, such as North-West LA1 where a pay premium is attached to a workers' total weekly pay, depending on the degree and frequency of unsocial hours worked, rather than to the precise number of unsocial hours worked. Others have marginally reduced the rate of premium, such as East LA1 where the time and a half premium for Saturday work was reduced to 1.4 (table 7.3).

The most radical change was imposed at North-West LA3 where all 8,000 (approx.) employees were dismissed and re-engaged on new contracts that removed pay premiums for Saturday and Sunday work, public holidays and overtime. From the union perspective, it unjustly targeted some of the lowest paid workers, a point belatedly recognised by the employer:

‘Of course, those sorts of frontline payments [premium pay for unsocial hours working] were mainly paid to lower paid staff – care staff in particular, street cleaners. These people who work early mornings or cover 24 hours a day in residential care and things like that. ... A lot of the care staff were losing up to 15% of their pay’ (Unison 10).

‘Obviously the budgets have been set now. ... It went to our staffing committee about a month and a half, two months ago, and the staffing committee had sympathies with what they were saying that it’s the women and low paid that it’s affecting. However, there wasn’t the budget to pay for it any more.’ (North-West LA3 17).

The result was a series of strikes during early 2012. One compromise was a one-off payment to care workers to compensate for loss of earnings over a six-month period. However, they had to sign the new contract in order to benefit. According to Unison this was a strategy to ensure the group of workers most affected by the abolition of premium pay signed the new employment contract. The unions' counter-position is to reinstate pay premiums of 25% for weekends and public holidays (except double time for Christmas and Boxing Day). Because this was costed at approximately £500,000 per annum it was rejected in May 2012 by Councillors.<sup>33</sup> The HR team and unions are in ongoing discussions in order to identify alternative savings to finance the pay premiums, but social dialogue has undoubtedly been hampered by the experience.

Table 7.3. Local changes to terms and conditions

	NATIONAL AGREEMENT	North-West LA1	North-West LA2	North-West LA3	East LA1	South-East LA1	South-East LA2
<b>Pay progression</b>	Recommends a hybrid system of incremental progression based on a combination of seniority and 'contribution-based pay progression' <sup>1</sup>	Hybrid: Progress to top increment within grade subject to competency test	Seniority-related: New appraisal system but no link to pay	Hybrid: Pay increments subject to satisfactory performance; Full PRP in planning stage	Full PRP: incremental pay progression subject to performance test	Full PRP: differentiated percentage rise based on 4-level performance appraisal	Hybrid
<b>Unsocial hours premiums</b>	Sat (x1.5) Sun (x1.5, x2 lowest paid) Night (M-F x1.33 20.00-06.00) Public holiday (x2 plus time-off)	Simplified to 4 bands (6.7%, 10%, 15%, 20%)	Sat (x1) Sun (x1) Night (x1.2 20.00-06.00) Public holiday (x2)	Sat (x1) Sun (x1) Night (x1.2 22.00-06.00) Evenings (x1.1 19.00-22.00) Public holidays (x1)	Sat (x1.4) Sun (x1.8) Night (M-F x1.3 23.00-07.00) Public holiday (x2)	Same as national agreement	-
<b>Overtime hours premiums</b>	Mon-Sat (x1.5), Sundays & public holidays (x2)	Same as national agreement	All days (x1.5) over 36 hours Low paid (Bands A/B) x2 (Sun and public hols)	No premium	No premium for Mon-Fri (07.00-23.00)	Mon-Fri (first 2 hours x1.33, remaining x1.5) Sat (x1.5) Sun (x2)	-

<sup>33</sup> North-West LA 3 Doc 1.

<b>Car allowances</b>	Annual lump sum plus mileage rate for 'essential users'; mileage rate for 'casual users'	No change from 1 April 2009	Change to VAT only	Reduced entitlement to lump sum and casual mileage rate set at HMRC rate of 40p	No change	Abolished funds for essential car users	-
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Notes: 1. Sourced from NJC 'Green Book' (2005), page 4.9.23.

Source: National agreement conditions from NJC (July 2005) 'Green Book' National Agreement on Pay and Conditions of Service.

### 7.3. Outsourcing local government services

Local government has witnessed considerable innovation in the form of services delivery in recent years. Procurement of services from the private and voluntary sectors has been pursued to differing degrees across all local authorities following the 1988 Local Government Act that required Compulsory Competitive Tendering, followed in the 1990s by government policy of Best Value. Most contracts procure narrowly defined services, such as waste disposal, IT services or building cleaning, but some involve 'strategic partnerships' where a private sector partner is contracted over 10 or 15 years to take responsibility for a bundle of services. There are also various types of public-public partnerships for the delivery of 'shared services', typically involving neighbouring local authorities sharing provision of back-off services or frontline services.

Further innovation in organisational forms for the delivery of local government services is anticipated following the results of ongoing pilots charged by government to implement 'Neighbourhood-level' and 'Whole-place' Community Budgets; one of the six case studies, North-West LA3, was selected as one of four authorities for the pilot. The government expects that these initiatives will foster 'radical approaches to local service delivery, including better and more integrated commissioning to further open up public service delivery, as well as payment by results approaches. ... Areas should identify the role of the private and voluntary and community sectors in their partnerships and demonstrate a commitment to work with a range of new partners as they emerge and develop' (HMGovernment 2011: 22, 26).

Another current initiative is public services delivery through mutual, or cooperative, organisations, involving the launch of 12 pilots in 2010 and a second wave in 2011 with the aim of identifying the type of government support required to boost employee-led mutuals. As part of the discourse of 'building the big society', mutuals are expected to be one dimension of the government's drive to empower local communities to deliver public services. The 2012 Localism Bill provides two new rights – 'a community right to challenge' and 'a community right to buy' that provide new powers for local groups to express an interest in providing a service and to own local assets. Of course, under European procurement rules, once the service area is opened it cannot be restricted to the social enterprise sector (APSE 2011). Moreover, despite the rhetoric of employee ownership and giving employees a stake in public services delivery, there are suspicions that co-ops are a

first step towards privatisation, in much the same way as occurred with experiments of Employee Share Ownership Plans under deregulation of buses in the 1980s (APSE 2011: 11).

Taken together, the coalition government’s initiatives add up to an ambition to transform local government into an agency that facilitates and commissions services rather than one that takes charge of management and delivery. There is a very strong ideological assumption underpinning current government policy that public sector bureaucracies are inimical to innovation and restrict variation and responsiveness to user needs. Various government papers in the last two years repeat the same mantra:

‘Public sector monopolies not only limit the choice available to service users, but ration the opportunities available to other potential providers – especially those in the voluntary sector. Restricting diversity of provision means there is less innovation – and therefore improvement in service delivery; less variation – and therefore response to local conditions; and less competition – and therefore progress on efficiency. To improve the quality, responsiveness and efficiency of public services we therefore need to break open the public sector’s monopolies’ (HM Government 2010: 9).

The strength of ideological conviction among both the Conservative and Liberal Democratic politicians is matched by the paucity of empirical evidence to support claims of the innovativeness of a diversified supply base, as well as a complete absence of concern with the merits of the public sector in upholding and improving decent standards of employment – encompassing pay, pensions and equality standards among others.

### *Case-study focus on four areas of services*

In the following analysis we focus on four areas of services that reflect a mix of direct services, support services and user services: waste, cleaning, elderly care and school catering. Table 7.4 provides an overview of patterns of inhouse and outsourced provision in these four services areas.

Waste services are typically divided between collection and disposal services. Cleaning services covers a range of public sites, including council buildings, public toilets, car parks, communal housing areas, community centres and concert and leisure venues. Elderly care encompasses domiciliary and residential care, as well as reablement care, and school catering involves the provision of catering services within primary and secondary schools.

*Table 7.4. Procurement of four selected services in six local authorities*

Service type:	North-West LA1	North-West LA2	North-West LA3	East LA1	South-East LA1	South-East LA2
<b>Waste</b>						
- <b>Collection</b>	Joint venture - 20% council control (7-year contract from 2008)	Outsourced	One third in-house until April 2012, all outsourced	Inhouse	n.a. (organised by the 12 district councils)	Inhouse
- <b>Disposal</b>	Outsourced	Outsourced	Privatised	n.a.	Privatised (although may develop	Inhouse

					energy-related operations)	
<b>School catering</b>	Primary schools: approx. 70% inhouse	Mostly inhouse	Primary: 95% inhouse; Secondary: most inhouse	n.a.	No inhouse unit (privatised since early 1990s)	Inhouse
<b>Cleaning</b>	Mostly inhouse	Inhouse (except individual schools)	Inhouse	Inhouse (except window cleaning), but preparing for market testing	Mix of inhouse and outsourced provision	Outsourced
<b>Elderly care</b> (residential and domiciliary care)	Outsourced	Mostly outsourced (including reablement care since 2011); only 8 daycare centres inhouse	Approx. 75% outsourced Reablement care inhouse Plans to increase to 85% outsourced and 10% to a new mutual organisation	Inhouse contractor to the County council's 'Supporting People' unit	Residential care 100% outsourced Dom care: mostly outsourced	Outsourced

For waste, cleaning and elderly care services, councils can deliver the services inhouse, with directly employed staff, or outsourced to a private or voluntary sector organisation. School catering is different. The schools budget is ring-fenced and passed from local government directly to individual schools, which since the late 1980s have exercised autonomy in spending decisions, including which organisation ought to provide the catering services or whether to hire catering staff directly. Thus, local authorities are not responsible for the procurement of school catering services, although they may provide guidance or coordination in the form of a procurement framework contract available for school use. Moreover, the local authority may or may not retain a catering division. If it does, it competes with other private sector providers to win individual contracts with schools.

### ***Local authorities' approach to outsourcing***

Across the six case studies, spending cuts and the change of government do not appear to have injected a radical shift or transformation in procurement strategy at local level, although it is difficult to interpret the situation given the limited number of interviews undertaken in each council. Prior to 2010, councils had already sought to improve their approach to commissioning services. For example, North-West LA1 established a centralised procurement unit in the early 2000s and collaborated with neighbouring councils on more than 50 procurement contracts. Financial support for regional initiatives came from the Regional Improvement Efficiency Partnership, established by central government in 2008 with the aim of promoting shared services in local government, among other factors. Also, East LA1 city continues to work with a procurement strategy formulated in the mid-2000s

that identifies value-for-money, sustainability and local employment as guiding principles and claims cost pressures have long been strictly been applied in all its procurement arrangements (East LA1 20).

A diversity of approach towards procurement is certainly evident and for the most part this mirrors a pre-recession pattern. Nevertheless, there is a general incremental tendency towards increased outsourcing. Those councils with an already established market-facing approach to services delivery have sought to improve their approach to commissioning, or enhance their control over externalised provision. Councils with inhouse services are looking at improving the organisation and delivery of services, both to meet improved performance targets and, in some cases, to prepare the unit for market-testing. This appears to be the case with respect to inhouse cleaning services at East LA1 city council, which have never been contracted out, where procurement managers are keen ‘to see how competitive the inhouse team is’ (East LA1 20). Thus, even among the councils with a stronger commitment to, or legacy of, inhouse provision, there is continual adjustment in the balance of who delivers services at the margin. One Unison official described the incremental adjustment as inevitably leading to a tipping point, ‘a house of cards’, by changing perceptions among council managers about what ought to be considered viable (Unison 8).

As well as the incremental slide towards outsourcing more and more services, most of the six councils have responded to spending cuts by renegotiating contracts with suppliers. In North-West LA1 council, for example, a care budget of more than £30 million had to be reduced by £8 million over two years, which was achieved by renegotiating with suppliers. Half the savings were achieved by cutting services provision and the other half from reducing profit margins; pay could not be cut since most care workers employed by care providers were paid the national minimum wage (North-West LA1, 25). The council worked closely with the many providers to cut services ‘in a way that reduced the impact on service users’ (North West LA1, 4). Councils can also be on the other end of pressures to reduce contract funding. In East LA1, where elderly care services are provided to the County council for the wider area, it has had to adapt to reduced funding from the County council, which has weakened its ability to shore up local income generation – although procurement managers do not consider this a strategic area for future income growth.

One area of change that our evidence has not uncovered, perhaps because it is too early, relates to the development of mutuals and cooperative organisations. Union officials were wary of the risk that whatever the apparent benefits for employees gaining greater control over the organisation of services they would run the risk that once externalised, local government would ‘squeeze the contracts until you burst’ (Unison 10). There were other types of organisational form, including joint ventures. For example, North-West LA1 invited private partners to form joint ventures with the council when it outsourced waste collection services, as well as parking services and street lighting. The rationale was both to provide the flexibility and to ensure the council retains a strong interest in the company (council document, 2008<sup>34</sup>).

### ***Labour market rules***

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<sup>34</sup> North-West LA 1 Doc 1

The case-study data confirm that the most important institutional rule protecting employees subject to outsourcing is TUPE, the Transfer of Undertakings Protection of Employment (see part one). A 2003 Code of Practice on Workforce Matters in Local Authority Service Contracts<sup>35</sup> issued by government makes clear that ‘TUPE is expected to apply unless there are genuinely exceptional reasons for not doing’. Moreover, in response to union campaigns for further protection for new joiners to contractor companies, the code states, ‘service providers must offer employment to new recruits on “fair and reasonable terms and conditions which are, overall, no less favourable than those of transferred employees”, and which offer reasonable pension arrangements’. The code was abolished by government in March 2011 but is still expected to apply to contracts already in force.

Where applicable, TUPE both protects employment conditions (at the point of transfer) and protects against excessive underbidding by private and voluntary sector organisations; although this can be viewed as a benefit or a disadvantage depending on the perspective, even among different local authority managers.

‘One of the things that has helped us [maintain services in-house] is the TUPE arrangements, because obviously one of the reasons we could look expensive to the private sector is the fact that we pay our people well, good pension scheme. ... But under TUPE of course they have the right to transfer to new providers who then have to take account of their costs. So it does level the playing field a little bit in that respect.’ (North-West LA1, 25).

One of the difficulties with TUPE is if we transfer the services to somebody else and TUPE applies it is very difficult for that provider to make any money because the [inhouse] terms and conditions are so strong – they’ve got little operating headroom to make any room out of the contract’ (North-West LA2, 13).

One controversy in the application of TUPE relates to the way in which the local authority fragments or bundles together services in its tender document. If a service is put out to tender in a form that fragments the service and therefore makes it difficult to identify which employees were assigned to which part then TUPE may be judged as inapplicable. Recent legal cases have decided that TUPE does not apply to the outsourcing of public services that are newly split up by geographical area in a tender exercise. The ambiguity was reflected in our interview data:

‘But then you have situations like for instance waste services and ... if the contract requires the service to be delivered in an entirely different way they almost immediately have an argument to move away from the requirements of TUPE. ... You have the issue of economies of scale and you have the issue about what is the undertaking’ (Unison18).

Where services are ‘fragmented’ in this way, the purchasing body (eg. the local authority) may be able to purchase services at a lower level of indirect labour costs but carries the risk

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<sup>35</sup> Available at [www.lge.gov.uk/lge/core/page.do?pageId=119743](http://www.lge.gov.uk/lge/core/page.do?pageId=119743).

of high redundancy costs where in-house workers have no opportunities for redeployment.<sup>36</sup> At North-West LA2, the outsourcing in 2011 of the remaining in-house elderly care services – the reablement care – involved a purposeful fragmentation of provision so as to avoid TUPE. However, the employees avoided compulsory redundancy – some took voluntary redundancy and some were redeployed into other council activities, including the remaining daycare centres (Unison 7). At North-West LA3 council, care services were outsourced incrementally with a series of small contracts that again avoided TUPE (Unison 10)

### *A worsening of conditions?*

Weighing up the balance of evidence as to whether procurement is used as a mechanism for pushing down terms and conditions of employment or to prop up standards, it would appear to be biased towards the former.

There is limited evidence of councils using procurement to protect or improve employment standards, for example through using a social clause in contracts or applying the ‘two-tier code’ (part one). In a joint venture for waste collection services at North West LA1, employees are wholly employed by the private sector partner but the council ensures the quality of pensions is maintained for transferring staff, as well as other TUPE terms and conditions.

Whenever you have got the benefit when you put it into the market, they [private sector company] will sign up to anything to get that work and that’s the time to do it. And our politicians are very keen that our employees – new employees coming in that’s an issue for them – but for our employees that are transferring over we maintain their terms and conditions [including the pensions] and we maintain through the life of the contract’ (North-West LA1 25).

At both North-West LA2 council and East LA1 council, one of Unison’s top priorities is to build on its success in establishing a living wage for council employees. This includes the North West LA2 council statement that it will ‘become an advocate of the living wage’ – and seek to extend it to contractors also (Unison 7) – and Unison ambitions in East LA1 to ‘use it as a springboard to negotiate the living wage with other public and private sector employers in the city’ (Unison 8).

A wider change relates to the fact that all procurement managers interviewed emphasised that the pre-2000s focus on price as the major determinant of procurement decisions had shifted to a balancing of price and quality. In some cases, labour costs were not perceived as the primary factor in assessments of value-added, or cost savings. In waste collection services, for example, a key issue is the strategic location of vehicles to minimise time and fuel driving from the depot (North-West LA1 25), while in cleaning services factors of prime importance include plans for carbon reduction, vehicle type, contribution to the local economy and types of cleaning materials (East LA1 20). Also, council procurement managers appear to exercise some discretion in adapting the balance of price and quality, perhaps with a higher weighting of quality for those services with strong user engagement.

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<sup>36</sup> [www.personneltoday.com/Articles/13/04/2009/50183/tupe-may-not-apply-when-contracts-are-split-between-suppliers.htm](http://www.personneltoday.com/Articles/13/04/2009/50183/tupe-may-not-apply-when-contracts-are-split-between-suppliers.htm).

A more common management position, however, is that it is inappropriate to require contractors to meet a defined set of pay and HR practices. Procurement managers cite the fact these fall within the scope of what can legally be defined as a ‘non-commercial consideration’ (Local Government Act 1988). One manager described the UK’s Public Contracts Regulations (2006) that regulate services procurement as her ‘bible’ – ‘those are the rules you have to apply’ (East LA1 20). While certain provisions for training may be acceptable, statements referring to sickness pay or holiday entitlements and so on flout the legal guidance. One of the union officials interviewed said he ‘had never seen any evidence of any ability by the trade unions to enforce [the two tier code] or to know even how it would work’ (Unison 10).

## 8. Conclusions for policy and practice

This report has summarised the key features of pay reforms and also analysed the interconnections between procurement policy and labour market conditions – especially those conditions related to institutions providing protection for outsourced workers and pay gaps between public and private sectors. The evidence suggests that ongoing austerity measures in the UK, combined with the government’s explicit ideological ambition to shrink the role of the state as a provider of publicly funded welfare services, appear to be producing a possibly irreversible downsizing of public sector employment and a lowering of pay and employment standards among middle and lower ranks of employees. The UK is distinctive from most European countries in its strong segmentation between public and private sectors, along dimensions of pay and industrial relations, and this segmentation has on the one hand supported and promoted equality for women employed in the public sector and on the other generated incentives for outsourcing of many activities to the lower paying private sector. Spending cuts and procurement policy therefore threaten gender equality in the labour market and are likely to encourage a compression of pay and conditions of workers in the middle and lower ranks towards minimum employment standards.

Part Two of this report focused on local government primarily because it has been targeted by spending cuts. The consequences are felt most in deprived localities where there are substantial cuts in services for the elderly and vulnerable, including closures of libraries, childcare centres and day care services. Drawing on an exploratory case survey of six local authorities (three in the North West of England, two in the South East and one in the East), we conclude with six main lessons for policy and practice.

1. The national collective agreement is at risk of losing its role in coordinating pay rises unless unions and employers at national level reverse the deterioration of basic pay and improve the margin between the lowest rate of pay and the national minimum wage.
2. National social partners need to learn lessons from the variety of local agreements where managers and unions appear to be finding alternative forms of ‘legitimizing’ the three-year pay freeze and extensive downsizing by making local deals to improve wages for the lowest paid (including payment of the £250 supplement and/or higher basic rates, including a living wage).
3. The range of local responses to austerity include both the positive re-setting of pay and conditions through social dialogue (eg. supplements for low-wage workers) and unfair practices that have provoked industrial relations disputes (eg. compulsory redundancies, collective dismissals and re-engagement, pay cuts). The examples highlight the need for improved understanding of the variety of local factors that influence management and union approaches towards adjustment and restructuring.
4. Low-cost pay deals that raise the bottom rate of pay by eliminating pay grades without restoring pay differentials with other workers on higher pay may put at risk job ladders and incentives for skill development where workers with different levels of experience and skill are paid the same rate of pay. If the lowest paid deserve a living wage it is likely that pay scales for these pay bands need a thorough revision to account for skill/experience differences.

5. Rules governing outsourcing and employment protection need to be strengthened so as to reduce the unfair labour practice in local government of fragmenting services to maximise the labour cost savings of outsourcing to the private sector.
6. 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.

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**Appendix 1. Details of small-scale public sector pay agreements (less than 10,000 workers covered)**

Name of agreement	No. of employees	Unions	Date	Pay rise	Pay increments?	Lowest paid (% rise for base rate)	No. of stages (current stage)
<b>Department for Environment, Food &amp; Rural Affairs</b>	4,318	PCS, Prospect, FDA	July 2011	Freeze	No contractual entitlement to pay progression	1.63% (£250 for <£21000)	2 (2)
<b>Sixth Form Colleges Staff NJC Committee for Teaching Staff</b>	7,590 (FTE)	ATL, NASUWT, NUT	September 2010	2.3% staged (1.5% from 1 September 2009 and 0.8% from 1 April 2010)			2 (2)
<b>Sixth Form Colleges Staff NJC Committee for Support Staff</b>	3,200 full-time; 3,468 part-time	Unison	September 2010	0.75%			
<b>Police Staff Council (Scotland)</b>	8,600	Unison, GMB and Unite (TGWU)	September 2010	2.1%			third year of a three-year deal
<b>Ordnance Survey</b>	1,150	PCS, Prospect	August 2010	Basic pay freeze, except 1.5% increase for staff in post		£250 for staff earning £21,000 and below;	
			August 2011	Pay freeze			
<b>HM Treasury</b>	1,100	PCS, IPMS, FDA	August 2010	Basic pay freeze		£250 min for staff earning £21,000 and below	
			August 2011	Pay Freeze		£250 min for staff earning £21,000 and below	
<b>Further Education Colleges (Northern Ireland)</b>	4,100	UCU, NASUWT	September 2010	1.775%			(3rd year of 3-year deal)
<b>Department for Energy and Climate Change</b>	1,200	Prospect, PCS and FDA	August 2010	Basic pay freeze, except 0.06% increase for staff in post		up to £350 for staff earning £21,250 and below;	
			August 2011	Pay freeze		up to £350 for staff earning	

						£21,000; increases for those earning between £21,000 and £21,249 to raise their salaries to £21,250	
<b>Department for Education</b>	2,800 approx	FDA, PCS, Prospect	April 2010	2% average basic award			(3rd year of 3-year deal)
<b>Crown Prosecution Service</b>	8,300	PCS, FDA	April 2010  April 2011	1.2% basic award; 3.47% average increase for staff in post		£250 min for staff earning £21,000 and below	(3rd year of 3-year deal)
<b>Department of Health</b>	3,061	FDA, PCS, Prospect	August 2011	Basic pay freeze, except 0.02% increase for staff in post		£250 for staff earning £21,000 or less;	
<b>Forestry Commission</b>	3,010	PCS, Prospect, Unite, GMB, FDA	October 2011	Basic pay freeze, except		£300 for staff earning £21,000 or below	
<b>Department for Transport</b>	1,530	FDA, PCS, Prospect	August 2011	Basic pay freeze, except 1.58% average increase for staff in post (ISP)		£250 for staff earning £21,000 or less	
<b>Department for Environment, Food and Rural Affairs (DEFRA)</b>	4,005	FDA, PCS, Prospect	July 2011	Basic pay freeze; 0.51% increase for staff in post; 0.51% on paybill		£250 for staff earning £21,000 or less	
<b>Foreign &amp; Commonwealth Office</b>	4,600	FDA, PCS, Prospect	April 2011	Basic pay freeze		up to £500 for those earning £21,000 and below (0.14% ISP)	
<b>Northern Ireland Prison Service</b>	1,827	Prison Officers' Association, Prison Governors' Association, PCS	April 2011	Basic pay freeze		£250 for pay points worth £21,000 or below	
<b>British Library</b>	2,200	Prospect, PCS	August 2010	Basic pay freeze,		£250 for staff earning	

		and FDA				£21,000 and below	
			August 2011	Pay freeze		£250 for staff earning £21,000 and below	
<b>Department for Business, Innovation and Skills</b>	2,700	PCS, Prospect, FDA	August 2010 August 2011	Basic pay freeze Pay freeze		£250 for staff earning £21,000 and below £250 for staff earning £21,000 and below	
<b>Department for Children, Schools and Families</b>	2,800	FDA, PCS, Prospect	April 2010	4% average			(3rd year of 3-year deal)

Source: IDS Pay Reports and 'The LRD Pay Survey'; own compilation.

## Appendix 2. List of stage one and stage two case-study interviews

	Level	Organisation	Number of interviews with pay/procurement experts
<b>Stage one</b>	National	Unison (main representative union)	2
		Local Government Association (national employer body)	2
		School Teachers' Review Body	1
	Regional	Unison North West	2
		Unison South East	1
<b>Stage two</b>	North West	LA1 Unison	1
		LA1 Manager	2
		LA2 Unison	1
		LA2 Manager	2
		LA3 Unison	1
	East	LA1 Unison	1
		LA1 manager	2
	South East	LA1 Unison	1
		LA1 Manager	2
		LA2 Unison	1
		LA2 Manager	1