Managing through contracts: the employment effects of compulsory competitive tendering in Australian local government

Janet Walsh and Janine O’Flynn

This article brings new evidence to bear on the employment and human resource effects of competitive tendering and contracting. Drawing on a database of over two hundred workplace agreements, the article examines the impact of compulsory competitive tendering on employees’ pay and employment arrangements in the Australian local government sector. The findings are contextualised in the light of evidence on the outcomes of a similar contracting regime in Britain.

Competitive tendering and contracting have been integral to the commercialisation of public services over the past two decades. Financial and resource constraints, as well as the rise of free-market approaches towards policy-making, have encouraged governments to ‘marketise’ public services and to reform their internal organisation in order to raise efficiency and reduce costs. In this context it has been suggested that a ‘contract’ state has emerged whereby an increasing proportion of public services are organised around market relations and specifically, commercial contracts between purchasers and providers (Kirkpatrick and Martinez Lucio, 1996, 2). As a consequence competitive tendering and contracting policies have been important forces for change in the organisation and administration of service provision and delivery often leading to fundamental shifts in management processes, structures and attitudes. Some commentators characterise these shifts in terms of the ‘greater use of market forces, competition and formal contractual transactions’ (Domberger and Hall, 1996, 145) while others contend that the principal decision for (local) govern-
ment is now ‘whether to “contract out” to the market or “contract in” within a quasi-market’ (Vincent-Jones, 1997, 143).  

In terms of the evolution of competitive tendering policy in Australia, it is apparent that developments in New Zealand and Britain have been particularly influential. New Zealand governments have sought to reconfigure central and local government in the 1980s and 1990s with the widespread introduction of commercialisation and the contracting out of public services. Britain, however, has been distinctive due to the adoption of a compulsory model of competitive tendering in local government. This was intended to restrict the discretionary powers of local government and to introduce new management priorities based on cost considerations (Colling, 1993, 2). Moreover, it was envisaged by Conservative politicians that compulsory competitive tendering (CCT) would initiate a move towards an ‘enabling’ model of local government. Under the ‘enabling’ model local authorities would cease to provide or manage public services directly and become largely residual bodies that coordinate and monitor services through the mechanism of contracts (Colling, 1994). The efforts of Conservative governments to marketise public services also reflected an enduring obsession with supposedly powerful and militant state sector trade unions. Foster and Scott (1998a, 128) have argued that competitive tendering was specifically intended to weaken public sector trade unions, principally through the ‘gradual marginalization of [union] influence over service conditions, staffing levels and working practices in tendered services...’. More recently, however, the Labour government has abolished the ‘compulsory’ element of competitive tendering in local government and introduced a regime of ‘Best Value’ which gives local councils greater discretion in service provision. In particular, such a model emphasises quality of service, as well as cost competitiveness, in the delivery of local government services.

In the Australian context the contracting out of public services has developed at a more gradual pace than in Britain. There have also been variations in the rate of implementation of competitive tendering and contracting across federal and state governments. To a large extent this reflects differences in political ideologies. Labor governments, for instance, have generally approached the marketisation of public service provision less enthusiastically than their Liberal counterparts. More generally, it has been observed that local governments in Australia, as distinct from federal and state governments, have been slow to respond to pressures for public sector reform. Domberger and Hall (1996, 133) have observed that local governments ‘... appear to be moving, grudgingly, in this direction, but the rate of progress varies enormously’. Where the marketisation of public service provision has been particularly rapid however is in the State of Victoria. In 1994 the (Liberal) State government introduced a compulsory model of tendering for local government. Such a policy was regarded as pivotal to the Liberal State government’s reform agenda in local government; not only because it [CCT] means local government services will be tested, and realistically so, but more particularly, because it offers the prospect of additional contracts going to the private sector, and not only because it offers the prospect of additional contracts going to the private sector, but, more particularly, because it offers a change in the culture of local government... The government expects that compulsory competitive tendering will deliver a large slab of the efficiency gains that we are pursuing in local government. (Victorian Government Hansard, 1995, 640)

As a consequence local councils were required by legislation to put out to tender a percentage of their overall expenditure. This rose from 20 per cent in 1994–95 to 50 per cent in 1996–97. Victorian local government has therefore been distinctive in recent years because its CCT regime (in conjunction with Britain) has constituted one of only two compulsory contracting models in the OECD.

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1Quasi-markets typically involve the separation of purchaser and provider functions; the fostering of competition with potential external bidders and the decentralisation of financial responsibilities to internal business units. Competitive tendering and contracting policies therefore precipitate potentially radical changes in the management of local government with ‘markets and quasi-markets’ serving to undermine traditional hierarchical and integrated organisational structures (Vincent-Jones, 1997).
Competitive tendering and contracting has, of course, attracted intense (political and academic) attention because of the alleged financial savings to be gained from such policies. Domberger and Jensen (1997) have claimed, for instance, that (central and local) governments can make savings of around 20 per cent on services through competitive tendering and contracting policies. Other writers are far more sceptical however. For example, Deakin and Walsh (1996) have argued that in many cases it is difficult to judge whether performance has improved as a result of competitive tendering due to problems in measuring public service efficiency. The British evidence is inconclusive in this respect, with some indication that savings have been made in the case of simple, repetitive, low technology services (eg. refuse collection and cleaning) but not in more complex services, such as health provision. Moreover, even if the estimates of efficiency gains are accepted, it is still not clear whether these savings exceed the managerial and monitoring costs of the contractual arrangements associated with competitive tendering (Vincent-Jones, 1997, 159).

However, the most controversial aspect of competitive tendering is the source of the alleged efficiency gains. In this context Domberger and Jensen (1997, 74) have acknowledged that it is uncertain whether cost savings represent ‘wealth transfers—reductions in wages and salaries of staff—or genuine productivity gains’. The authors nevertheless conclude, principally on the basis of British evidence, that the bulk of savings are accounted for by ‘better management, more flexible working practices, more efficient use of capital and greater innovation spurred by competition’ (Domberger and Jensen, 1997, 74). The employment implications of competitive tendering in Australia are, as yet, unclear. Indeed it has been observed that there are few empirical studies of the employment-related effects of competitive tendering or the implications of transferring employment from the public to the private sector (Domberger and Hall, 1996, 143). In the light of the scanty nature of evidence, this article seeks to examine the impact of compulsory competitive tendering in Victorian local government on employees’ wages and employment conditions. Drawing on data from 249 workplace agreements negotiated since the introduction of CCT in 1994, the article makes an assessment of the human resource and employment-related effects of CCT. The analysis is also informed by data derived from semi-structured interviews conducted in 1998 with senior CCT and human resource managers at two local councils that have been at the forefront of organisational reform; interviews with the National Industrial Research Officer and the Branch Secretary responsible for municipal employees at the Australian Services Union, as well as secondary source material, including arbitration proceedings and trade union documentation.2 Initially, however, the analysis of CCT in Victorian local government is contextualised in the light of evidence on the outcomes of a similar contracting regime in Britain.

**CCT and employment outcomes: the British evidence**

**The dynamics of CCT**

Despite the compulsory nature of competitive tendering, British evidence suggests that local authorities can exercise a degree of discretion in the organisation and governance of service provision. As a result, distinct differences have emerged between local authorities in terms of the separation of purchaser and provider functions and the degree of bureaucratic involvement in service delivery (Vincent-Jones, 1997). The differing political orientations of British local authorities, along with variations in financial constraints, management style and cul-

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2 The aim of the interviews with local council officers was to gain insights into the process and conduct of tendering, as well as the character of organisational change that had occurred since the introduction of CCT. Discussions with the trade union officers focused on the impact of CCT on employees’ wages and employment conditions.
ture, and union organisation and activity have all been judged to be critical factors conditioning employers’ response to competitive tendering (Colling, 1993). British research has indicated, for example, that Labour Councils have been generally keen to maintain direct service provision, although this has not inhibited senior management from pursuing changes in employees’ work practices and performance levels3 (Colling, 1993, 13). Conservative authorities, meanwhile, have behaved more like enabling authorities with no marked preference for in-house bidders. Hence, while CCT produces a number of uniform effects, principally the decentralisation of management structures and diversification of employment practice, the strategies and practices of employers and employees may also affect the nature of the outcomes within individual councils.

The issue of diversification is, of course, important in the context of local government and most especially in relation to wage and employment outcomes. In Britain, employment relations in local government have traditionally been regulated at a national level with uniform rates of pay and employment conditions diffused to all employees, including managers. CCT regimes have undermined established, centralised, patterns of industrial relations in local government in at least three ways. First, a major outcome of CCT processes has been the decentralisation of management structures and authority to separate service or business units. There has thus been an imperative to decentralise decision-making about wages and employment practices to the local service level. Second, CCT has forced local authorities to manage public services under intense financial constraints. Given that many services are labour intensive, and that wage costs comprise the major component of local government outlays, direct (downward) pressure has therefore been exerted on employees’ wages and employment conditions (Walsh and Davis, 1993; Colling, 1994). This appears to have been particularly the case for manual employees, with white-collar occupations experiencing more uneven outcomes with respect to jobs and work conditions (Doogan, 1997). Thirdly, CCT has posed particular problems for typically centralised public sector trade unions. Indeed it is argued that the decentralisation of decision-making away from national to business unit or workplace levels has, in many cases, highlighted the weaknesses of union workplace structures (Colling, 1995). In particular, localised negotiations potentially involve union members who have traditionally exerted little leverage or influence over their employment conditions. More importantly, CCT regimes appear to undermine the ability of trade unions to protect employees’ terms and conditions.4 As Colling (1995, 147) has argued:

the challenge of competition to unions lies in the invitation to bid down terms and conditions of employment coupled with the decentralisation of managerial authority away from traditional powerbases at national and employer level.

Consequently, trade unions are in a difficult position in that their attempts to protect employees’ existing terms and conditions may actually raise the costs of in-house bids thus potentially leading to the loss of contracts and jobs.

The impact on wages and employment conditions

The British evidence suggests that the cost savings from competitive tendering have stemmed largely from the shedding of labour, the erosion of workers’ wages and

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3 The greater incidence of direct service provision in Labour Councils also appears to reflect geographical factors (Colling, 1993, 13). Most commercial contractors have been concentrated in the south of England thus leading to more intensive competition for contracts at Councils, especially Conservative, that have been located in this part of the country.

4 However, Foster and Scott (1998b, 147) have argued that marketisation in local government has precipitated novel forms of union activity and campaigning, as well as a reorientation of bargaining around issues such as quality of service delivery.
work conditions, and an increase in the pace and intensity of work (Bach, 1989; Colling and Ferner, 1995). In the area of local government, Walsh and Davis (1993, 155) found that the most common changes in employment arrangements following CCT had been reductions in staffing and the restructuring of working hours, including the introduction of more variable and unsociable hours arrangements. While the majority of local authorities continued to observe national wage rates, the abolition or modification of bonus systems had led to an overall reduction in wage costs. Indeed, the impact of changes to bonus systems on employees’ remuneration was considered to be substantial, particularly for manual dominated service groups such as street and building cleaning and grounds maintenance.

Clearly, CCT has had an uneven impact on the workforce in British local government. Escott and Whitfield’s (1995) study found that full-time and part-time manual workers had experienced job reductions of 12 per cent and 22 per cent respectively during the first round of CCT between 1988 and 1993. Some groups of employees had suffered reductions in working hours (eg. part-timers) and a loss of holiday payments (eg. school cleaners and school meals staff). The character of employment arrangements had also changed, with an increase in the utilisation of part-time workers (on shorter hours) and temporary staff. At the same time, Escott and Whitfield (1995) found that male dominated workforces, particularly in refuse collection, had experienced improvements in additional payments (eg. bonuses) largely due to gains in productivity. Such gains were believed to reflect the combined effects of job losses, greater capital investment and changes in the method of service delivery. By contrast, it was apparent that additional payments had fallen for female catering and cleaning workers. The authors’ overall conclusion was that CCT had led to differential outcomes for male and female workers, with a marked widening of the disparity in terms and conditions between full-time male and part-time female manual workers: profits have been achieved...largely at the expense of female part-time workers. Many female part-time jobs have been lost, while in other jobs hours and pay have been reduced. In contrast, there has been a small increase in full-time employment for men in these services. (Escott and Whitfield, 1995, 164–165)

Doogan (1997) has presented a rather different analysis of the employment effects of marketisation however. Drawing on national and local data on local government employment over the period 1979–94, he argues that male full-time employment has been ‘the greatest casualty of employment restructuring’ (Doogan, 1997, 291), with male employees experiencing 81 per cent of job losses, compared to relative job losses for female employees of 19 per cent. Hence, Doogan (1997) has argued that productivity gains in male dominated service groups have been mainly derived from job losses or transfers, whereas female dominated service groups have been put under pressure to enhance productivity through flexibility initiatives, notably changes to working hours arrangements and sick pay.

Overall, then, despite differences in estimates of male and female job losses, there appears to be a consensus that CCT has led to a deterioration in the terms and conditions of female employees, especially in manual service areas. Colling’s (1995) research attributes such outcomes to the inequality in bargaining power between different groups of union members. This appears to reflect the fact that male employees in local government, particularly in service areas such as refuse collection, have been typically concentrated in large workplaces that facilitate workgroup contact and the formation of a ‘common interest’. By contrast, local authority workplaces dominated by part-time, female workforces have tended to be geographically dispersed thereby inhibiting effective union representation and organisation. In sum, the British evidence suggests that CCT has exacerbated gendered divisions in local government employment, with negative implications for female employees in the sector.

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5 Bach’s study (1989) showed that competitive tendering for ancillary services in the British Health Service had led to a reduction in the number of meters cleaned, which meant that cost savings were not necessarily synonymous with increased efficiency. Overall, competitive tendering had been accompanied by an intensification of work effort with employees working harder for lower bonus payments.
CCT in Australian local government: the case of Victoria

Local governments in Australia operate under the legislative jurisdiction of State governments. Under State Local Government Acts they provide a variety of public services including roads, land use, refuse collection, public libraries and leisure facilities. In 1994 the Victorian Liberal Coalition Government introduced CCT through amendment to the Local Government Act 1989. The Local Government (Competitive Tendering) Act 1994 established a Victorian model of CCT in local government—the second such model in the OECD.6

While the British and Victorian models of CCT have shared a common emphasis on compulsion, there have been several key differences. First, the Victorian CCT legislation has been non-prescriptive. In contrast to Britain, where actual services have been designated for CCT, the Victorian legislation stipulated that councils subject a proportion (eg. 50%) of their overall expenditure to competition. Individual councils have therefore exercised choice over the particular services to be tendered, as is now the case in Britain under the regime of ‘Best Value’ provision. Second, the regulatory context of CCT in Victoria has been less stringent than in Britain. While the vast majority of contracts have had a maximum duration of five years, the guidelines and monitoring of the tendering process have tended to be both general and informal. Indeed, Victorian councils have been regulated through a series of self-report measures rather than, as in Britain, external regulatory bodies. Annual CCT reports have thus been submitted by individual councils and used by the State government to monitor the implementation of CCT and the attainment of legislated targets.

It could be argued that the introduction of CCT in Victorian local government, as in Britain, represented a centralisation of power at the level of State government and an erosion of the discretionary power of local authorities. In this context it is important to note that local councils in Victoria have faced stringent financial constraints quite apart from the pressures of CCT. Such constraints have been due to the imposition of rate reductions and capping by the Liberal State government. The introduction of CCT was also preceded by the forced amalgamations of local councils, which reduced their number from 211 to 78. At the same time the Liberal State government removed democratically elected Councillors and replaced them with Government-appointed Commissioners. In contrast to Britain, therefore, the differing political orientations of Councils were not allowed to surface with respect to the first round of CCT.

It is clear that the combination of council amalgamations, rate capping and competitive tendering has led to major reductions in employment in the local government sector. Since 1993 the number of employees in local government in Victoria has fallen by 30 per cent, from a total of 46,200 to 32,400 in 1998. The introduction of CCT also precipitated the widespread restructuring of local government organisation. The hierarchical and integrated character of local government has been supplanted by more decentralised structures based around discrete service units and the separation of purchasers and providers. Ernst, Glanville and Murfitt’s (1997) study of eight local councils found that there had been a restructuring of managerial structures and service activities; the establishment of business units; the introduction of different mechanisms for financial accounting and the emergence of bodies to deal with CCT-related functions (eg. contract management).

A (small) number of councils sought to take the opportunity of the CCT legislation

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6 In December 1999 the incoming Labor State Government in Victoria enacted the Local Government (Best Value Principles) Act. This legislation replaced the CCT requirements imposed on councils with an obligation that they seek the best value in service provision.

7 It is not possible to provide an estimate of job losses due to CCT or to identify the contraction in employment across individual service groups as a consequence of the tendering process. As indicated, this is due to the fact that many councils experienced simultaneously forced amalgamations and rate capping which led to job losses that were independent of the effects of CCT. Official data on male and female job losses in the Victorian local government sector are also not available.
to introduce extensive organisational changes. This largely reflected the appointment of senior executive officers with a strong commitment to the reform of local government organisation and competitive modes of service delivery. For instance, one council made a decision to exceed the legislated targets and opened up all service areas to market testing. This Council also introduced a profit sharing arrangement so that in-house service providers could retain 60 per cent of the profits generated by their activities, with 40 per cent returned to the Council. Although all tenders have remained in-house, employment at the Council fell from 728 in 1993–94 (ie. pre-CCT) to 523 in 1998–99. By contrast, another Council chose to corporatise its service provision in the area of physical services (eg. refuse collection, road maintenance). A subsidiary company was established to ensure the complete functional separation of providers (eg. in-house bidders) from purchasers (eg. the Council). The company was also able to compete in the local government marketplace for additional contracts in order to create revenue for the Council (O’Flynn, 1997). By 1996 the company had generated 15 per cent of its revenue with other councils and was expected to increase its external revenue over time. Again, full-time staff numbers have fallen, from 3,300 employees in 1991 to 2,046 in 1996 and 957 in 1999.

**CCT and employment practices**

Local government in Victoria has traditionally been associated with relatively uniform wages and employment conditions that have been enshrined in sectoral-based awards. Significantly, CCT has produced pressures to decentralise the determination of terms and conditions to the enterprise and workplace level. For instance, the main local government union, the Australian Services Union (ASU) has sought to negotiate enterprise agreements in order to provide minimum standards and procedures for consultation on all matters relating to CCT. These have included the establishment of consultative committees to deal with CCT issues; provision for involvement of employees in contract specifications; the opportunity for in-house teams to make bids and the ability of employees to negotiate changes that will enhance the competitiveness of their bids.

More importantly, however, agreements negotiated at the workplace level, commonly referred to as *Local Area Workplace Agreements* (LAWAs), have proliferated since the introduction of CCT. These workplace agreements are essentially the result of negotiations between individual councils and in-house service providers regarding employees’ terms and conditions and are often critical to the success of in-house tenders. LAWAs have frequently comprised employee representatives nominated by the workforce, including the relevant shop stewards; a full-time union official; senior council management, and in some cases, specialist external consultants. Individual councils have tended to negotiate separate workplace agreements for the different functional areas of service provision and delivery, such as home care, parks and gardens, refuse collection. These agreements constitute a highly decentralised form of employment regulation in the Australian context.

Local area workplace agreements have proven to be problematic for local government trade unions in Australia. Not unlike Britain, the acceptance of such agreements by employees is often vital to the success of in-house bids in the CCT process. While the agreements may preserve jobs, however, they may also lead to a deterioration in employees’ terms and conditions of employment. Indeed it has been claimed by the ASU that council management (and hired consultants) have placed employees under intense pressure to alter their terms and conditions during the tendering pro-

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8 The Councils were not experiencing amalgamations at the time of organisational restructuring.

9 The wages and employment conditions of the vast majority of employees in Australia have been determined through a system of legally binding awards. These have been issued by independent quasi-judicial tribunals under a system of conciliation and arbitration. Award provisions have constituted a floor of minimum labour market standards that regulate employees' wages and employment conditions, including those employees who are not members of a trade union.
cess, including their hourly wage rates, premium payments, supplementary allowances and overtime, as well as to endure increased workloads. Moreover, it has been argued that unfavourable comparisons are frequently made between the terms and conditions of council employees and those prevailing in private contractors. This is because private contractors are able to operate outside of award provisions on wages, allowances, premium rates, leave entitlements and superannuation, and can therefore undercut sectoral standards on wages and employment conditions. There also appears to be some evidence that private contractors operate with lower staffing levels than in comparable service areas in local government, with staff routinely working longer hours for lower pay (Australian Municipal, Administrative, Clerical and Services Union, 1995). It is therefore unsurprising that private contractors are characterised by lower labour costs than local government service providers. According to the ASU (Australian Municipal, Administrative, Clerical and Services Union, 1995, 4):

The competitive process has been entered into in good faith by employees ... only to find that they are faced with choices that inevitably lead to inequitable outcomes. The options open to employees when subject to the competitive process are either loss of employment, or employment at inferior rates and/or conditions.

In the light of these developments the ASU sought an order from the Australian Industrial Relations Commission in 1995 to vary the terms of the local government award. The aim of the union’s application was to compel councils to insert award terms and conditions into contractual arrangements upon the transfer of services to the private sector. This became known as the Contractors Clause and constituted an attempt by the union to standardise wages and employment conditions across all service providers (public and private) in the local government sector.10 The ASU argued that the intention of the clause was to force employers to seek efficiency gains through innovation in technology and service delivery rather than the degradation of workers’ wages and work conditions (Australian Municipal, Administrative, Clerical and Services Union, 1995).

Employer groups and individual councils vigorously contested such arguments. In particular, it was claimed that such a clause would serve to reduce competition and efficiency by making contracting a more difficult process. In addition, it was maintained that individual councils would be inhibited from conducting appropriate ‘market comparisons’ between local government employees and contractors. Appearing as a witness for the employers in the case, Simon Domberger (1996, 37) argued that the proposed clause:

would create a more cumbersome contracting environment raising the costs of bidding... it would hinder fair competition by providing benefits to council employees as against contractors...

Although the Industrial Relations Commission acknowledged that such a clause would protect the wages and conditions of employees, the union’s application to insert such a clause in the local government award was rejected. The notion that the clause would lead to contracting problems and complications, and thus potentially reduce the efficiencies to be gained from the CCT process, was overwhelmingly accepted by the Commission in its final judgement in the case (Nolan, 1996).

Outcomes of tendering

The impact of CCT on employees’ wages and employment conditions can be gauged through an analysis of Local Area Workplace Agreements. As noted above, these

10 The Contractors Clause was analogous to the Transfer of Undertakings Regulations in Britain, although it exceeded the British legislation by extending award/enterprise agreement provisions to workers employed by any successful bidders (eg: private and public enterprises) in the CCT process. More recently, there have been cases before the Federal Court relating to s.149 of the Workplace Relations Act, 1996, ‘Transmission of Business’ where local government employees who have shifted their employment to external providers have been deemed to be entitled to their previous award-based pay and conditions.
decentralised agreements are the outcome of negotiations between individual councils and successful in-house bidders during the CCT process. Given that the vast majority of tenders (e.g. around 80 per cent) have been awarded to in-house service providers, the Local Area Workplace Agreements codify the key changes to employment conditions in local government since the introduction of CCT. Moreover, the spread of LAWAs introduces a degree of heterogeneity to a sector that has traditionally been associated with relatively uniform employment practices. Employees performing the same tasks in local government may now experience different employment arrangements as a result of variations in the character and conduct of the competitive tendering process.

Drawing on a database of 249 agreements registered with the Australian Industrial Relations Commission over the period 1995–98, the following analysis compares the LAWA provisions on working hours; premium and overtime payments; supplementary allowances; wages and over-award payments and profit/gain sharing and performance bonuses with the provisions of the local government award in Victoria. This is intended to generate insights into trends across the entire sector (see Table 1). In this context it is important to note that the 249 agreements encompassed a wide range of services (e.g. 36) and a large number of local councils. Almost three quarters of local government organisations (e.g. 56 councils) had negotiated and registered local area workplace agreements as a result of the introduction of compulsory competitive tendering.

In addition, an analysis has been undertaken of 180 agreements in three groups of services; firstly, home/community and family day care services that contain a large proportion of part-time female workers; secondly, refuse collection, gardens, and street cleaning that contain a large proportion of full-time male workers and thirdly, a group of white-collar services (e.g. revenue collection; customer service; business units; marketing etc.) (see Table 2 and Appendix 1). The higher incidence of LAWAs in home/community care and refuse collection reflects the fact that these workforce groups have been exposed to competitive tendering more frequently than employees in white-collar (e.g. technical and administrative) service areas. The analysis is thus intended to shed light on two key issues: first, the extent to which workplace agreements associated with the CCT process have led to a general erosion of employees’ wages and employment conditions and, second, the degree to which different groups of employees (manual; non-manual; part-time female and full-time male) have experienced variations in employment arrangements as a consequence of CCT-related negotiations.

i. Working hours flexibility

There has been a marked trend towards more flexible working hours, involving increases in the spread of ordinary working hours and the maximum number of hours worked per day. In some cases there have been substantial changes to the contractual definition of ‘ordinary hours’. For instance, a local agreement negotiated between one council and successful in-house providers of a Home Care service in 1995 extended ordinary hours of work from 60 hours over a five-day week to 112 hours over a seven-day week. The increased spread of ordinary hours from five days to seven days per week reduces employees’ access to a range of premium payments, particularly for weekend working. As this example also indicates the expansion of ordinary working hours has been accompanied by an increase in the maximum num-

The fact that most tenders remained in-house may be attributed to several factors. During the first round of CCT there was a tendency for councils to add redundancy payments to the tenders of external bidders thus raising the cost of such bids. Lack of external competition for a number of service areas may have also reflected the tendering strategies of councils. For example, aged and disability services at one council packaged together meals supply and production, home care and home maintenance as a single tender thereby inhibiting bids from external providers due to the breadth and diversity of the service area.
Table 1: The impact of local area workplace agreements on employment arrangements
(N = 249)

<table>
<thead>
<tr>
<th>Employment arrangements</th>
<th>Number of agreements</th>
<th>Proportion of total agreements (%)</th>
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<tbody>
<tr>
<td><strong>Flexibility</strong></td>
<td></td>
<td></td>
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<tr>
<td>Increased maximum hours (1)</td>
<td>130</td>
<td>52</td>
</tr>
<tr>
<td>Provision for actual/future increase in spread of ordinary hours (2)</td>
<td>154</td>
<td>62</td>
</tr>
<tr>
<td>Introduced flexible rostering</td>
<td>89</td>
<td>34</td>
</tr>
<tr>
<td><strong>Premium Payments: Out of Ordinary Hours</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reduced out of ordinary hours payments to below award rate</td>
<td>64</td>
<td>26</td>
</tr>
<tr>
<td>Replaced out of ordinary hours payments with time in lieu</td>
<td>69</td>
<td>28</td>
</tr>
<tr>
<td><strong>Premium Payments: Public Holidays</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reduced public holiday payments to below award rate</td>
<td>35</td>
<td>14</td>
</tr>
<tr>
<td>Replaced public holiday payments with time in lieu</td>
<td>11</td>
<td>4</td>
</tr>
<tr>
<td><strong>Premium Payments: Overtime (3)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reduced overtime payments to below award rate</td>
<td>58</td>
<td>23</td>
</tr>
<tr>
<td>Replaced overtime payments with time in lieu</td>
<td>98</td>
<td>39</td>
</tr>
<tr>
<td><strong>Supplementary Allowances</strong></td>
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<td></td>
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<tr>
<td>Removed some/all supplementary allowances</td>
<td>79</td>
<td>32</td>
</tr>
<tr>
<td><strong>Wages</strong></td>
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<td></td>
</tr>
<tr>
<td>Reduced wages rates below award</td>
<td>9</td>
<td>4</td>
</tr>
<tr>
<td>Removed over-award payments</td>
<td>27</td>
<td>11</td>
</tr>
<tr>
<td>Increased wage rates</td>
<td>14</td>
<td>6</td>
</tr>
<tr>
<td>Introduced annualised salaries</td>
<td>56</td>
<td>23</td>
</tr>
<tr>
<td><strong>Profit/Gain Sharing</strong></td>
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<td></td>
</tr>
<tr>
<td>Introduced profit/gain sharing</td>
<td>112</td>
<td>43</td>
</tr>
<tr>
<td>Introduced performance bonuses</td>
<td>22</td>
<td>9</td>
</tr>
</tbody>
</table>

(1) The local government award has generally specified a limit to the maximum number of daily working hours, notably eight hours per day.
(2) The local government award has specified a span within which ordinary hours can be worked. Ordinary hours of work have generally been prescribed as 38 per week and have normally embraced a particular span, notably 6 am to 6 pm over a 5 day week. Any work outside of these hours attracts premium payments.
(3) Overtime payments are a premium payment for work that is in excess of ordinary rostered hours (eg. 38 hours per week) but within the spread of ordinary hours (eg. 6 am to 6 pm Monday to Friday).

The analysis of 249 LAWAs indicated that just over half of the agreements increased the maximum hours allowed to be worked per day (see Table 1). In most cases, daily working hours had increased from eight to ten hours. In addition, nearly
<table>
<thead>
<tr>
<th></th>
<th>GROUP 1 Part-time female</th>
<th>GROUP 2 Full-time male</th>
<th>GROUP 3 White-collar</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Total number of agreements = 56</td>
<td>Total number of agreements = 78</td>
<td>Total number of agreements = 46</td>
</tr>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
<td>Number</td>
</tr>
<tr>
<td>Flexibility</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increased maximum hours</td>
<td>17</td>
<td>30</td>
<td>51</td>
</tr>
<tr>
<td>Provision for actual/future increases in spread of ordinary hours</td>
<td>42</td>
<td>75</td>
<td>53</td>
</tr>
<tr>
<td>Introduced flexible rostering</td>
<td>11</td>
<td>20</td>
<td>33</td>
</tr>
<tr>
<td>Premium Payments: Out of Ordinary Hours</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reduced payment for out of ordinary hours below award</td>
<td>32</td>
<td>57</td>
<td>17</td>
</tr>
<tr>
<td>Replaced payment for out of ordinary hours with time in lieu</td>
<td>11</td>
<td>20</td>
<td>11</td>
</tr>
<tr>
<td>Premium Payments: Public Holidays</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reduced payment for public holidays below award</td>
<td>21</td>
<td>38</td>
<td>6</td>
</tr>
<tr>
<td>Replaced payment for public holidays with time in lieu</td>
<td>2</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Premium Payments: Overtime</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reduced overtime payments below award</td>
<td>23</td>
<td>41</td>
<td>18</td>
</tr>
<tr>
<td>Replaced overtime payments with time in lieu</td>
<td>15</td>
<td>27</td>
<td>25</td>
</tr>
<tr>
<td>Supplementary Allowances</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removed some/all supplementary allowances</td>
<td>19</td>
<td>34</td>
<td>33</td>
</tr>
<tr>
<td>Wages</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Introduced annualised salaries</td>
<td>27</td>
<td>35</td>
<td>9</td>
</tr>
<tr>
<td>Profit/Gain Sharing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Introduced profit/gain sharing</td>
<td>10</td>
<td>18</td>
<td>40</td>
</tr>
</tbody>
</table>
two thirds of the agreements (154) contained alterations to the spread of ordinary hours. These agreements contained provisions that either directly increased the span of ordinary working hours (eg. 21 agreements increased the span by more than 20 hours per week) or allowed the possibility of expansion at some future time. Just over one third of the agreements referred to flexible rostering with provisions to deploy staff at late service hours or at weekends.

It is apparent from Table 2 that different forms of temporal flexibility were associated with the three workforce groups. Hence, the refuse collection/street cleaning and white-collar service groups (2 and 3) were the most likely to be subject to agreements that allowed for increases in maximum hours worked per day. Indeed, nearly two thirds of the agreements covering these two service groups contained provisions to increase maximum daily working hours. This may reflect the attempt by employers to schedule employees in the areas of refuse collection, gardens and street cleaning in accordance with seasonal fluctuations in workload, as well as the increasing popularity of variable start and finishing times for white-collar staff. The full-time, male manual and white-collar service groups were also characterised by a relatively high incidence of agreements designed to extend the spread of ordinary hours and to introduce flexible rostering. The part-time, female oriented service group, by contrast, had the highest incidence of agreements that increased the spread of ordinary hours. For instance, 75 per cent of the fifty-six LAWAs that covered home/community care services contained provisions to either increase the current spread of ordinary hours or expand hours in the future. Exactly one half of the agreements were designed to increase the span of ordinary hours by over ten hours or more per week.

ii. Premium and overtime payments

The redefinition of the span of ordinary hours in local government and the generalised increase in maximum allowable hours per day have led to a reduction in employees’ access to premium and overtime payments. Some local authorities have sought to abolish premium rates altogether, with overtime taken as time in lieu or paid at a lower rate than stipulated in the local government award. One LAWA, for example, reduced premium rates from double or triple time to time and a half. Elsewhere premium payments outside the spread of ordinary hours appear to have been removed. The analysis of 249 LAWAs indicates that 26 per cent of agreements (eg. 64) contained provisions that reduced premium payments below award rates for work outside of ordinary hours, while 28 per cent replaced premium payments with time in lieu (see Table 1). The highest incidence of change in premium payments was in relation to overtime. Nearly 40 per cent of agreements (98) had replaced overtime payments with time in lieu, with 23 per cent of agreements reducing the actual overtime rates below award provisions. A much smaller proportion of agreements (18.5%) contained similar provisions with respect to premium payments for public holidays.

The extent of change appears to be related to the nature of the service area. The female dominated area of home care, for instance, has experienced radical changes in premium and overtime rate provisions. In 1995 one council negotiated a local agreement with its home care workers that simultaneously reduced premium rates and restricted their availability. Elsewhere, access to premium and overtime rates for home care workers have been reduced through the expansion of ordinary hours and the removal of double and triple time premium payments. Table 2 demonstrates that employees in home/community care services have experienced the most marked deterioration in the level of premium payments for work outside of ordinary hours; public holidays and overtime. This group, for instance, had the highest incidence of agreements that recorded a direct cut in the rate of premium payments below award provisions. By contrast, employees in the male dominated services of refuse collection and street cleaning have been better able to maintain their level of premium rates with fewer agreements designed to reduce such payments below the award rate. As regards the white-collar service group the vast majority of the agreements were
aimed at replacing premium payments with time in lieu, rather than reducing pre-
mium rates.

iii. Supplementary allowances

The advent of workplace agreements has led to the abolition of many supplementary
allowances in local government, including early start allowances, maintenance allow-
ances, travel, travel time and meal allowances. As Table 1 indicates approximately
79 local workplace agreements (32%) sought to remove (some or all) supplementary
allowances paid to employees thus indicating a reduction in employees’ income lev-
els. Significantly, the removal of supplementary allowances figured prominently in
agreements negotiated in the home/community care and refuse collection/street cle-
aning service groups with well over a third of agreements in each of the two groups
containing provisions to abolish all or some allowances. It is apparent that such
allowances have been removed in order to reduce the unit costs associated with
providing services in-house thereby enhancing the competitiveness of in-house teams.

iv. Pay structure and wage rates

Prior to CCT and the negotiation of local agreements many councils had sought to
move away from the existing complex system of pay and job classifications and had
grouped employees on the basis of bands. The banding system thus classified local
government employees according to skills, experience and competencies in relation
to a band (eg. 1–8) and a level within that band (eg. A–D). Rates of pay were directly
related to the employees’ position within the band. Such a system was intended to
establish a career path within local government whereby employees had systematic
performance reviews and were able to progress through a set of common classi-
fications. Since the introduction of CCT, a small number of agreements (11) have
reclassified employees to lower levels within bands thereby reducing their pay relative
to their position under the previous award. At one council, for example,
employees in the areas of home care and street cleaning had been reclassified in 1995
to the lowest level in each band. This was a direct consequence of the tendering
process and the need to enhance the competitiveness of in-house bids. In other
instances (eg. 13 agreements) the option of individual reviews and career progression
through bands has been suspended. Such moves may be indicative of a partial rup-
turing of internal labour markets in the local government sector.

In respect of remuneration, it is apparent that the majority of workplace agree-
ments have not sought to reduce employees’ basic wage rates. As Table 1 indicates
only nine agreements contained basic wage rates lower than those prescribed in the
award. Of course, there has been a tradition of over-award payments for some
groups of employees in the local government sector (eg. refuse collection). Hence,
for these groups, an agreement that stipulates the payment of award rates may in
fact represent a reduction in pay due to the abolition of over-award payments. Only
a minority of agreements actually recorded the abolition of over-award payments
which suggests that the removal of such payments might have been accomplished
in an informal, non-codified manner. As Table 1 indicates 27 workplace agreements

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12 Regulatory provisions in Australia (eg. the no disadvantage test) do not allow agreements to result,
on balance, in a reduction in employees’ overall terms and conditions of employment when compared
to the relevant award. Several LAWAs sought therefore to offset reductions in basic wage rates with
performance bonuses, profit and gain sharing schemes, as well as transfer payments for loss of salary.
However, it is now possible for agreements to be certified even when they erode employees’ terms
and conditions. The Workplace Relations Act 1996 weakened the no disadvantage test such that the
Australian Industrial Relations Commission can approve an agreement that results in a reduction in
overall terms and conditions of employment, if it considers that approval is not contrary to the public
interest. This might be where the agreement is part of a strategy to deal with a short-term crisis or
to assist in the revival of the business (Pittard, 1997, 83).
(eg. 11%) provided for the explicit removal of over-award payments and one half of these agreements related to employees in refuse collection/street cleaning.

Clearly, there is a modest trend towards the introduction of annualised salaries, notably in the refuse collection/street cleaning and white-collar service groups. This represents a major departure from the award-based system of wages. Overall 56 agreements (eg. 22%) had introduced annualised salaries. These provide a flat rate of pay for employees and absorb a variety of other payments including supplementary allowances, personal over-award payments and public holiday premium payments. Such evidence suggests that the full-time, male manual and white-collar service groups have had their supplementary payments consolidated into their overall salaries. This has not been the case with home care/community service employees who have experienced the abolition of various additional payments without any form of salaried compensation.

v. Profit and gain sharing arrangements

A distinctive feature of local area work agreements has been the introduction of profit and gain sharing arrangements. These types of arrangements have appeared in services as diverse as home care and revenue collection. As noted earlier, a large suburban local authority has negotiated an agreement that allows for a 60:40 division when profits are generated by an internal business unit. Sixty per cent of the profits are retained by the internal business unit (45% is distributed to staff and 15% remains in a contingency fund) whilst forty per cent is distributed as a dividend to the Council.

Overall, as Table 1 indicates, nearly one half of the workplace agreements (112) contained provisions on profit and gain sharing, with group-based schemes the most popular arrangement (63 agreements). Profit and gain sharing schemes appeared to be especially marked in refuse collection/street cleaning (51%) and white-collar services (50%) (see Table 2). Such evidence indicates that the full-time, male manual and white-collar service groups have been able to offset expansions in daily working hours with increased remuneration in the form of profit or gain sharing. By contrast, only a minority of agreements (18%) in the female, part-time employee dominated service group contained provisions relating to profit/gain sharing arrangements.

Conclusions

It is clear that CCT, and the risk of greater competition in service delivery, have led to a fundamental restructuring of employment relations in Victorian local government. While there is little evidence of direct reductions in basic wages, the analysis of workplace agreements suggests that employment conditions have been subject to erosion due to the requirement to reduce labour costs in internal bids for service provision. Employees in local government in Victoria have thus been under intense pressure to agree to increases in the span of ordinary hours and the maximum number of hours worked per day; greater flexibility in rostering and working hours arrangements, as well as the removal of a wide range of premium and supplementary payments. In general, then, it appears that employees’ base wages have remained intact, but that overall income levels have been reduced. This is a consequence of the reduction or removal of premium rates, supplementary allowances and the recorded and unrecorded) abolition of over-award payments. Moreover, the introduction of more variable and unsociable hours arrangements has also served to limit employees’ access to premium and overtime payments.

Such trends are consistent with the British evidence. As we have seen, the introduction of CCT in Britain has had distinct redistributive effects, namely, an overall reduction in employees’ income levels due to the modification or abolition of bonus systems and overtime payments. Indeed, it appears that CCT in both the British and Australian contexts has generated cost savings that are attributable, at least in part,
to ‘wealth transfers’ (Domberger and Jensen, 1997, 74). While in most cases such transfers have not led to direct cuts in basic wage rates, it is clear that the removal of a wide range of premium, overtime and additional payments has involved potentially substantial falls in employees’ total remuneration. Moreover, cost economies have also reflected the reductions in staffing that have invariably accompanied the introduction of greater competition in service delivery.

As in Britain, CCT has had diverse consequences for the local government workforce. In respect of Victoria, employees in the female dominated services of home and community care have experienced the most pronounced deterioration in levels of premium payments, as well as increases in the span of ordinary hours and the removal of supplementary payments. Although the full-time, male manual and white-collar service groups have also been subject to temporal flexibility initiatives, they have been better able to protect their overall bargaining position with fewer agreements designed to reduce or remove premium/overtime and supplementary payments. Again, profit and gain sharing schemes and consolidation of allowances into annualised salaries have been especially marked in the full-time, male manual and white-collar service groups. Such evidence indicates that employees in the refuse collection/street cleaning and white-collar service groups may be more able to reap the financial benefits from profitable service activities than other workforce groups. By contrast, the part-time female dominated service areas have experienced a generalised erosion of their terms and conditions of employment without any evidence of compensatory improvements in remuneration. Such outcomes reflect the occupational and gendered composition of employment in local government and the inequality in bargaining leverage between different groups of trade union members. CCT has thus served to exacerbate social divisions and inequities among the local government workforce in both Australia and Britain.

In summary, then, it is apparent from the Australian and British experiences that competitive tendering imparts powerful decentralising tendencies both with respect to organisational and management structures and employment relations. Relationships between the parties in local government are being transformed as the sector shifts towards an enterprise and workplace focus and the divide between purchasers and providers widens. This has led to a diversification of employment practice between individual councils and service units. It is also clear that competitive tendering encourages employees to internalise new commercial imperatives, namely, the requirement to make in-house bids competitive so as to preserve jobs. This has posed intractable problems for local government workers in both Australia and Britain, with employees facing in many cases a stark trade off between jobs and working conditions.

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References


Colling, T. (1994) ‘Commerce vs. Politics: Compulsory Competitive Tendering and the Determin-


## Appendix 1: The Three Service Groups

<table>
<thead>
<tr>
<th>Group</th>
<th>Original Category</th>
<th>Employment Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>1=56 agreements</td>
<td>Home care, Community Care, Aged &amp; Disability Services, Home Maintenance, Transport, Adult Day Activity &amp; Support Services  Family Day Care, Children’s Services, Child Care Services</td>
<td>A group of services characterised by part-time, female employment.</td>
</tr>
</tbody>
</table>

(1) Examples of service areas not included in these groupings are youth services, leisure facilities and horticultural services.