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# Beyond National “Varieties”: Public-Service Contracting in Comparative Perspective

Ian Greer

*Cornell University*, [i.greer@greenwich.ac.uk](mailto:i.greer@greenwich.ac.uk)

Ian Greenwood

*Leeds University*

Mark Stuart

*Greenwich University*

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# Beyond National “Varieties”: Public-Service Contracting in Comparative Perspective

## Abstract

[Excerpt] In this chapter, we will explore how work in contracted-out public services, including that in the voluntary sector, maps onto the broader international political economy of work. Comparative scholars often write about society correcting the excesses of the market, and it is hard to imagine a more relevant phenomenon to this than the voluntary sector. Yet this sector is itself subject to market forces, ironically perhaps, due to its ever-closer relationship with the state. Our study of employment in welfare-to-work services in the UK and Germany, whose findings are summarised below, shows how this relationship works and what its effects on workers are.

## Keywords

public-service contracting, welfare-to-work, United Kingdom, Germany, political economy

## Disciplines

Human Resources Management | International and Comparative Labor Relations | Political Economy

## Comments

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## **Chapter 10. Beyond national ‘varieties’: Public-service contracting in comparative perspective**

Ian Greer, Ian Greenwood and Mark Stuart

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### **Introduction**

In this chapter, we will explore how work in contracted-out public services, including that in the voluntary sector, maps onto the broader international political economy of work. Comparative scholars often write about society correcting the excesses of the market, and it is hard to imagine a more relevant phenomenon to this than the voluntary sector. Yet this sector is itself subject to market forces, ironically perhaps, due to its ever-closer relationship with the state. Our study of employment in welfare-to-work services in the UK and Germany, whose findings are summarised below, shows how this relationship works and what its effects on workers are.

Comparative employment relations theory tends to rely on a static ‘Varieties of Capitalism’ view (Hall and Soskice, 2001) or more dynamic accounts of institutional change (Streeck and Thelen, 2005). Like us, these theorists are interested in the interplay between state, society, and market; unlike us, they are primarily focused on export-oriented manufacturing and comparisons at the national level. We are building on literature that looks at the political process of market making and the within-country inequalities it creates (Lillie, 2010), especially in the service industries, public and private, that account for most work (Bosch and Weinkopf, 2008; Doellgast, Batt, and Sørensen, 2009).

Our argument is that as market logic becomes pervasive in the governance of public services, it is increasingly the funding regimes, rather than the industrial relations systems, that determine the course of labour-management relations. Where this has manifested itself as increasingly cost- and target-driven commissioning behaviour, we see a shift towards more precarious forms of work and an erosion of trade union power. Statutory protections such as transfer-of-undertakings legislation and institutions of worker representation are not well placed to compensate for these trends, either in the UK or Germany. More important seems to be the success or failure of organisations to manage relations with their funders, to avoid or succeed in cut-throat competition.

We begin by introducing our argument in light of the literature on public-service governance and standard accounts of comparative political economy. Second, we compare employment relations in welfare-to-work services in the

UK and Germany. We conclude with a discussion of marketisation in these two countries, its limits, and its social effects.

### **Marketisation and the public-service workplace**

Much theorising on international-comparative employment relations is derived from the Anglo-German comparison. While Britain rolled back its worker protections in the 1980s, Germany retained a strong regime of collective bargaining, workplace-level co-determination, and employment-protection legislation. These institutional divergences produced in Germany higher levels of equality and a manufacturing economy that performed better in world markets. Meanwhile, German public services resisted UK-style ‘New Public Management’ reforms, partly due to a complex federal government structure protected by a written constitution (Knuth, 2009), partly due to an entrenched tradition of ‘subsidiarity’ that ensured a strong role for the voluntary sector (Seibel 1990).

In several ways, however, Germany is becoming like the UK. Under the red-green government after 1998, market mechanisms emerged governing a wide range of public services (Hipp and Warner, 2008; Keune et al, 2008). In postal, telecommunications, and health care services, new competitors emerged that only rarely adhered to public-sector pay deals. Incumbent firms – such as the privatised Deutsche Telekom or the municipal hospitals – created new subsidiaries which outsourced services with lower pay (Böhlke et al, 2010; Doellgast, 2009). As the agencies that remained in the public sector gained more autonomy and began to derecognise collective bargaining, the states (*Länder*) withdrew from centralised bargaining, and a new collective agreement introduced low-wage groups and ‘escape clauses’. This coincided with the Hartz Reforms, which deregulated low-wage precarious work in the private sector, expanded means testing in the welfare state, and introduced new work-for-benefit schemes that subsidised low-wage work in the voluntary sector. Without a statutory minimum wage, these reforms led to a massive increase in inequality; between 1995 and 2005, the share of low-wage work increased from 15% to 22%, similar to the British level (Bosch and Weinkopf, 2008).

The causes of these inequalities can be seen in the dynamics of the voluntary sector, where much of Germany’s low-wage workforce is employed. Germany’s voluntary sector is rooted in a centuries-old tradition of subsidiarity that reinforced in the 20th century by the rise of the social-democratic movement and neighbourhood-based nonprofits often connected to the ‘new social movements’ (Eick et al, 2004; Bode 2003). The introduction of market mechanisms regulating the flow of resources to them, however, has changed what they need to do in order to survive, including their employment policies. Looking at marketization allows us to use resource dependence – an

underused concept in comparative employment relations research – for leverage in explaining why market-based change has led to greater inequality in Germany.

For managers of nonprofits, funding is of central importance, and a recurring theme in the academic literature on them is resource dependence. Of course, funding is not everything. Organisations have to be close to the neighbourhoods that supply clients, staff, and political support, and often they are put in this position by a history of place-based advocacy work that creates a sense of purpose or mission (Marwell, 2004; Galaskiewicz et al, 2004). But funding does matter, because non-profits depend on it (Smith and Lipsky, 1993). Contracting undermines some organisations; for others, it creates incentives for others to adapt, through new administrative functions and a change in focus and culture. As a result, many organisations – especially (former) social movements of the poor and unemployed – struggle to avoid ‘losing their soul’ in the process (Sanger, 2004; Eick et al, 2004).

Usually in public-services contracting there is one buyer (the commissioning body) and many sellers (providers). Under these conditions, power relations are asymmetrical in favour of the buyer, but the latter is not omnipotent. The buyer of services needs providers to deliver in order to hit their own targets, and they are therefore as interested in providers’ ability to do the work as they are in extracting ‘value for money’. This problem can be acute for the buyer when there is one provider that fulfils a unique function, fostering a kind of ‘resource interdependence’ (Saidel, 2001). One way that buyers of services can address this is through ‘relational contracting’, in which the buyer of the services communicates with providers throughout the process of devising programmes, procuring the work, carrying out projects, and evaluating them (Cunningham 2008).

This power relation has implications for employment relations. While reducing costs is not the only reason for contracting, it is a common and important one, and has implications for wage setting. In areas subject to intense cost-based contracting, employers who pay according to collective bargaining may lose bids to lower-paying competitors (Enggruber and Mergner, 2007). Even in a strong system of industrial relations like that of Germany, privatisation can disrupt collective bargaining and lead to the creation of low-pay groups, especially among new hires (Böhlke et al 2010). Contracting can bring groups of workers into public service that have no access to union representation, and even solidarity within the same union can be difficult if workers have different employers (Marchington et al. 2005).

Contracting can affect job security and tenure in at least two ways. On the one hand, make-work schemes can create financial incentives for voluntary organisations to augment the workforce through subsidised temporary low-

wage positions (Eick et al, 2005). On the other hand, the starting and stopping of funding streams can make it difficult to employ people over long periods of time, in some especially volatile areas the vast majority of staff is employed on a freelance basis (Enggruber and Mergner, 2007). That both of these previously quoted studies are from Germany shows that many of these employers have found ways around employment protection legislation.

The effect of contracting on the employment relationship seems not only to affect employees' well-being; contracting seems also to affect workers' world-views, their loyalty to their employer, and their views about their occupations. A 'contracting culture' often emerges that affects the motivations and attitudes of those previously employed in charitable and public-sector work. For some workers, this may lead to dissatisfaction (Cunningham, 2001) and for others new financial inducements for creativity or entrepreneurship (Considine, 2001). Hebson et al (2003) argue that, while 'working in the public interest' remains important to the overall workforce, conflicts engendered by the contracting process are undermining this ethos among managers. In the Public-Private Partnerships they studied, the former premise of the labour-management relationship – an exchange of working conditions for worker commitment – were eroding, along with employers' ability to maintain those conditions. The importance of money, combined with job insecurity and inequality, are important features of the culture of this 'welfare market' (Bode, 2008).

To summarize, this literature allows us to hypothesize *that contracting has exacerbated inequality in the workforce, made work increasingly precarious, and eroded traditional notions of 'public-service' work.*

### **The welfare-to-work sector in the UK and Germany**

In 2007-8 we spoke to around 150 people involved in the welfare-to-work sector, as policymakers, civil servants, managers, front-line workers, trade-union representatives, community activists, or clients. Our goal was to examine welfare-to-work, not in terms of individual policies or the ideologies or rationales behind them, but in terms of working conditions of front-line staff and the possible effects on client outcomes. We began by speaking with the organizers of small trade union and voluntary sector projects aiming to make people in poor communities – mainly South Wales, East Germany, and parts of Leeds and Cologne – more 'employable'. As it became clear that we were looking at a sector, we began speaking to the civil servants responsible for designing programmes and managing contracts, as well as front-line staff and managers in larger public-sector and for-profit providers.

Below we discuss preliminary findings from this study. Because it is unusual to discuss welfare-to-work as a sector, we will say what it is, including the

basic structure of funding and provision, followed by a brief description of employment relations under these pressures.

### *Funding and provision*

We define the sector functionally, as a diverse group of organisations that works with people on welfare benefits to put them in, or bring them closer to, work. Almost all of these organisations' income comes from the state, and the main commissioning bodies are the public employment services. The sums involved are considerable. In 2006-7 the UK's Department for Work and Pensions (DWP) spent £2.8b on personnel and £1.1b on contracted out provision; the comparable figures for 2006 at the German *Bundesagentur für Arbeit* (BA) are €4.2b and €2.2b, respectively.

The German phrase for this policy is *fördern und fordern*: placing demands on, and providing supports to, recipients of welfare benefits. In both countries, the policy includes a mixture of punitive policies (new conditions for receiving benefits and sanctions for not meeting these conditions) and supports (spending on 'activation' programmes, such as the British New Deals, Pathways, and Future Jobs Fund). In addition to central government spending, further funding comes from a range of other agencies at the local, regional, and European levels. In recognition of the rootedness of unemployment and poverty in the social dynamics of specific neighbourhoods, welfare-to-work policies funded at any of these levels can have a strong local dimension (Finn, 2000), with funding often targeted to local government and charities with a 'track record' in serving specific communities. These funding streams pay providers to undertake the following tasks:

- *Job placement*, along with the payment of benefits, is the most traditional area of activity. Under the 2003 Hartz reforms in Germany, the BA is responsible for the short-term unemployed, while most locales have *Arbeitsgemeinschaften*, ARGs, that are joint ventures between the locally run *Sozialämter* (benefits offices) and BA-run *Arbeitsämter* (employment offices) for the long-term unemployed. The U.K. has a simpler structure, due to the recent restructuring of employment services in which DWP placed in-house front-line provision in the hands of Job Centre Plus (JCP). In addition, temporary staffing agencies and local nonprofits have carved out various niches for themselves as contractors for the BA or JCP.
- *Training* includes everything from basic literacy and numeracy to apprenticeships and formal qualifications. While the DWP and BA fund some of this work, the larger funders are the education ministries (in the UK via the Learning and Skills Councils). Upgrading the skills of the unemployed is done in further education colleges (in Germany, the *Volkshochschulen*) and by a wide range of private and voluntary

sector providers, many of whom in the UK have special units dedicated to advising the unemployed and reaching out to ‘hard-to-reach communities’.

- *Advice, counseling and guidance* is a second area linked explicitly with employability and involves helping people overcome barriers to work such as debt, lack of transportation, or access to public services (i.e. to cope with drug or alcohol abuse or mental illness). Often this work overlaps with advocacy, with some of the providers concerned also, for example, with representing the unemployed when there is a disagreement with the BA or JCP. This area of work is in both countries dominated by the non-profit sector: trade union unemployed workers’ centres, associations of Muslim women, and neighbourhood-based legal aid services, for example, are all found in both countries.
- *Small-business startups* can involve advice, business incubators, or other supports for new activity, or converting existing under-the-table work into legitimate small businesses. In Germany, the most famous example was the ‘Ich-AG’ initiative in the Hartz reforms, and similar thinking is behind the UK government’s Local Economic Growth Initiative (LEGI). These programmes are often run by business chambers and companies that span the private and non-profit sectors, such as social enterprises. The spectrum of public funding bodies is extremely broad in both countries.
- *Make-work schemes*, such as the New Deals and one-euro jobs<sup>1</sup> are politically very visible and involve massive amounts of money. Subsidised by the state, providers find or create job placements, organise training and counselling for participants, and pay some sort of compensation. In Germany, the notion of subsidising short-term low-wage work in the private sector is opposed by the business community as an illegitimate form of market manipulation. As a result, the law requires of all projects additionality (*Zusätzlichkeit* – projects may not replace work already planned) and social benefit (*Gemeinnützigkeit* – the work cannot be for-profit), making them the preserve of the voluntary sector. In Britain, where there are fewer objections to subsidising low-wage work, analogous schemes enjoy political support across the political spectrum and are delivered by for-profit, non-profit and public sector organisations.

The largest providers do not specialise in one or another of the services mentioned above. Some organisations, such as the Yorkshire-based

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<sup>1</sup> The ‘one-euro job’ was created by the Hartz reforms. It is the commonly used designation for ‘work opportunities’ (*Arbeitsgelegenheiten [AGH]*) attached to a benefit top-up (*Mehraufwandsentschädigung*) of 1-2 euros per hour. Before these reforms, most make-work schemes (*Arbeitsbeschaffungsmassnahmen*) lasted longer and were paid according to collective agreements. In 2006 the BA reported 805,000 entries into such schemes, of which about 90% were AGH; these numbers have remained stable since.



multinational A4e, have grown up specifically to deliver welfare-to-work programmes with a broad service offering aimed specifically at the outcome of job placements. Other organisations, not established to deliver employment-related services, have built employability into a broader pre-existing offering of social services. For example, Germany's nationwide 'welfare associations', the Catholic *Caritas*, Protestant *Diakonie*, and Social-Democratic *Arbeiterwohlfahrt*, are among Germany's largest employers. Social workers within these organizations may provide counselling to the unemployed and place them in schemes in affiliated hospitals. In the UK, smaller organisations with access to those deemed by job centres 'hard-to-reach', such as homeless shelters or ethnic associations in deprived neighbourhoods, tend to receive money to pay for more specialized work such as counselling, childcare, training, or job placements. These functions are then linked to the public sector through client referrals.

The BA and DWP are not the only bodies that fund services to put specific kinds of people to work. The EU also funds, through the European Regional Development (or Structural) Fund, Social Fund, and Globalization Adjustment Fund, 'active' measures for the unemployed. State and local government are similarly involved due to their role in neighbourhood regeneration or poor relief. Finally, many other public bodies view 'activating' the unemployed as complementary to their remit, for example, to prevent released prisoners from re-offending, to reduce anti-social behaviour in housing estates, or to bring women or minorities into occupations where they are under-represented. Large providers draw on several of these funding streams simultaneously, while small providers may be dependent exclusively on one.

These funding streams are managed in different ways. One approach can be labelled 'co-production'. This is common with pilot projects, in which local government targets a specific neighbourhood or client group, but with little indication of which goals are realistic. Rather than subjecting the project to proscriptive bidding according to standard criteria, it is developed jointly by a government agency and one or more charities. Many German make-work schemes fit this description. In Cologne (pop. 970,000), for example, there are 30 agencies organising make-work projects, organized within 15 consortia. While the funding decision has to be made objectively according to fixed criteria, these criteria are developed by local government staff based on their knowledge of the local providers. While competition has to be advertised EU-wide, the 'public benefit' criterion creates clear advantages for non-profits. In the UK, similar arrangements are common in local government, where non-profits carry out some of the work that, for whatever reason, cannot be carried out in-house. In extreme cases, the charity's staff is entirely seconded by the local authority.

Other bodies use more formalised market-based procurement arrangements. The DWP, for example, governs provision in a way that is simultaneously centralised and marketised (Wiggan, 2009). Bidding is based on relatively clear and objective criteria that can be replicated on a wide scale, and payment subject to standardised measures of performance. For many of their large New Deal Programmes and (more recently) Pathways to Work Programmes for the Disabled, JCP has been centralising its procurement procedures and moving to larger contracts. A typical large contract covers a ‘sub-region’ such as West Yorkshire (population 2.1m), and is one of a few delivering the same programme across the whole country. This procurement process is centralised, and DWP staff assess bids from around the country in a process designed to be objective and not susceptible to local political influence. A variation on this theme is the dominant practice at the BA, which has a similarly sealed-off decision-making process at the ‘regional’ level (i.e. one or more *Länder*), a focus on objective outcomes (mainly cost), but shorter running times of programmes (as short as six months).

The latter set of contracting relations has several features that distinguish them from ‘co-production’. The first is its cyclical nature. After a given contract runs its course, the work goes back out to bid, and a well-performing organisation can lose the contract if a competitor writes a better bid. The second is payment by results. For job-placement services, organisations are usually paid once when a client finds a job and again once the client has been employed for some time. A third is the process through which the funding decision is made. Set objective criteria such as cost dominate, and informal influence and local knowledge are inadmissible. Finally, the latter pattern of contracting is complex and therefore favours firms and charities with specialised grant-writing and contract-management functions.

### *Employment relations*

Institutionalized worker protections were not devised for a world of contracting, and the workings of some funding streams make them ineffective. Looking across the welfare-to-work sector, we see organizations with very different employment arrangements sometimes pit against each other in intense price-based competition. While both countries have well-organised representative structures in the public sector, neither has structures that encompass the whole range of welfare-to-work providers.

Trade unions have influence in the organisations where they have large numbers of members. Elsewhere they are either completely absent or their role comes down to influencing government policy and using the courts to enforce workers’ individual employment rights. In both countries there are separate union structures for the public employment service (PCS and ver.di FB04), charities (UNITE, UNISON, FB03 and FB05), local government

(UNISON and FB07), and training (e.g. UCU, NUT, GEW, and FB05)<sup>2</sup>, and employer organisation is similarly fragmented. As a result, the picture of workplace-level worker participation, pay determination, and worker turnover reflect a disorganised pattern of employment relations.

This can be seen in Germany, which is well known for its strong worker participation rights in the workplace. Germany has four separate legal frameworks that govern within-workplace participation in welfare-to-work provision. Worker representatives have different rights, depending on whether they work for churches, state and local government, the central government (i.e. the BA), and the private sector. For example, variations exist in terms of which areas are subject to mandatory co-determination: the private-sector framework gives works councillors the most rights, and the church framework the fewest; the public sector frameworks are in between. Within the ARGEs, there are two separate frameworks in a single organisation, state and central government *Personalvertretungsgesetze*. Moreover, in practice, issues that according to law should be approved locally are in fact decided centrally by the BA's works council and management and implemented with little local consultation. Outside of the public sector, works councils in the organisations we visited were present in the welfare associations, but – as in the rest of the economy – absent from smaller non-profit and for-profit providers, or indeed those employing large numbers of freelancers.

In the UK, the situation is similarly unequal, with very little in the way of lay trade union structures outside the public sector, and full-time officials appearing primarily to sort out conflicts that could end in an employment tribunal case. Indeed, here, statutory rights for individuals are probably even more decisive in regulating the workplace. Most providers emerged when unions were already in sharp decline, and so never had strong in-workplace structures; with the passage of new anti-discrimination, minimum wage, working time, and other laws, employment tribunals have become a more important forum. In fact, in interviews in Leeds, trade unionists indicated that they had their hands full dealing with derecognition threats and employment tribunals, especially around discrimination and transfers of undertakings. They did not, in contrast, play much of a role in the day-to-day handling of issues like work intensity or skilling, and we did not hear of any organisations that had invoked the recent 'works council' regulations on the provision of information and consultation to employees.

Without encompassing collective bargaining to maintain standards across the various employers, a huge diversity has emerged in the terms and conditions

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<sup>2</sup> PCS stands for Public and Commercial Services Union, UCU stands for the Universities and Colleges Union, GEW stands for *Gewerkschaft Erziehung und Wissenschaft*, and ver.di's stands for *vereinte Dienstleistungen*. The latter is broken into autonomous numbered Fachbereiche (FB). UNITE and UNISON are not short for anything.

of employment. The most obvious gulf is between the public sector and its contractors. The former have strong collective bargaining, while the latter have weak or no collective bargaining. However, while this situation regarding contractors could facilitate a 'race to the bottom', it need not: depending on the performance of organisations and the character of the funding regimes, wages can be as high as, or higher than, in the public sector.

Perhaps the clearest example of a 'race to the bottom' in either country is Germany's further education system. Providers, here operate in a harsh contracting regime managed at the national and regional levels. In some areas, the BA promotes intense, cost-based competition, and in others dictates reductions in payments per trainee; in one extreme case in Cologne, a provider won a bid by offering €15 per contact-hour. Specialised training organisations, in turn, cope with the uncertainty associated with contracting by relying heavily on freelancers.

Some of the contractors with local government that we interviewed in Cologne did follow the national public-sector collective agreement. Due to recent reforms to public sector bargaining, however, they reported increasing difficulty in following these guidelines. There are increasing points of divergence in public sector collective agreements, driven by states and sectors that have made separate deals and by 'opening clauses' allowing lower wage groups in the event of economic hardship. Furthermore, one-euro jobs have created a vast reservoir of low-wage work for the German voluntary sector not covered by collective agreements or other employment protections. Thus, for political, economic and institutional reasons, German non-profits are moving rapidly away from their tradition of recognising the public-sector pay framework.

In the UK the picture in this area is rather mixed. Although the country has an analogous split between the public sector and its contractors, commentators have painted a more complex picture of bargaining in the voluntary sector (e.g. Cunningham 2008). Despite competitive pressures, overall wages in Britain in recent years have been pushed up by the tight labour market of the past decade and the rapid expansion of welfare-to-work as a sector. (This does not mean that in all occupations comparable pay with the public sector has been maintained; it may be a rise in inequality between different occupations, depending on the level of demand on the labour market and the expansion of performance-related pay.) Those organisations that still use public sector collective agreements tend to be those local non-profits closely tied into local government and operating under stable funding regimes. Regarding the situation in the for-profit sector, none of the organisations we visited recognised unions, and they tended to have lower base pay than the public sector. We also saw instances of performance-based pay, based on client job outcomes, reflecting the criteria for payment set by the commissioning bodies.

Given the uncertainty generated by contracting, the most important statutory worker protection is that governing transfers of undertakings. If contracting inevitably forces providers to hire and fire as contracts and contractors come and go, it is worth asking how workers are protected when they switch employers.

In Germany, while transfers are regulated by the *Bürgerliches Gesetzbuch*, these protections expire a year after a transfer, and we have yet to see a case in our research where these rules have been invoked. Part of the reason for this is that those organisations that need to hire and fire the most – training providers subject to the short-term cost-based contracting of the BA’s central contracting arm – use freelance workers not covered by the law. However, it also reflects the fact that other non-profits use employment arrangements, such as fixed-term contracts, one-euro jobs. The BA uses the temporary agency Vivento, which employs workers laid off from elsewhere in the public sector.

In the UK, the TUPE regulations, which confer rights to workers in cases where work is transferred to another organisation, are similar to those in German law and are often invoked when one organisation loses its contract and another organisation gets the work. However, it can be questionable whether TUPE is really applicable, if it is unclear whether the new programme is the same as the old one and whose job was funded by the old contract. In the case of the loss of Leeds City Council’s New Deal contract, the council recommended 45 employees for transfer, while the new contractor said it only had work for 13 of them. Despite their protected status, most of the transferred workers left soon afterwards because they disapproved of the profit-driven model of provision.

Finally, there is a question about the emerging culture in this sector. This is probably where there is the clearest divide between public, private, and voluntary sectors, a divide that is not just a function of worker representation, but also of organisational size and origins. Large public sector bodies that have evolved continuously over the post war era have a different feel from non-profits set up by local community activists. There is considerable evidence from our interviews that individuals in these sectors are motivated by different things – some prefer security, others flexibility, while some are motivated by wealth accumulation. These differences reflect different biographies, as unionised public sector workers, as activists agitating against local redevelopment, or as entrepreneurs seeking to make a profit. These people often distrust their counterparts in other sectors, and people who have moved between sectors tend to strongly prefer one to the other. There is also some evidence of change within the voluntary sector, as in the numerous charities in our UK sample creating trading arms, and the shift in German welfare associations away from hiring law graduates, towards hiring entry-

level managers with business degrees (*Betriebswirtschaftslehre*). However, there is still little evidence that these sectoral differences translate into more or less of an orientation towards the quality of service, as opposed to following directives or chasing money.

Despite the ‘varieties’ story standard in comparative institutional research, what emerges from the above analysis is that these two national landscapes of provision have developed a similarly high degree of variation and inequality. There is no worker or employer organisation covering welfare-to-work provision as a whole, and outside of the public sector it is largely up to workers and managers within individual organisations to work out how to cope with the sector’s developments. It would be a mistake to say that workers are passive in coping with these changes or that strong worker participation within an organisation does not make a difference. However, it is equally untrue to say that they have participation mechanisms that can counter the uncertainty created by contracting. Insofar as national variations do exist, these are primarily the product, not of collective worker and employer organisations, but of the details of statutory regulation and individual employer strategies. While many German employers, especially in the public sector, accept institutionalized norms, such as co-determination, employment protection and collective bargaining, others find ways to avoid them, for example by using freelancers.

### **The marketisation of the voluntary sector: effects and limits**

Above we sketched the different institutions of public-service governance and their effects in the workplace. Despite differences, neither country had unions or statutory worker protections that protected the workforce as a whole from intensified competition and the restructuring that resulted. Consequently, new forms of competition built into the evolving funding rules put intense pressures on employers to reduce costs, the cyclical nature of bidding undermined job security, and the bureaucratic, money-driven nature of contracting affected the culture of organizations.

One result of trends in contracting seems to be the concentration of provision in the hands of ever fewer for-profit organisations; for workers, this will have a mixed effect. Large organisations are more likely to have professional human resource management and are better able to transfer employees internally in response to lost contracts. The problem of regulating between-organization transfers of workers could be further reduced if large contractors managed fluctuations in the volume of work by subcontracting with incumbent providers, rather than forcing their competitors out of business by shifting the services in house. Larger contracts could also lead to more relational contracting: in recognition of the problems of contract management, JobCentre

Plus recently has restructured its procurement unit to assign officers to the 30 largest contractors.

On the other hand, these shifts will in some ways heighten the uncertainty. Because local organisations and governments find it harder to win regional or sub-regional contracts than the big, national players, they will be increasingly dependent on large for-profit firms for contracts. Given the complexity of contracting, there is no guarantee that even small providers who perform well will survive the intense pressures of contracting. The different models of provision and cultures of management at successful organizations could make it difficult for employees to transfer between sectors, as seen in the case of New Deal provision in Leeds.

One question this research raises is how to prevent contracting from wiping out local non-profit provision and pushing skilled workers out of the sector. In the UK, especially, there is a lucrative market for large organisations capable of operating across large swathes of country; these organizations are also winning contracts in Germany, France, and elsewhere.

One option is to get around the fundraising savvy of large providers by creating loopholes in procurement legislation, such as the German '*Gemeinnützigkeit*' principle in the make-work schemes or the old British practice of giving grants rather than contracts. Turning down the intensity of competition by making contracting subject to the judgment of local actors would undoubtedly have a stabilising effect in the workplace. With more secure sources of funding and solid relationships with commissioning bodies, small voluntary sector organisations would be more likely to recognise trade unions and invest in training. Removing the existential threat to effective projects would have obvious advantages for clients.

Bottling up competition after years of privatisation and contracting will be difficult and open to legal and political challenge. This structure has been created more for political reasons than due to evidence of its effectiveness (Davies 2006), and change will be divisive in the provider camp. Local protection violates the intent of EU contracting laws to open all large contracts from member states to service providers from across the EU. Local protection also runs contrary to the interests of large providers, who can argue that they are best placed to provide the low-cost, standardised provision needed for large-scale national labour-market programmes.

A more politically feasible response would be to build institutions to compensate for this market-based tendency to marginalise small providers. In the UK, the government created an Office for the Third Sector in 2006 to 'build capacity' and 'rationalise' the supports that already existed. In practice, this created funding streams for organisations responsible for back office

support, including fundraising, accounting and human resources, as well as bodies responsible for representing the sector's interests at the national and local levels. The idea here was to help organisations adapt to the market and to make small organisations fit for competition through the upgrading or carrying out their accounting and human resource functions. These enhanced infrastructures, however, are themselves subject to the pressures on other contracted out services. For example, the funding regime has made infrastructure bodies quite timid in the area of employment relations and has forced some community-based worker representatives to rebrand themselves as voluntary-sector human resource consultancies. A more effective model may be the cluster or consortium, a body narrowly focused on managing the relationships between a commissioning body and small providers for a given programme, as in the case of Cologne's consortium.

After more than two decades of increased public-services contracting, the landscape of contracted-out welfare-to-work provision is highly unstable, and funders, providers, and unions have only begun to develop responses. The workforce faces considerable uncertainty compared to that of the public sector. In the voluntary and private sector organisations we have studied, large and small, British and German, trade unions are barely present; where they do appear, it is in cases where the employer may have broken the law.

These problems are not unique to the voluntary sector, welfare-to-work provision, or to 'liberal' countries like the UK. In most countries and sectors, it is probably the case that contracting is disruptive and a bad thing for workers. However, not all contracts are created equal. In order to really understand the effects of marketisation, policy-relevant social science needs to continue the search for those features of contracts that make the most difference in the workplace.

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