Internal Markets and Competitive Tendering for Central Services in British Local Government

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INTRODUCTION

This paper discusses some of the changes that are taking place in the organisation of professional services in local government in British local authorities. Departmental structures vary from authority to authority, but professional services include finance, information technology, legal advice and administrative and secretarial services. They are often referred to collectively as the central services in local government.

Traditionally, departments providing these professional services have been located at the centre of the local authority and their costs have been allocated to the direct service departments (Jones, 1991, p20). However, in recent years, some local authorities have developed internal markets for their central services. The development of these internal markets has recently been given impetus by the government's proposals to introduce compulsory competitive tendering for professional services in local government (DoE, 1991). This also called, popularly, white-collar compulsory competitive tendering, by allusion to the mode of dress of professional staff. Bluecollar compulsory competitive tendering as discussed below has been in force for over ten years in construction and building maintenance.

This paper examines the reasons for the move towards the use of internal markets in local authorities, and looks at the steps involved in moving from the traditional mode of operation of central services in local authorities towards providing them through an internal market. It concludes by discussing the government's proposals for compulsory competitive tendering for local government professional services.

CENTRAL SERVICES IN A LOCAL AUTHORITY

Why do central services exist in local authorities? At least two roles can be distinguished at the centre: the role of corporate control and regulation, and the role of providing support services to other departments (Hoggett, 1990, Campbell, 1991, CIPFA, 1990). These two roles are fundamentally different. Control and regulation are imposed upon other departments and consistency requires that this control should issue from a single department. Clearly such a single department would be central in some semantic sense. The provision of support services to other departments, on the other hand, is only situated at the centre of the local authority for reasons of economies of scale and scope, or in some cases, because of inertia. Traditionally, provision of these services has involved an element of control in the sense that resources are not unlimited and use has to be rationed between competing ends, but it is argued below that this control has only been necessary under a traditional financial structure.

THE DEVELOPMENT OF INTERNAL MARKETS FOR CENTRAL SERVICES

The development of internal markets for central services in local authorities has arisen mainly as a response to pressures generated by the government's programme for compulsory competitive tendering for direct services.

The government has been involved in the enforcement of compulsory competitive tendering

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for direct services in local authorities for more than a decade. One of the objectives of Margaret Thatcher's Conservative government was to remove work from local authorities' in-house **direct** labour organisations if they were inefficient. Direct labour organisations are sectors of a local authority that are particularly concerned with the new construction work and building maintenance. The government's view was that these organisations often operated inefficiently and that they should be forced to compete with private sector companies.

Legislation to enforce this through compulsory competitive tendering first appeared under the Local Government, Planning and Land Act (1980). Under this Act a requirement for compulsory competitive tendering was placed on all local authority new construction work of a value greater than £50,000 and all local authority building maintenance work of a value greater than £10,000. Also, for new construction, work of less than £50,000, forty per cent of work had to be tendered, and for building maintenance work below £10,000, thirty per cent had to be tendered.

Many local authorities were disposed to resist the possible loss of work to private contractors under compulsory competitive tendering. Local election dates do not coincide with national election dates, and clearly the political control of local authorities will often differ from national control. In fact, it is often argued that local electors may use their local vote to protest against national government policies. Traditionally there has been a strong local-national electoral cycle (Jones and Stewart, 1982). Hence, many local authorities at the time of the Thatcher government were controlled by the opposition Labour Party and were resistant to the likely running down of local authority direct labour organisations that competitive tendering would be expected to entail. As Carnagan and Bracewell-Milnes (1993. p 33) argue: "Many councils are more anxious to see themselves as model employers than as model suppliers of value for money services... Some councils regard one of their major roles as being to provide a form of employment which they can protect, at least to some extent, from the capitalist world outside"

One strategy for local authorities wishing to resist the effect of compulsory competitive tendering might be to charge a price below the cost of provision by cross-subsidising the direct labour organisation. The Local Government, Planning and Land Act sought to forestall this strategy by requiring local authority direct labour organisations to keep separate accounts and to generate a return on the current value of their capital.

Clearly, one way of subsidising a direct labour organisation would be to provide central support services such as accountancy, personnel advice, legal advice and information technology free of charge, or at below cost. However, to do this would be to go against the recommendations of the Chartered Institute of Public Finance and Accountancy as set out in a statement of recommended practice (CIPFA, 1987). Failure to comply with CIPFA recommendations attracts the attention of the District Auditor and could lead to an authority's accounts being qualified.

The Local Government, Planning and Land Act (1980) placed local authority direct labour organisations under competitive pressure to be efficient, and since then, the legislation, and the competitive pressure it entails, have led to farreaching change in their operation. At the same time however, the legislation introduced a less intense, but none-the-less perceptible pressure upon the central support services of local authorities. This pressure was transmitted from the direct labour organisations to central services and focussed on central service overheads as discussed in the next section.

THE PRESSURE ON OVERHEADS

Managers of local authority direct labour organisations were put under competitive pressure to scrutinise all their costs very carefully, and amongst these costs were the costs of central support services that CIPFA stated should be allocated to direct services. The interest in these costs became very real for direct labour organisations because an overhead charge could mean the difference between a winning and a losing tender.

In 1988 the pressure was intensified with the introduction of the Local Government Act 1988 which requires competition for "defined activities" which the Secretary of State has the power to determine. The initial defined activities were refuse collection, buildings cleaning, other cleaning, catering, schools and welfare catering, grounds maintenance and vehicle maintenance. Sports and leisure facilities management were added in November 1989 (Walsh, 1991). The units within local authorities that have tendered to provide these services are usually called **direct service organisations**.

In order to win contracts, both direct labour organisations and direct service organisations have a strong incentive to minimise costs and hence a strong interest in questioning central overhead charges. When debating these costs, managers would ask for detailed information on what services they were receiving and would press strongly for value for money. This process of debate and negotiation led in many authorities to the drafting of **service level agreements** (Watt, 1991, Duguid, 1991, CIPFA, 1990, Hiles, 1991). These are discussed in the next section.

SERVICE LEVEL AGREEMENTS

Service level agreements can be seen as providing a structure for negotiation on the cost and quality of central services and are a way of supplying information requested by direct service managers. They are an in-authority version of a contract that would be made if the service were bought in from an external supplier, although they are not legally enforceable because a local authority cannot sue itself. Service level agreements specify contact names for the supplier and user of the service, the nature and timing of the services to be provided, and detail the obligations of both the supplier and the user of the service. Details for payment are specified and a mechanism for settling disputes is provided. The term agreement implies that service level agreements are arrived at under a process of negotiation between provider and user.

Generally the use of service level agreements process is an iterative process that runs over a number of years. In this process, an early form of service level agreement is often called a service level statement. A service level statement will simply state the service currently being supplied to the user.

This service level statement, defining the current service is usually initially drafted by the supplier. This accords with economic logic as it is the supplier who is the relative specialist in this information, and thus it will be cheaper for them to supply it. It is often the case that the users are not very aware of the full details of what they have been receiving, and the receipt of a service level statement will provoke some discussion of what is and what is not required. Of course, whilst the work of providing service level agreements is often most efficiently carried out by the provider, it is important that the user exercises meaningful choice as part of this process. Debate within this framework leads towards the use of a more developed form of service level agreement where the elements of the document have been negotiated and agreed between provider and user. The process of agreement is likely to yield efficiency gains generated by the competitive pressure that direct labour organisations and direct service organisations are under. The basis of these is that providers and users are likely to attach different values to the various elements in the agreements and are likely to be able to find mutually advantageous adjustments to the terms of the agreement.

Service level agreements have become widespread in British local government, one survey estimating that 73% of London Boroughs and County Councils used them by 1991 (Duguid, 1991)

Of course, when a service level agreement is being negotiated, a crucial element is the price. Negotiations over service level agreements in the absence of a consideration of the price do take place. In these situations the explicit role of price is taken over by implicit calculations made by the central service manager as the rationer of services. This process is discussed in the next section.

OVERHEADS AND DIRECT SERVICE MANAGERS' INCENTIVES

The costs of central services are usually allocated to direct service departments. This approach has a long history: since 1955 it has been recommended practice that "the allocation of [central administrative charges] should be done completely" (IMTA, 1955, quoted in Jones and Pendlebury, 1991). The practice has been adopted by the majority of local authorities, although up to one third do not do this fully (Jones and Pendlebury, 1991). The usual process is that at the end of the year central service managers estimate the resources they have devoted to each of their user departments and allocate overheads accordingly. Often this process uses rather approximate estimates.

Overhead charges of this traditional kind have usually been of almost no interest to direct service managers in local authorities because they have had, effectively, no direct management implications for them.

The management task of a direct service manager can be seen one of arranging for the production of their direct service using the resources they can command. These resources will mainly be purchased from the budget they hold. To this can be added whatever central service resources they can succeed in receiving. Direct service managers clearly have an interest in the cost of the resources they purchase from their own budget and will be under at least a certain amount of pressure to seek value for money from these resources. On the other hand, there is almost no incentive to take an interest in the cost of central services because direct service managers do not have to buy them from their own budget. If anything there will be an upward pressure on central costs, as direct service managers have an incentive to demand as high a guantity and quality of central services as they can. (Kaplan and Atkinson, 1989, p241)

Of course direct service managers have a collective interest in economically provided central services. They could collectively benefit from reductions in unnecessary expenditure on central services, because more resources would then be available for the provision of direct services. However, a single direct service manager, acting individually is more likely to reduce the total level of resources at his or her disposal by trying to obtain reductions in unnecessary central service expenditure. Reducing his or her share of central service provision will be fairly easy to achieve but any reduction in an individual service manager's demand for central services is likely to be immediately taken up by increased demand from other direct service managers as they see the chance of commandeering unused central services. Hence any savings a direct service manager secures will not go to that manager but are likely to be shared out in gains to other direct service managers.

Essentially the central services are a common property resource (Gordon, 1954) to direct service managers and with zero price there are incentives to over-use. A solution to this problem is to operate a market for the supply of central services, as discussed in the next section.

CHARGING FOR CENTRAL SERVICES

An internal market for central services operates when the central service department budgets are disaggregated to the direct service customers. Disaggregation of the budget is not simply a scientific process, but will lead to much argument and debate within an authority. Much of this activity is of the kind that has been labelled influence activity (Milgrom and Roberts 1988 and 1992). The most common method of disaggregating the central service budget in local authorities where the internal market is being used is based on the pattern of past resource use. Other possible methods for budget disaggregation such as the use of bids, plans or negotiations or the use of formulae are discussed in Hoggett and Bramley (1989). Disaggregation of the budget on the basis of past resource use is essentially an extension of the incremental budgeting approach that predominates for overall local authority budget making.

A problem with this method of disaggregating the central service budget is that previous expenditure levels are often not known with any precision because accurate information of this kind has been unnecessary under the traditional method of central service provision. In effect the operation of the internal market acts to generate the information. Authorities have solved this chicken and egg problem in practice by making a rough disaggregation in the first year and refining it in subsequent years.

Moving to a system of charging for central services will generally cause high adjustment costs as demands for central services change. For this reason, restraints are often placed on the extent to which expenditures can be varied, especially in the first year of operation (Duguid, 1991). An example of this is the strategy of some authorities of "ring-fencing" the disaggregated budgets in the first year so that they have to be spent according to previous patterns of use. The ring fencing is then progressively dismantled over a number of budget years.

A further effect of the introduction of a system of charging for central services is that it leads direct service managers to compare in-house costs with the costs of external provision. Where the performance of potential external contractors looks favourable this leads to pressure to buy services outside. Most local authorities place some restraint on the abilities of direct labour organisations and direct service organisations to purchase services from outside suppliers (Duguid, 1991). The reasons for this are now discussed.

When first exploring an option to buy outside, direct service managers will be to a certain extent **naïve** purchasers. They may make some incorrect decisions and buy outside because they have failed to make correct comparisons possibly by taking some aspects of the in-house service for granted.

The scope for error is reinforced, at least in the short run, by the fact that central service providers will be unpractised at selling, or marketing their services. If the user is falling into an error of taking some aspects of the in-house service for granted, it is less likely that the in-house service will point this out than would be the case with the private sector supplier. Generally, the private sector supplier will be stronger on marketing because their customers have always had the ability to buy elsewhere. Currently, therefore, many local authorities are making efforts to improve the marketing of central services. (This does not mean that a previous lack of marketing in a situation where direct services had no choice but to buy in-house was necessarily inappropriate).

The possibility of short-term error of the kind outlined above, due to poor client skills on the user side and poor marketing skills on the provider side may be a partial explanation of the restraint that many local authorities place on direct service manager's freedom to purchase services externally. Duguid (1991) found that none of the authorities he surveyed allowed direct service managers complete freedom to buy services externally. Other reasons for these restraints include political preferences for carrying out activities in-house, and, possibly, central service managers' successes in protecting their interests.

COMPULSORY COMPETITIVE TENDERING FOR CENTRAL SERVICES

Although voluntary competitive tendering of the kind outlined above is increasing, the government plans to introduce **compulsory** competitive tendering for central services under the headings corporate and administrative services, legal services, financial services, personnel services and computing services. (DoE, 1991) It also plans to introduce competition to construction-related services: architectural, engineering and (non residential) property management services, and has issued a separate consultation document with proposals for competition in Housing Management (DoE, 1992a – see also Baker et al, 1992) although these plans are not considered in this paper.

In the government's proposals it is suggested that compulsory competitive tendering be applied to varying percentages of central services as shown in Table 1. The approach leads to considerable problems surrounding the **definitions** of the services involved and may lead to a certain amount of "creative accounting" in practice.

Table 1. Proportions of central services to be subjected to CCT.

Corporate and administrative	
Financial	25%
Computing	
Source: DoE (1992a)	

These percentages derive from a consultancy study prepared for the Department of the Environment by the PA consulting group. This report, which is not published but has been widely leaked, considered the suitability for compulsory competitive tendering of professional services using criteria such as the ease of specifying a contract in a compulsory framework, the feasibility of separating the client and contractor function, the possible compromise of statutory functions, the existence of a market for the service at a competitive price and, the separability of a professional service from the core of the authority for purposes of contracting.

The subsequently produced consultation document (DoE, 1991) lists the main components of the five corporate professional services and discusses the most suitable elements for competition in a discussion largely based on the PA consultancy report. The main elements of the discussion are summarised below under the DoE headings.

Corporate and Administrative Services

These are described in the consultation document as including:

- corporate strategy
- committee administration
- member services
- electoral registration
- information services
- public relations
- land charges
- purchasing
- printing, and
- secretarial and clerical support.

Of these services, corporate strategy preparation, committee administration, member services and electoral registration are not seen as very suited to competition because of their closeness to the democratic process and to the corporate core of the authority. Information services, public relations, and land charges are seen as possibilities, but in many authorities the work is carried out by a small number of staff with multiple functions so external provision is not seen as efficient. The government sees printing and secretarial and clerical support as particularly well suited to competition. Lastly, the purchasing function is seen as best tested by releasing users from an obligation to use the service rather than market testing the function.

Legal Services

The consultation document lists these as including:

- corporate advice and ensuring propriety
- advocacy and litigation
- commercial and contractual work, and
- conveyancing.

Provision of corporate advice is not seen as a good area for competitive testing. Apart from this the government sees scope for testing in all other legal areas listed above, and sees conveyancing as particularly suited to competition. The scope for competition in the legal service is discussed in Robertson (1992) and by the Audit Commission (1991).

Financial Services

These are listed as including:

- financial planning
- internal audit
- exchequer services and cash collection
- payroll administration
- accountancy services, and
- investment management.

Financial planning is not seen as suited to competition because of its location near the corporate core of the authority. Internal audit and investment management are seen as particularly well suited to competition, although investment management may operate on too small a scale in many authorities to be tendered in isolation. A distinction is made for accountancy services between corporate accounting and operational accounting. Corporate accounting is seen as too close to the core for competition. On the other hand, operational accounting is seen to fall into a similar case to exchequer services, cash collection and payroll administration. All of these latter services can be decentralised within the authority. Where operation remains central, they are judged to be suitable for competition.

Personnel Services

Personnel work is listed as including:

- human resource planning
- employee relations, including health and safety and equal opportunities
- staff welfare
- organisational development
- training and
- recruitment

Employee relations, staff welfare and human resource planning are seen as unsuitable for competition because of their connection with line management or corporate strategy. The main scope for competition is seen to be in organisational development, and training. Recruitment and recruitment advertising are seen as suitable for competition but small in scale.

Computing Services

These are listed as including:

- information systems strategy
- systems procurement management
- systems software development
- systems operation, and
- telecommunications operation.

Competing for quality sees all of the above categories as being suitable for competition except for telecommunications operation where legal requirements and the importance of telecommunications for the emergency services, such as fire and police, limit possibilities. The government has proposed that eighty per cent of a local authority's information technology services be subject to compulsory competitive tendering. This is the highest percentage suggested for corporate services. In setting this high level it is likely to have been mindful of a number of authorities that have already extensively contracted out their information technology functions under facilities management arrangements.

FURTHER DEVELOPMENTS IN THIS AREA

At the time of writing (March 1993) it seems likely that the first contracts for central services under compulsory competitive tendering will be in operation from April 1985, probably for legal services. Before that, regulations will be brought forward to require competitive tendering, under the powers that already exist under section 2(3) of the 1988 Act. The government also plans to make local authorities publish statements of support service costs by making regulations under section 23 of the Local Government Finance Act 1982, or in Scotland, section 105 of the Local Government (Scotland) Act 1973 (DoE, 1992b). Although the government will compel local authorities to produce statements of support service costs, efficient management of the compulsory competitive tendering process will require a considerable number of steps to be taken in addition. These are outlined briefly in the next section.

PREPARING FOR WHITE-COLLAR COMPULSORY COMPETITIVE TENDERING

A major task in preparing for white-collar compulsory competitive tendering is the preparation of the specification. Preparing a specification for the work of professional services is difficult, as the work involved is often by its nature judgmental and capable of being carried out to a wide range of standards. Intimate knowledge of the work involved is needed to avoid shortcomings in the specification. Valuable information for drafting a specification can be generated by separating the existing in-house provider into client and contractor units and using service level agreements to specify the service required. Because client and contractor are separate arms of a single corporate body and because a service level agreement does not have the legal status of a contract, operation within this framework allows scope for any shortcomings of the service level agreement that emerge in practice to be corrected.

The best information for drafting the description of the work to be carried out in the service level agreement arises as a by- product of actually doing the work, and is therefore possessed by the in-house contractor. The in-house contractor can volunteer this information by providing, for instance, the first draft of the service level agreement. The service level agreement is likely to provide the best source for beginning the drafting of a contract specification for competitive testing. It is in the interest of the in-house contractor to provide a thorough service level agreement so that the client is able to specify accurately such elements of the in-house provision that are required when the contract is tendered. If this is not the case the contract may be lost to an outside supplier who will not supply these taken-forgranted elements of the in-house provision.

Separating the in-house contractor into a business unit and using trading accounts, clarifies the costs of provision and generates the information needed for the in-house contractor to be in a position to arrive at an accurate tender price. Some of the accounting issues involved are described in detail in Martin (1992).

The changes described above represent a major move away from traditional local authority ways of working and will necessarily involve extensive staff training. Some staff may not be prepared to submit to the necessary cultural change, or they may be sufficiently close to retirement to find the costs of adjustment not worthwhile. Authorities that have moved towards a client-contractor framework for the provision of central services find that it takes at least eighteen months before arrangements are working reasonably well.

CONCLUSIONS

A side-effect of competitive tendering for bluecollar services has been the pressure it has generated for traditional central service departments to provide and demonstrate value-for-money in the provision of their services. One symptom of this is the adoption of service level agreements in many local authorities. A further effect has been the development of internal markets for central services in local authorities. Coase (1937) first signalled the need for caution in viewing internal markets as a medium for improvements in efficiency. He pointed out that the reason for the existence of firms was that they were able to operate more efficiently than the market within their boundaries by suspending the market and organising hierchically, thus avoiding transaction costs. Direct labour organisations and direct service organisations, under competitive pressure to win contracts themselves, have strong incentives to press for the most efficient form of internal organisation for central services, whatever that is. On this basis, the current move towards the

use of internal markets for the provision of central services appears to be a move towards improved efficiency. The forces generated for efficiency by direct service units exercising the client role for central services can be particularly strong if these units are given the option of purchasing these services from outside suppliers if they wish.

In a compulsory competitive tendering framework, practicalities of implementation may lead to the use of a central client office for the letting of contracts, although the Department of the Environment state that it is not their intention to constrain authorities to this approach (DoE, 1992b). It is possible that such an approach may work to reduce efficiency because this central client unit will not itself be under competitive pressure to find the truly most advantageous contractor. It will not, for instance, be under competitive pressure to prepare the specification with the optimum thoroughness, nor to examine the tenders with the optimum thoroughness. In these circumstances, direct labour organisations and direct service organisations may exercise the client function more efficiently.

Ultimately, in any contracting-out scheme, there will be a client that is not under competitive pressure to make optimum contracting decisions. To the extent that **a priori** arguments for the inefficiency of the public sector are correct, the contracting-out solution is also affected by these same arguments, as the ultimate client remains in the public sector. Inefficient public sector **contracting** may replace inefficient public sector **production**. Nevertheless, which of these forms provides the least inefficiency remains an important question.

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