Deregulation of employment: the impact of the reorganisation of the UK State

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Abstract

From 1980, the UK state deliberately introduced numerous commercial mechanisms and private sector organisational principles into the public sector, against considerable opposition from organised labour and others. Such policies aimed to undermine many of the canons underlying state employment that had been gradually built up during the earlier part of the century (and particularly after World War Two). This paper discusses the conditions of the emergence and realisation of the intervention in terms of the reaction to economic crisis and the institutionalised position achieved by state trade unions. Thus, we identify the crises and ruptures, particularly the public expenditure crises from 1976 onwards and the political changes after 1979. The paper identifies the structures and actors influencing the restructuring process, including ‘New Right’ pressure groups and more autonomous public managers. Consideration of procedures and practices highlights the legislative and administrative actions of the state as well as broader ideological change.

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Introduction

The nature and goals of state intervention in work relations in the United Kingdom’s (UK’s) public services during the twentieth century can be divided into two broad phases. The first phase lasted for approximately the first three quarters of the twentieth century: during this time the state attempted, gradually and somewhat imperfectly, to achieve increasing control and regulation over employment conditions and to devise an orderly system of industrial relations. The mechanisms used included nationalisation, incorporation of peak business and labour organisations in economic management, and the promotion of centralised collective bargaining over pay and conditions. The state also used its legal and economic powers to try to spread certain positive employment practices within the economy generally. A second paradigm, influenced by ‘New Right’ and neo-liberal ideologies, overturned previous policy assumptions. Policies pursued in the second stage from approximately 1980 tried to reduce the size and scope of the state sector and to introduce market-like relationships into its functions. The relatively privileged status that the state had accorded to organised labour was comprehensively revoked. Public employment, the new ‘model’ of industrial relations and state organisational structures became more fragmented, dispersed, and moved closer to the philosophies and practices found in the UK private sector.

This paper is particularly concerned with the attempted deregulation of state employment that has occurred in the latter phase, during the final quarter of the twentieth century. Initially, we outline the formation of the type of regulation of state employment that preceded this. We then explain the origins and development of neo-liberal deregulatory policies pursued by the Conservative governments of 1979-97 and continued, in modified form, by the subsequent Blair Labour government. We emphasise that the process by which ideology was converted into actual state policy and practice was incremental, often haphazard, contested and imperfectly realised. To illustrate this, we discuss the example of the particularly controversial Conservative policy of
‘compulsory competitive tendering’, which required the local state to open to commercial tender the provision of a number of services that had traditionally been regarded as functions undertaken directly by public employees. This highlights conflict between the national and local state. The penultimate section sums up the main outcomes within the public services for employment and industrial relations of deregulatory state policies under the Conservative and Labour administrations from 1979, emphasising the extent of change, continuity, and the unintended outcomes that have occurred. The concluding section provides a broader overview of the nature of the changes seen, relating these to the conceptual themes of the States and Work Relations project.

The contested character of the state as a ‘model employer’

The UK state’s role in employment relations during the first three-quarters of the twentieth century is often characterised as aspiring to be a ‘model employer’ for the economy as a whole. The era was characterised by increasing state employment; central regulation of public sector employment relations, particularly through the sponsorship of collective bargaining at national level; an increasingly inclusive approach to dialogue between state, unions and employers; and the use of the state’s influence to spread ‘positive’ public sector employment practices to private sector employers.

In fact, such developments were achieved more tardily than is often recognised, and required the growing industrial strength of trade unions in the public sector to realise success. The rhetoric of the government as ‘model employer’ was often contradicted in practice by the reality of the practices of individual employing organisations within the public services (Lyddon, 2006; Thornley, 1995). Heightened class conflict, civil unrest and fear of revolution following the First World War led the UK state to gradually concede a model of orderly and stable employment relations. This consisted of relatively stable employment with the recognition of trade unions, and nationally applicable pay and working conditions negotiated through the institution of Whitley councils,
which gradually became the norm in the public services (Carter and Fairbrother, 1999, 122-126). However, as Lyddon (2006, 7-9) and Thornley (1995) argue, the development of national bargaining and the Whitley council system in both the central and local state were highly contested processes in the inter-war period, with individual employers sometimes proving quite resistant to national bargaining (Lyddon, 2006, 7-9). Matters improved somewhat after the Second World War, when a number of industrial sectors with quite strongly organised workforces were subsumed under direct state employment, through the nationalisation of public utilities and some industries, such as coal and steel, and the formation of the National Health Service (NHS). As a consequence of the prevalence of national bargaining, one of the notable characteristics of state employment relations became a ‘relatively underdeveloped personnel role’ (Bach, 1999b, 179), which was particularly manifest at the level of the individual employing organisation.

Although direct state employment had been relatively small during the early twentieth century, there was considerable debate historically over the extent to which the UK state should intervene to set an example in employment relations through the wider economy. Parliament generally accepted through most of the twentieth century that the state should use its role in public procurement to require private contractors undertaking work on behalf of central government to apply minimum standards of employment practices. To this end, the House of Commons passed three increasingly wide-ranging ‘Fair Wages Resolutions’, in 1891, 1909 and 1946. The 1946 Resolution asked contractors to central government to observe ‘comparable’ pay, hours and other conditions to terms applying within the industry concerned, to permit union membership, and it also promoted the use of collective bargaining by contractors (Fredman and Morris, 1989, 455-456). Evidence suggests, however, that the enforcement of these fair wages policies by government departments and the relevant arbitration bodies was considerably weaker (Bercusson, 1978). Nevertheless, it remains significant that the use of such ‘fair employment’ policies gradually spread from the early twentieth century until the 1980s beyond contractors to
central government itself to those seeking contracts from local authorities, health authorities and the nationalised industries too (Fredman and Morris, 1989, 457-459). In the case of the local state, local authorities under the political control of the left-wing of the Labour Party were more likely to seek, and to enforce, particular employment and other requirements from potential contractors.

In the post-World War Two era, macroeconomic management became characterised by Keynesianism rather than the neo-classical approach pursued until the 1930s. Beginning with the Labour governments of 1964-70, but continued by both Conservative and Labour administrations of the 1970s, there was an increasing emphasis on macroeconomic planning. Social concertation between the higher echelons of the state, organised business and labour was a new element of this, although this was a more diluted form of ‘neo-corporatism’ than normally found in mainland Western Europe (Berger and Compston, 2002). In fact, the neo-corporatist dialogue became quickly dominated, especially by the mid-1970s, by Conservative and Labour governments’ attempts to restrain wage growth by either statutory or voluntary means. The 1974-79 Labour governments tried to use their institutional links with the unions:

by which the latter were supposed to practice voluntary wage restraint in exchange for favourable economic, social and industrial relations policies. The government pursued expansive spending policies in the hope of securing union cooperation but was left defenceless when many trade unions naturally sought substantial wage increases in the face of rapidly rising inflation. A rapidly rising public sector wage bill expanded public spending even further. (Hall, 1992, 99)

From government’s point of view, wage restraint was more readily achievable in the public sector, particularly when its major pay settlements were applicable nationally; this created considerable resentment among public sector workers during the 1970s. Trade union campaigns from the early 1970s against ‘low pay’ in state work resulted in union leaders coming under considerable pressure from their memberships. Following the 1974-79 Labour government’s
public expenditure crisis in 1975-76, it adopted a new ‘cash limits’ basis for public sector financing under the shadow of a loan from the International Monetary Fund, resulting in the first appreciable attempts to cut expenditure on public services (Mailly et al, 1989, 8-10). The Labour government also became less willing to underwrite some of the pay settlements reached between public sector employers’ and trade unions’ negotiators through national bargaining. The consequence, by 1978, was a breakdown in both the incomes policy and the tri-partism, paving the way for the ‘crisis’ of the so-called ‘Winter of Discontent’, 1978-79. The rolling strike wave through this winter is of long-term significance for several reasons: while beginning among private sector workers, the more damaging political impact for Labour and trade union leaders came from the subsequent strikes by public sector manual workers; the official union leaderships largely lost control of these strikes to their rank-and-file members; the lasting perception within civil society – fashioned at least partly by a press increasingly openly influenced by the ‘New Right’ ideologies discussed further below – was of the public services and trade union power as major problems that the Labour government was too weak to resolve (Hay, 1996). The final consequence was the contribution of the events to the election in 1979 of a very different kind of Conservative government.

Restructuring of state employment relations

Policy origins

What can be described as the ‘New Right’ paradigm (detailed, for example, Kavanagh, 1997, 76-78, 90-107; Swann, 1993, 135-141), as a critique of the previous patterns of economic, social and industrial management, emerged from diverse intellectual origins in the post-war period, but assumed coherence in the UK from the mid-1970s. Politically, the election of Margaret Thatcher as leader of the Conservative Party in 1975 can be interpreted as a reaction to the perceived failures of Edward Heath’s 1970-74 Conservative
administration, particularly its support for the Keynesian consensus, for ‘ailing’ industries, and the extent to which the Heath government was undermined by the actions of powerful trade unions. From this essentially negative political basis, Hall (1993, 286) argues, Thatcher’s leadership of the Conservative Party was increasingly based around deployment of monetarist economists and other elements of ‘New Right’ thought as a project with broader public and political appeal to provide an alternative to Keynesianism and neo-corporatism. Thompson (2007, 18-19) sums up well the interaction of academic thought, ‘New Right’ pressure groups, and sympathetic media in propounding a different role for the state and public sector, as follows:

The 1970s and 1980s therefore witnessed a well-articulated, well-organised and, one might add, well-resourced assault upon the Keynesian social democratic conception of the role of the State, local government and public services within the British polity. And the ideas of the Virginia [public choice theory – PS/DF] and Chicago [monetarist economics – PS/DF] Schools, mediated by organisations such as the IEA [Institute for Economic Affairs], the Centre for Policy Studies and the Adam Smith Institute, iterated in publications such as the *Journal for Economic Affairs*, popularised by journalists such as Paul Johnson, Samuel Brittan in the *Financial Times* and Patrick Huber in the *Sunday Telegraph* and championed by New Right politicians such as Keith Joseph, Nicholas Ridley and Margaret Thatcher, undoubtedly did substantial and lasting damage to it.

In relation to deregulation of the state, we would amplify the influence of the US-based ‘public choice’ school of economics, which rejected the traditional principles of the ‘public administration’ model and held that public bureaucrats – buttressed by nationally powerful trade unions – acted to maximise their own resources, influence and interests, in contradiction to the interests of the wider electorate that ‘consumes’ public services (Massey and Pyper, 2005, 31-35). Policy organisations linked to the right wing of the Conservative Party, such as those mentioned above, argued from the ‘public choice’ perspective for policies to promote more competition, deregulation and private sector involvement within a reduced public sector (Foster 1991, esp. 46-47). We can summarise the basic aims of these groups as follows: the introduction of the rationality of a neo-classical free market within transactions in public services, unencumbered
by political ‘interference’ in the setting of priorities; to improve the efficiency of
government, seeing the private sector as a model; and to increase the accountability of public servants for their decisions and actions, by devolving responsibility to lower levels in the governmental hierarchy, and thus creating a class of more entrepreneurial managers whose interests would become more closely tied to the economic success of the business units for which they were responsible.

**Strategy and tactics in the restructuring process**

The UK state has attempted to deregulate its employment and industrial relations in numerous ways since the mid-'seventies. The Table at the end of the text summarises the main policies followed by governments since 1974, which consist broadly of a progression from direct cuts, followed by divestment of public corporations and other assets, to numerous methods of decentralising the public management function and introducing market disciplines into the remaining ‘core’ services of education, health and public administration. The Table also indicates some of the main ways in which each phase of policies facilitated the fragmentation of employment relations in public services. Here we consider two aspects underlying these policies, the extent to which the unfolding of state policy has represented a direct strategy to deregulate employment and industrial relations and the tactics employed to attempt to realise the policies.

There has been considerable academic debate about the degrees to which Conservative policy in this area represented the unfolding of a pre-planned strategy or was ad hoc and opportunistic. While the Conservatives began to expunge at an early stage the power and influence of organised labour as an actor in UK public life, pursuing a policy of ‘labour exclusion’ (Crouch, 1986), the approach to public sector employment and labour relations was more indirect.
The restructuring of the public sector in Britain after 1979, and the collapse of corporatist institutions (and with it the indirect influence of trade unions on public policy), were also crucial parts of the project of industrial relations reform that were achieved either through administrative action alone or through legislation whose impact on industrial relations was indirect. Nowhere is this more true than in the privatization of the nationalized industries and the decentralization, and creation of market surrogates, in what remained of the public sector. There was little or no legislation that sought to directly alter the institutions of public-sector industrial relations, but the wider restructuring of the public sector dramatically changed industrial relations practice. (Howell, 2005, 145-6.)

Instead, state policy on public sector reform has focused on introducing numerous organizational innovations whose common feature is an attempt to engender market-like behaviour and structures within state services. Again, such ‘neoliberal reforms represented less of a coherent policy agenda and more of a series of experiments’ (Wood and Roper, 2007, 180). Changes in the character of state employment and industrial relations, in the form of greater entrepreneurialism, flexibility, decentralisation, and subordination to the logic of the ‘market’, were intended to be second-order results of the various policies. However, it was hoped that this method might be ultimately more successful than if a frontal assault sparking a direct confrontation had been attempted.

Initially, the new direction of policy had frequently to be enforced by government departments using legal and administrative means against the reluctance and resistance of some individual state employers. This was visible in requirements that Civil Service, NHS and local state bodies should test the continued commercial viability of providing some of their services ‘in-house’ against external private sector firms (a particular example of this policy, relating to the local state, is considered below).

However, as indicated above, policies of devolving operational and budgetary control more extensively within state organisations were intended to strengthen the autonomy of more entrepreneurially-minded managers, whose power would lie in the advancement of this new quasi-commercial ethos. By the
beginning of the 1990s, two developments were enhancing the influence of this semi-autonomous ideological dimension to state sector restructuring. Firstly, the concept of ‘new public management’ (NPM) became widely adopted to provide a coherence for ‘New Right’ policies for state restructuring, particularly as a result of the influence of the American academic text, *Reinventing Government* (Osborne and Gaebler, 1992), which highlighted innovative reforms pursued by various public bodies in the USA of the Reagan and Clinton eras. Central to the vision of these policies was the centrality of the public service user as a ‘customer’ (rather than as a ‘citizen’) able to exercise ‘choice’. At a political level in the UK, secondly, the Conservative Major (1990-97) and Labour Blair administrations (from 1997) saw electoral appeal in the citizen as consumer who would be able to exercise a form of ‘rational choice’ between different providers of services. The advent of Labour government has seen only minor changes of emphasis in the continued neo-liberal direction of state reform (Clarke, 2004; Thompson, 2007, 22-26). The role of the private sector as a participant in the delivery of state services, and funder of public sector projects, has actually increased under the Labour governments from 1997. However, Labour has reformed some individual Conservative policies of particular concern to Labour Party members and trade unionists in order to reinforce its electoral base, while conceding little institutional access to unions in policy formulation. The policies concerned include curtailment of the development of a so-called ‘two-tier workforce’ in state services (discussed further below). Also, a policy known as ‘Best Value’ requires that service quality issues, as well as costs, are taken into account when public authorities are considering whether to ‘contract out’ services.

**Case study: competitive tendering of public services in the local state during the 1980s**

This section illustrates the development of a principal Conservative government policy – compulsory competitive tendering (CCT) – to introduce market disciplines and private sector involvement into labour-intensive manual
services provided by the local state; it also shows how the policy involved an indirect strategy to deregulate labour regulation within the local state. CCT required local state authorities to reorganise their direct labour departments along market-like lines and to open to public tender certain services they provided in order to assess whether or not the functions concerned could be performed more cheaply by external, private sector, providers rather than by the public authority itself. Competitive tendering embodied a largely indirect industrial relations logic, which proceeded roughly as follows (Foster and Scott, 1998a, 107). Private service sector companies normally possessed the advantages of lower labour overheads, wages and levels of unionisation than their public sector equivalents. If the private sector operator bidding for work from the public sector won a contract, the firm would be able to vary the wages, conditions and collective bargaining rights of any staff that transferred from the public authority. If a local state authority wished to make itself sufficiently competitive to retain a contract against the threat or reality of private sector competition, its managers would have to devise ways to reduce costs and increase efficiency. Public sector trade unions at the level of the individual employer would be caught in a dilemma of whether to concede poorer terms and conditions in an attempt to retain the work or to risk losing bids (and union members) to the private sector. In either event, the power of public sector unions to defend their members, and their influence more generally, could be expected to weaken.

A number of obstacles lay in the way of this policy’s potential in transferring public sector work to the private sector. The 1946 Fair Wages Resolution and the European Economic Community’s 1977 Acquired Rights Directive (ARD) both posed problems to allowing competition on labour costs. The Conservatives attempted to neutralise these problems in their first years of government. Firstly, the Fair Wages Resolution required contractors to offer comparable wages, terms and conditions as the public sector, thus the Conservatives rescinded this in 1983. Secondly, the ARD, which safeguarded the terms and conditions of staff whose jobs transferred to a new employer, was
held not to apply to the case of public sector transfers when transposed into UK law as the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations in 1981. TUPE occupies a significant place in this story that will be revisited below.

The Conservative government was primarily concerned to replace politically-based resource allocation decisions within localities with seemingly apolitical market-based rational economic decisions based on cost. Increasingly, this required a transfer of power from the local to the national state in order to prevent the local state from countermanding the political intentions of central government. In the UK local state, elected councillors had considerable discretion in each local authority about whether services should be provided directly by the authority’s own workforce or not and, during the course of the 1980s, control of local authorities by opposition party councillors increased. The Conservatives devoted a considerable amount of legislative time generally to circumscribing the independence of the local state, passing over forty Acts of Parliament relating to the local state in the period 1979-87 (Foster, 1991, 112).

The ‘market’ for the expansion of private sector delivery of public services was actively created only by the continuing ideological commitment of government against the hostility of public sector unions and many employers within the local state (Foster, 1991, 50-92). Lobbying by employers’ pressure groups and ‘New Right’ policy organisations were important in maintaining central government’s persistence in pursuing the policy (Foster, 1991). Initial Conservative legislation to open to commercial tendering some local authority construction work in 1980 through the Local Government Planning and Land Act reflected the vociferousness of private sector employers’ groups in the construction industry (Evans and Lewis, 1988). A relatively small number of Conservative-controlled local authorities were sufficiently supportive of New Right ideas to experiment voluntarily with using private contractors to provide services, while the government tested out compulsory tendering in NHS catering, cleaning and laundry functions from 1983.
Because of the lack of enthusiasm within the local state for voluntarily relinquishing control over direct provision of their services, the Conservative government eventually conceded that legislation would be necessary to regulate the construction and enforcement of a market in local authority services. This proved a lengthy and complex process between 1985-1988, because of extensive opposition from the local state and trade unions to poorly drafted legislative proposals, but also because private firms needed extra time to bid for such a large expansion in potential contracts. The eventual 1988 Local Government Act required local authorities to submit specified services to a rolling programme of regular re-tendering. This represented one of the largest transfers of power in detailed decisions about provision of local services from individual local authorities to the Department of the Environment (DoE), the administrative department of government charged with oversight of the local state. To overcome strategies pursued by some local authorities and health authorities aimed at keeping their services ‘in-house’, central government forbade public authorities from accepting other than the lowest tender, setting minimum wages or unduly onerous ‘anti-competitive’ conditions in contracts. The government passed various orders and guidance to prevent such local democratic political intervention in public service provision at lower levels in cases where otherwise political contingency might exist in decisions about awarding contracts (Ascher, 1987; Foster, 1991; Foster and Scott, 1998a, 112-114). Contractors were given the right to appeal to the DoE if they believed they had suffered from ‘anti-competitive’ actions of the type outlined above on the part of local authorities.

Overall, the CCT policy had its most significant impacts on workers within the local state, as one official review concludes:

Manual staff, in particular, have borne the brunt of the changes that have been made in working methods, pay and conditions. The large majority of authorities have made significant changes to staff pay, conditions or numbers in introducing competition, and many have continued to make changes after winning tenders. Patterns of negotiation have
changed markedly, with moves away from national and even local authority wide agreements. Management has become both more powerful and formal. (Walsh and Davis, 1993, 163.)

**The impacts on state employment relations of deregulation policies**

In this section we assess to what extent the various aspects of policies to deregulate the state labour market have succeeded and what unintended consequences have arisen. The different policies employed have had some common outcomes for labour relations and workforce management, regardless of whether particular services have been transferred to providers other than the public sector directly. Importantly, the threat of privatisation and marketisation has encouraged similar sets of reforms as in cases where transfer has actually occurred. The deregulation of employment can be observed in the following principal ways and with the consequences we outline below.

*Growing autonomy of managers, but more diffuse impacts for public service professionals.* Historically, the sub-national management function in public authorities was underdeveloped within the paradigm of a bureaucratic, ‘public administration’ model. It was essential for the success of deregulation that a more autonomous breed of managers developed, who were able to exercise authority and control within decentralised ‘business units’. Evidence indicates that the process of deregulation has resulted in rather different outcomes for managers and other senior ‘white-collar’ groups than more junior employees, resulting in greater workforce differentiation. Under the influence of the ideology of NPM, managers have been granted greater autonomy in directing the workforce. In some respects, deregulation has had more intense impacts on the jobs and responsibilities of general managers, who have had to learn new budgetary responsibilities, than on more junior workers (Doogan, 1997). However, the autonomy granted to public sector managers is somewhat constrained compared to their private counterparts, although sub-sectoral variations exist (Kirkpatrick and Hoque, 2005). Managers are confined to overseeing the fulfilment of *operational* targets and performance indicators
within *strategies* and resource constraints all set at higher levels of the organisation (Foster and Hoggett, 1999; Hoggett, 1996).

The impact of the recent changes on the working patterns and conditions of professionals within the public services is more uncertain. In cases such as the NHS, many key medical professionals have managed to maintain or to renegotiate their professional autonomy and discretion (Kirkpatrick et al, 2005), although all public sector professionals are more cognisant of financial pressures than formerly. Some evidence suggests that professionals have actually seen benefits from private sector involvement in public services or from their own transfer to private sector management compared to continuing under the resource and pay constraints applying in the public sector (Doogan, 1997).

**Greater flexibility and work intensification for junior staff.** Clerical, administrative, manual and even some professional occupations have been subject to rationalisation and intensification as a result of various strategies employed to control state sector costs (especially unit labour costs) in increasingly devolved business units. Some argue that this represents a state strategy of ‘neo-Taylorist’ re-regulation in the public services (Pollitt, 1993). These trends are visible in an increased emphasis on the use of more flexible labour strategies, such as the use of part-time workers, fixed-term contracts and temporary agency staff (Kersley et al, 2006, 103-104). In recent years such trends have been compounded by the application of new technology in service delivery, such as through the increased use of call centres. Foster and Hoggett (1999) identify a culture of work intensification in labour-intensive parts of the state sector already characterised by low wage levels, which Hoggett (1996) characterises generally as a state strategy to produce a ‘high output / low commitment’ workforce. The large-scale Fifth Workplace Employment Relations Survey identified more evidence of employees complaining of intense work pressures in the public rather than the private sector (Kersley et al, 2006, 100-101).
Importation of private sector ‘customer service’ nostrums. Rationalisation has been tempered by the interpersonal and unquantifiable characteristics of much service delivery. From the 1980s, attempts were made to apply private sector notions of ‘quality management’ to the public sector, although there remains considerable doubt as to how such concepts could be translated (Kirkpatrick and Martinez Lucio, 1995). Related to this, the hierarchical modes of control characteristic of the traditional ‘public administration’ model were replaced by more lateral, task- and contract-oriented networks of relationships between public and private sector staff who might be employed by different organisations. Especially under the Major and Blair administrations, an increased concern developed with ‘customer service’, where the ‘customers’ could be within different parts, or outside, of the organisation (Grimshaw and Hebson, 2005).

Changes in organisational structure. Two types of changes in organisational structure were critical in education, health and the Civil Service: devolved management and an internal split between ‘customer’ and ‘contractor’ functions. As examples of the first type of change, in state education many decision-making powers and financial responsibilities were devolved to individual schools by the 1988 Education Reform Act. Head teachers were given greater freedom to decide on staffing, etc. Similarly, in the Civil Service the same kinds of powers were devolved to individual executive agencies after 1988. The second type of change has been seen, for example, in the local state, as discussed in the previous section, and in restructuring in the NHS. The National Health Service and Community Care Act, 1990, saw the state introduce an ‘internal market’ into the NHS, whereby a series of semi-independent NHS Trusts provided services to other parts of the public health service.

Decentralisation of industrial relations. With the emergence of new, more localised employment relations actors came the decentralisation of much bargaining and industrial relations activity. This caused problems for public
sector trade unions, which were well organised for national-level bargaining, but relatively weak at workplace level (Carter and Fairbrother, 1999). The purposes of decentralisation were to remove political ‘interference’ from industrial relations and link industrial relations outcomes more closely to the financial fortunes of the individual employing unit. In the Civil Service, national bargaining fragmented as pay determination was devolved to each of some hundred or so executive agencies. This has led to a profusion of salary rates and pay rises in different agencies that, in the view of the Civil Service trade unions, has undermined the overall coherence of central government employment (Incomes Data Services, 2006, 30-36). A more complex picture presents itself in local government (Doogan, 1997), the health service (Bach, 1999a, 2004), and other parts of state education such as schools (Ironside and Seifert, 1995) of increasing decentralisation of industrial relations activity within largely resilient national agreements. National bargaining has been undermined by stealth at the edges in sectors such as local government by a minority of employers breaking away to set their own pay and conditions. By such means, the deregulatory trends promoted by government have made the public sector workforce and its industrial relations considerably less homogenous.

Undermining trade unionism and collective bargaining. The Conservatives, in expanding managerial prerogative, also sought to shrink trade unionism and its role in collective bargaining as a means of setting pay and conditions. An increasing trend towards union derecognition in the devolved public services and privatised ex-public corporations was evident during the 1980s and 1990s, especially for managers (Claydon, 1996), such as those in the Civil Service (Corby and White, 1999, 18). Although the Workplace Industrial / Employment Relations Survey series records that public sector trade union density fell from 84 per cent in 1980 to 64 per cent in 2004, this sector remains the mainstay of UK trade unionism (Millward et al, 2000, 94; Kersley et al, 2006, 110). Bargaining has undergone what Millward et al (2000, 194) describe as ‘an unprecedented fragmentation of pay-setting arrangements’. While these surveys found that the majority of employees in 94 per cent of
public-sector workplaces had their pay determined by collective bargaining in 1984 (Millward et al, 2000, 194) this had fallen to 77 per cent in 2004 (Kersley et al, 2006, 185). 82 per cent of public sector workplaces had pay set by multi-employer national negotiations in 1984, yet the drift towards setting pay at organisation level (especially notable in the NHS and Civil Service) through the 1980s and 1990s (Millward et al, 2000, 194-195) had been partially reversed by the dawn of the 21st century (Kersley et al, 2006, 185). Certain major groups of public sector staff were deliberately removed by the government from collective bargaining in the aftermath of industrial disputes: this happened to nurses in 1983 and to school teachers in 1987.

The decline of ‘comparability’ as a principle of state employment. Until 1979, the UK state observed the principle (although not always the practice) that public sector workers should enjoy comparable pay and conditions to their private sector counterparts for ‘like’ work. Governments now reject this in favour of the notion of affordability in relation to delegated financial budgets. As noted above, the Conservatives also considered that the TUPE Regulations were inapplicable to cases of transfers of public sector work to the private sector. This was intended to allow contractors to vary the wage rates, terms, conditions and other benefits of staff transferred from the public sector. Evidence suggests that the transfer of work to the private sector though competitive tendering and other forms of marketisation has resulted in deterioration of wages and conditions for transferred staff in an appreciable number of cases, as well as work reorganisation and intensification (Cooke et al, 2004; Doogan, 1997). Even where staff did transfer to the private sector on comparable wages and conditions, private contractors were, in any case, under no obligation to retain these benefits indefinitely, and many transferred staff onto new contracts after a period of time, either with or without financial compensation. Additionally, contractors took advantage of the fact that TUPE did not prevent them from hiring new recruits on inferior wages and conditions of employment. This gradually ushered in a form of dual system of employment, dubbed the ‘two-tier workforce’ by public sector trade unions, in some contractors, whereby
transferred staff coexisted with new workers hired on inferior employment conditions (Unison, 2000).

European law intervened in the mid-1990s to contradict the Conservatives’ restrictive interpretation of TUPE as inapplicable to public sector transfers. In response to a number of cases brought on behalf of UK trade union members, the European Court judged that the UK government had failed to properly apply these regulations to cases of public sector transfers. The impact on labour costs of such judgments reduced the attractiveness of contracting-out to private sector companies, which were already on the defensive as a result of some effective campaigning against privatisation by public sector trade unions (Foster and Scott, 1998b). However, these judgments still failed to apply to the issue of the two-tier workforce for staff newly hired by contractors. Reflecting the more distant relationship between the new Labour government from 1997 and the unions, the two-tier workforce issue was not resolved until the second term of the Labour Government after 2001 – and then only as a result of fierce and persistent union lobbying of the Labour government. After a number of statements and partial moves by Labour to outlaw the hiring of new employees on inferior wages and conditions to transferred staff, agreement to end the two-tier workforce was reached between the Labour government and the trade union movement as part of the so-called Warwick accords in 2004, which set out a series of policy commitments from Labour due to be taken forward as part of a hoped-for third term of government.

Concluding discussion

Here we summarise our broad findings, referring to the project themes as appropriate. UK state employment relations during the twentieth century exhibit two distinct paradigms of regulation. Emerging particularly in the Keynesian period after World War Two, the state gradually constructed a system whereby public employment was increasingly regulated, predominantly at national level by public sector employers and trade unions. State bodies at local level had few
roles in employment relations. The state developed a role of setting an example as a good employer within the national economy as a whole, both by expanding the share of direct employment for which it was responsible and by promoting the role of neo-corporatist social dialogue within Keynesian macroeconomic management in the years to the late 1970s. By this time a crisis and rupture was inevitable, as the state’s roles as economic manager, promoter of industrial peace, and employer in its own right became increasingly impossible to reconcile: it was able to maintain neither wage restraint nor the full employment that was supposed to be delivered in return. Regardless of the ‘model employer’ image, relatively low pay in the public services – particularly for manual jobs – became a central rallying point for public sector unions and a frequent cause of disputes, culminating in the so-called ‘Winter of Discontent’ in 1978/79.

The emergence of the neo-liberal model arose out of the political failings of both previous Conservative and Labour governments, but was given a persuasive public narrative through the activities of a confluence of increasingly influential New Right ideologues, pressure groups, media and politicians. State employment and the representative power of public sector trade unions were construed as political problems, but were judged sufficiently powerful in the early 1980s that the Conservatives chose to confront them indirectly and incrementally. It was left to the UK central state to actively construct a set of conditions, institutions and a highly interventionist regulatory framework for the project of building quasi-markets in the state sector. Government, spurred on by ‘New Right’ and employers’ pressure groups that were afforded unusual access to the formation of state policy, were the most important actors, as the new ‘freedoms’ had to be created, underwritten and maintained by continual intervention, legislation and regulation.

Changes in core sectors such as health, state education and municipal government were achieved through the initial removal of intermediate layers of sub-national political accountability, which often proved hostile to central government designs. Instead, the key stakeholders of the new entrepreneurial
state sector were now ‘apolitical’ managers, who were given discretion over
detailed budgetary, employment relations and staffing matters within a series of
new, devolved organisational structures – yet within strategic constraints still set
by central government. The national regulation of pay and bargaining was
partially downgraded, along with the influence within the regulatory framework
of the trade unions, much of whose power resided at this central level.

Nevertheless, the overall picture since the 1980s is one of continuity and
change. Despite changes in working practices, state sector staff still retain a
relatively strong ‘public service ethos’ distinct from the private sector. Yet by the
end of the twentieth century the NPM had assumed the role of a new orthodoxy
and the power of public sector workforces and trade unions were somewhat
reduced, especially in manual occupations. The privatised public corporations
and utilities had largely adopted the commercial ethos of the private sector
(indeed, many such companies were no longer in UK ownership). The
deregulation of state employment in the final two decades of the twentieth
century, pursued through indirect forces such as competitive tendering and
organisational decentralisation, have slowly fragmented the unity and
comparability of public sector workforces, although this remains a far from
uncontested process.
### Table: Main phases of deregulation policy in the UK

<table>
<thead>
<tr>
<th>Approximate period</th>
<th>Government</th>
<th>Main policies pursued</th>
<th>Main impact on state employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976-79</td>
<td>Labour (Wilson / Callaghan)</td>
<td>Public expenditure cuts, incomes policy through the ‘Social Contract’ phases 1-3, minor examples of privatisation (British Petroleum)</td>
<td>Reduction in numbers employed; wage restraint</td>
</tr>
<tr>
<td>1979-83</td>
<td>Conservative (Thatcher)</td>
<td>Public expenditure cuts; early experiments in privatisation of public industries and in competitive tendering in local government and health service; introduction of general managers in health service (Griffiths Report)</td>
<td>Reduction in numbers employed; ‘competition’ to replace ‘neo-corporatism’; dramatic reduction in ‘social dialogue’; small increase in private firms winning public sector contracts; increased managerial autonomy in health service rather than professionally-based ‘management by consensus’; gradual disengagement of state from direct intervention in public sector industrial relations</td>
</tr>
<tr>
<td>1983-90</td>
<td>Conservative (Thatcher)</td>
<td>Privatisation of public corporations (e.g. telecommunications, gas, electricity); compulsory</td>
<td>Introduction of private management practices into public corporations; changes in</td>
</tr>
<tr>
<td>tendering of manual services, especially in local government; division of Civil Service into autonomous 'agencies' (Ibbs report)</td>
<td>management organisation and working practices in local government and health service; decentralised management in schools; continuing 'labour exclusion', and 'depoliticisation' of industrial relations</td>
<td></td>
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</tr>
</tbody>
</table>
### Table, continued: Main phases of deregulation policy in the UK

<table>
<thead>
<tr>
<th>Approximate period</th>
<th>Government</th>
<th>Main policies pursued</th>
<th>Main impact on state employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990-97</td>
<td>Conservative (Major)</td>
<td>Controversial privatisations (water, railways); further extension of competitive tendering and private sector management of public services; expansion in the promotion of consumerism and individual choice in public services; removal of further education colleges and polytechnics from local authority control to become independent ‘corporations’; reorganisation of health service to construct an ‘internal market’</td>
<td>Greater increase in transfer of employees to private sector management by both compulsory and voluntary means; expansion in devolved bargaining, notably including decentralisation of bargaining to Agency level in the Civil Service</td>
</tr>
<tr>
<td>1997-</td>
<td>Labour (Blair)</td>
<td>Some further privatisation (such as air traffic control), increase in private sector funding and management of public infrastructure projects; more emphasis on service quality and ‘partnership’ with private sector providers within utilisation of a private sector business model for the public services, further reorganisation of, and decentralised management in, schools and health service</td>
<td>Much increased use of private sector management and working practices; greater emphasis of importance of quality (rather than just lowest cost); some increased regulation of impact of transfers to private sector management on employees’ terms and conditions</td>
</tr>
</tbody>
</table>
References


