

**Temporary Labour in the Public Sector: Employers'  
Policies and Trades Union Responses in Social Services  
and Schools**

**By**

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## **Abstract**

Labour market flexibility is an issue that has been much debated but remains controversial. It is argued in this thesis that the lack of theoretical and empirical clarity which has impeded the study of flexibility has resulted from two main deficiencies. The first is that although the public sector has been identified as a major site of flexible forms of labour, the systematic study of this phenomenon has been largely absent. The second is that flexibility as a concept has obscured forms of employment relations that are distinct.

One aim of this thesis was therefore to refocus the theoretical debates by drawing together a number of literatures that have so far remained discrete. This analysis provided the basis for a clearer empirical study by identifying the relationship between restructuring public sector employment, specifically in social services and schools, and one aspect of labour market flexibility: temporary labour. A review of previous research indicated that temporary work is likely to affect women, minority ethnic groups and young workers to a greater extent than the wider population. The literature also highlighted the statistical and managerial bias in the debates and in doing so indicated the need for new perspectives and methods to be adopted to further an understanding of issues that surround flexibility.

The research for this thesis therefore examined temporary labour in the public sector from the perspective of employers, workers and trade unions in two case study local authorities and LEAs using qualitative methods. By adopting this approach the research data indicated that employers' conflicting motivations to use temporary labour are exacerbated by decentralised management functions. Personalised and arbitrary management associated with devolved powers highlighted a number of characteristics associated with temporary employment contracts. The central feature was the enhanced power imbalance in favour of employers created by the insecurity inherent in this form of employment, which resulted in forms of control that were gendered and racialised. The experience of temporary workers reflected these findings and emphasised the vulnerability of their situation. The trade union position on temporary work was however ambivalent, displaying a combination of responses even within branches of the same union, raising serious questions for trade union democracy.

## Abbreviations

AEEU	Amalgamated Engineering and Electrical Union
APT&C	Allied Professional, Technical and Clerical
ATL	Association of Teachers and Lecturers
CANS	Consultation and Negotiations Subcommittee
CCT	Compulsory Competitive Tendering
COHSE	Confederation of Health Service Employees
DfEE	Department for Education and Employment
EAT	Employment Appeals Tribunal
ELFS	European Labour Force Survey
ERA	Education Reform Act 1988
ERA 1999	Employment Relations Act 1999
EO	Equal Opportunities
EOC	Equal Opportunities Commission
EU	European Union
FE	Further Education
FTC	Fixed-Term Contract
FWR	Fair Wages Resolutions
GMB	General, Municipal and Boilermakers Union
ILO	International Labour Organisation
ILEA	Inner London Education Authority
IRLR	Industrial Relations Law Report



JCC	Joint Consultative Committee
JNC	Joint Negotiating Committee
JTUF	Joint Trades Union Forum
LEA	Local Education Authority
LFS	Labour Force Survey
LGMB	Local Government Management Board
LGR	Local Government Reorganisation
LIFO	Last In First Out (redundancy procedure)
LMS	Local Management of Schools
NAHT	National Association of Head Teachers
NALGO	National Association of Local Government Officers
NASUWT	National Association of Schoolmasters Union of Women Teachers
NOR	Number on Roll
NPM	New Public Management
NUPE	National Union of Public Employees
NUT	National Union of Teachers
NQT	Newly Qualified Teacher
OECD	Organisation for Economic Co-operation and Development
OFSTED	Office for Standards in Education
PFI	Private Finance Initiative
PO	Principal Officer
RSG	Revenue Support Grant
RSI	Repetitive Strain Injury

RSW	Residential Social Worker
SHA	Secondary Head Teacher's Association
SGE	Service Group Executive
SSA	Single Status Agreement
STRB	School Teachers' Review Body
TUC	Trades Union Congress
TUPE	Transfer of Undertakings (Protection of Employment) Regulations
T&GWU	Transport and General Workers Union
UCATT	Union of Construction, Allied Trades and Technicians
VCT	Voluntary Competitive Tendering
WERS	Workplace Employment Relations Survey
WJ	Workforce Jobs (statistical series formerly Workforce in Employment WiE)



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Lastly I would like to dedicate this thesis to my father, James, whose glowing pride in my achievements has always been my spur.

## **Declaration**

I declare that this thesis is my own work and confirm that it has not been submitted for a degree at any other university.

### *The Ragged Trousered Philanthropists*

There was not enough work to keep everyone employed, and most of those that were taken on as a rule only managed to make a few hours a week, but still it was better than absolute idleness, and there also began to be talk of several large outside jobs that were to be done as soon as the weather settled.

This bad weather, by the way, was a sort of boon to the defenders of the present system, who were hard-up of sensible arguments to explain the cause of poverty. One of the principal causes was, of course, the weather, which was keeping everything back. There was not the slightest doubt that if only the weather would allow there would always be plenty of work, and poverty would be abolished.

Rushton & Co. had a fair share of what work there was, and Crass, Sawkins Slyme and Owen were kept employed pretty regularly, although they did not start until half past eight and let off at four...occasionally a few extra hands were taken on for a few days, and discharged again as the jobs they were taken on to do was finished.

The defenders of the existing system may possibly believe that the knowledge that they would be discharged directly the job was done was a very good incentive to industry, that they would naturally under these circumstances do their best to get the work done as quickly as possible. But then it must be remembered that most of the defenders of the existing system are so constituted, that they can believe anything provided it is not true and sufficiently silly.

All the same, it was a fact that the workmen did do their very best to get over this work in the shortest possible time, because although they knew that to do so was contrary to their own interests, they also knew that it would be very much more contrary to their interests not to do so. Their only chance of being kept on if other work came in was to tear into it for all they were worth. Consequently, most of the work was rushed and botched and slobbered over in about half the time that it would have taken to do it properly.

Robert Tressell (1993:371)



# 1. Theorising Temporary Work

Budding investigators think that the purpose of a literature review is to determine the *answers* about what is known on a topic; in contrast, experienced investigators review previous research to develop sharper and more insightful *questions* about the topic. (Yin 1994:9)

## *Introduction*

These are exciting times for students of the organisation of work and employment. The emphasis on continuity, a feature of large scales surveys conducted in the 1980s and early 1990s (Morris and Wood 1991), has been replaced by a more dynamic analysis in recent studies (Cully *et al.* 1998). Labour markets and the institutions that have grown up to service them are undergoing distinct changes (Crompton *et al.* 1996), leading many academics in the relevant disciplines to speculate on the ‘future of work’. The discourse surrounding this shift is peppered with the concept of flexibility and, whilst this is often held up as a new and innovative approach to labour market instability, the passage from Tressle’s *Ragged Trousered Philanthropist* highlights that the future of work has a strong resonance with the past. Tressle also proffers a warning as to the consequences of using job insecurity as a tool for the intensification of labour. This is a subject that has since provoked many debates and is central to the theoretical and empirical analyses presented in this thesis. The issues are explored by examining two areas, temporary labour and public sector employment, that are increasingly emphasised within related

debates but have, in various ways, been neglected within industrial sociology and related fields.

The public sector has not, in the past, been a favourite site amongst academics for a number of reasons that are discussed more fully in this chapter and chapter three. Furthermore the large scale surveys predicting little change in the use of employer strategy in the use of temporary work did not anticipate the large scale reorganisations in the public sector (Dex and McCulloch 1997). The literature on temporary labour is dispersed across a number of disciplines and is often subsumed within a number of competing concepts and definitions. Felstead and Jewson (1998:2) have highlighted this issue by noting the proliferation of terms that have arisen to encompass what they choose to call flexible labour. Other terms include atypical employment; non-standard work; the insecure workforce; precarious work and contingent labour.

These concepts, including flexibility, are themselves multifaceted covering various arrangements that are considered to deviate from a standard of full-time, permanent employment. Rodgers (1989) includes temporary, casual, part-time, disguised illegal wage employment, homeworking, 'moonlighting', self-employment and out-working in the category of 'atypical' employment. This author notes that there are however important conceptual differences between these forms of work and that heterogeneity makes generalisation difficult.

Temporary work itself consists of a number of elements but is usually considered for UK statistical purposes to be made up of fixed-term contracts.



casual and agency work. However, as this chapter indicates, there are further fine legal distinctions between forms of temporary employment contracts.

Conceptual difficulties and blurred definitions are highlighted throughout the thesis. In relation to this point Felstead and Jewson note that the precursor of the multiplication of terms used to refer to non-standard employment has been 'a lack of theoretical precision characteristic of research in this area' (1999:2). It is argued here that both the imprecision and accretion of terms stem largely from attempts to agglomerate forms of work which do not readily fall into the established theoretical categories devised to explain 'standard' employment. The result has been to dress this residual sphere in 'one-size fits all' generalisations, which not surprisingly have amply covered some areas whilst leaving others conceptually naked. Temporary work has fallen into the latter category. The reasons for this neglect are unclear but this chapter identifies links between temporary work and the public sector, whilst chapter two identifies difficulties in establishing the statistical significance of this form of non-standard work in the UK.

The aims of this chapter and chapter two of the thesis are therefore to show how greater theoretical and conceptual clarity can be achieved by untangling forms of employment previously considered to be relatively homogeneous. This is achieved by drawing out one thread, that of temporary work, and identifying the flaws and lacunae in theoretical debates that have so far clouded the issues.

This chapter examines the research and debates that stem from labour market and socio-legal analyses, whilst chapter two critically reviews the statistical data



and related research. By bringing together these previously diffuse relevant literatures, the central themes of the debate are drawn out to develop definitions and identify research sites that can advance a clearer understanding of temporary labour.

The public sector generally and social services and education within local government are established as the primary locations for a study of temporary work. Therefore chapter three provides a contextual basis that serves to refine the research agenda by exploring the theoretical issues highlighted in previous chapters in relation to these sectors. The culmination of the analysis is the production of a set of research questions detailed at the end of chapter three. Although methodological pointers are derived from the review of literature and secondary statistical data, a full discussion of methodological issues is contained in appendix one. The position of this discussion does not indicate the residual nature of these issues but rather reflects the exploratory and iterative nature of the research process. As a result many of the issues discussed in appendix one occurred during the research process and background information concerning the case studies is required for the reader to follow the analysis.

Having established the research agenda, chapters four to nine contain the main empirical findings. These have been divided to examine the case study authorities (chapter four) and the perspectives of the three main parties involved: employers (chapter five and six); workers (chapter seven) and trade unions (chapters eight and nine). The analysis of the data is contained within each chapter and therefore unfolds thematically. In the light of this data,

chapter ten reassembles the theoretical debates and provides a summary of the analysis. The thesis concludes by examining the implications of the research findings and analysis before identifying further research opportunities.

### ***Flexibility Revisited***

Most academic treatment of temporary work has been undertaken under the broader maxim of flexibility. The term ‘flexibility’ arose after a number of arguments stressed that the declining prosperity of mature economies results largely from rigidities in labour markets and production processes (Piore and Sabel 1984; Hirst and Zeitlin 1989). Such rigidities were identified at both macro and micro-levels and were closely related to the post-war growth in job security (Cousins 1999b). In brief, macro-level influences were largely considered to be the over-regulation of national and international labour markets (see chapter two), whilst micro-level rigidities resulted from employer practices that relied heavily on static internal labour markets. Trade union organisation has also been implicated in maintaining working practices that some have considered added to rigidity (Hayek 1980; Metcalf 1988). In the UK the prescription has therefore centred on the deregulation of employment relations which would in turn encourage employers to adopt a more varied or flexible approach to their staffing requirements accompanied by the legislative restriction of trade union activities (Smith and Morton 1993).

A theoretical analysis of influences underpinning these changes has been posed under the rubric of ‘post-Fordism’ described by Crompton *et al.* as:



...a shift from the predominance of economies driven by manufacturing industries characterised by a mass, relatively homogeneous, semi-skilled workforce, towards economies dominated by employment in services, associated with a more heterogeneous, fragmented workforce. (1996:3)

The concept of post-Fordism has been hotly debated (e.g. Pollert, 1988b; Nolan and O'Donnell, 1991; De Vroey, 1984) and, whilst it is not intended to engage extensively with this area of study, the definition above highlights implications which are central to this thesis. Firstly, although the gender implications of post-Fordism were not considered in the early theories (Dex and McCulloch 1997), as a result of extensive labour market segregation (see below), a shift from manufacturing to service sector employment has consequences for the gender balance of labour markets. Secondly, mass employment in the manufacturing sector has traditionally been considered to be the base of trade union organisation. Therefore any erosion of this base has consequences for organised labour. However the definition utilised by Compton *et al.* does not make it obvious where public sector employment, particularly public services, falls in this debate. Clearly manufacturing has never been the essence of public service and the workforce in this sector has always been gendered, heterogeneous and fragmented but also highly unionised. The incongruity of the public sector has meant it has evaded a thorough analysis within flexibility and related debates although, as detailed below, it is often acknowledged as empirically if not theoretically important.

In the UK the concept of flexibility became the centre of debate after Atkinson (1984;1985) developed the model of the 'flexible firm' (Cousins 1999b).



According to Atkinson (1985) flexibility falls into three categories: functional, financial and numerical. Temporary work falls into the latter category of numerical flexibility, which requires that a certain segment of the workforce must be easily dispensable. The model was further developed to include the concept of a core and peripheral workforce. Core workers are regarded as the stable component and are considered to possess skills unique to the firm. They therefore represent valuable assets and hence are highly regarded and rewarded by the employer. There are two groups of peripheral workers. The first group has skills that are needed at certain times but which are not specific to the firm and are available in the external labour market. The second group consists of workers who have limited skills or are unskilled. To achieve numerical flexibility the latter two groups are likely to be employed on a temporary basis either via the use of fixed-term and temporary contracts, staffing agencies or directly hired casual work.

The major criticisms of the flexible firm model are to be found in the edited book *Farewell to Flexibility?* (Pollert 1991). The editor's main criticisms firstly consider that the model of the flexible firm is based on flawed economic theories and equally tenuous concepts of post-Fordism and the 'post-industrial society'. In contrast to these theories Pollert contends that the flexible firm model offers a prescriptive device for work intensification linked to Taylorist work practices. Secondly, it is argued that the model does not 'fit the facts' in many important respects. The main contention is that there is little empirical evidence for the existence of a core/periphery model and no clear-cut distinction between core and periphery workers. It is argued that, whilst legislation has

reduced the rights of vulnerable workers, high unemployment and the reduction of trade union power has disciplined and disempowered the core workforce.

Pollert's arguments are extended in the final chapter by Hyman (1991) who considers that the flexible firm model raises the constant contradiction in industrial relations between trust and constraint in the need to establish both consent and control. Hyman makes the observation that employers are likely to use a different mix of strategies for different workers. This in itself would seem to indicate the beginning of a core/periphery model. However, like Pollert, Hyman argues that the 'flexible firm' also inhibits core workers as they become locked into internal labour markets. Status as a core worker therefore removes the ability to 'exit' whilst the demand for loyalty and individuality as opposed to collectivity removes the 'voice' of core workers. Lastly both Hyman and Pollert contend that flexibility is inherently political. For example Pollert considers that the model is linked to changes in the role of the state and its endorsement of neo-classical economics. Hyman argues that flexibility is synonymous with the interests of capital as the basic goal is to transfer risk and costs from the enterprise to the worker.

The above points raise some interesting questions relating flexibility to issues of control and the role of the state. However fixation on abstract conceptual issues eventually led to the unsatisfactory demise of the flexibility debate. The majority of discussion focussed on the nature of post-Fordism and 'flexible specialisation', a form of functional flexibility, with the result that in-depth analysis of numerical flexibility was limited. It is argued here that an emphasis



on flexible specialisation reflects a managerial agenda that seeks to promote the positive side of flexibility. Flexible specialisation or functional flexibility relates largely to 'core' workers and can be given an air of legitimacy by claiming moves towards up-skilling and multi-skilling. It is much more difficult, on the other hand, to put any such gloss on numerical flexibility, which remains a form of casualisation by any other name.

Management discussions of flexibility have treated the concept as unitary, that is containing no essential conflicts, by stressing the positive aspects as juxtaposed to rigidity (Blyton and Morris 1991). Similarly the concept of flexible specialisation serves to obscure the social relations of production (Rainnie 1991). Allen and Henry (1997:182) make the important point that, by allowing the flexibility debate to set a managerial agenda, the views of the workers it affects are ignored. By allowing themselves to be drawn into an extended debate concerning flexible specialisation and largely ignoring the obviously exploitative treatment of temporary workers, theorists critical of flexibility may have 'missed the wood for the trees' and allowed the opportunity for an extended critique to slip away.

The minimization of the significance of flexibility as a useful concept has also resulted from its relation to 'typical patterns of female employment and not widespread adoption of a flexible workforce' (Ackers *et al.*, 1996: 14). As women now make up almost half the workforce and employment growth is largely restricted to 'feminized' labour markets (Rubery and Fagan 1992), this seems a rather unsteady foundation for the glib dismissal of trends towards



flexible labour. Furthermore, recent data from the Workplace Employee Relations Survey, which incorporates the views of workers, has also found that, whilst numerical flexibility ‘appears to be quite widespread’, functional flexibility is either ‘non-existent or negligible’ (Cully, *et al.* 1998:9).

### *Flexibility or Segmentation?*

The links between labour markets segregated along racial and gender lines and labour market segmentation and divisions in the terms and conditions of groups of workers, have long been drawn. Doeringer and Piore’s (1971) theory of dual labour markets was originally developed to explain the racial segregation and the poorer terms and conditions of black workers in American labour markets. Based on dual labour market theory, Barron and Norris (1976) noted that women are more likely than men to occupy marginal and precarious jobs. These earlier theories have been superseded by Hakim’s (1979) theory of vertical and horizontal occupational segregation. Hakim notes that women tend to be segregated horizontally into certain sectors of the labour market, mostly the service sector, which mirrors the domestic responsibilities that they shoulder. Within these occupations women are then vertically segregated into lower status positions.

Hakim also notes that women generally have a distinct lifetime working pattern which she describes as ‘bi-modal’ as it comprises of two separate periods of labour market activity. Most young women enter the labour market after leaving school. Many have a period of absence from paid work when they have

children but return to the labour force when their children are older. Women returning to the labour market therefore often take up part-time work to fit in with ongoing childcare responsibilities. Other segmentation theorists have identified the interaction between part-time work and temporary employment contracts which may explain why 'women returners in particular are likely to be found in temporary jobs' (Rubery and Fagan 1992:157). This pattern is supported by empirical data in this research (chapters five, six and seven). Similarly Casey *et al.* (1997:62) found a positive correlation between employer's use of part-time workers and the use of short-term contract work, stating:

...high users of part-time employees were much more likely (three times) to be high users of short-term contract workers than either low part-time users or non-users of part-timers.

Hakim's more recent work has, however, divided segmentation theorists. In an article entitled 'Grateful slaves and self-made women: fact and fantasy in women's work orientations', Hakim (1991) claims that some women are satisfied with segregation into low paid and low status jobs. She argues that women who accept these jobs have lower job commitment than women and men who put their careers before family responsibilities. Therefore job segregation mirrors the preferences and options of women. It could be argued that flexible working has benefits for women as it provides the opportunity to combine domestic care responsibilities with paid work. This view is particularly prevalent amongst researchers who draw data from national surveys such as the LFS. As Dex and McCulloch (1995) note, such data reveals that women are less likely than men to say that they took part-time work because



they could not find a full-time job. However, Dex and McCulloch argue that this is likely to be as a result of 'constraints they face in the home rather than it being purely a matter of their preferences' (ibid:40). This is also true of women in temporary work. The problematic nature of voluntary and involuntary temporary work is discussed further in chapter two.

The strongest links between race, gender and 'non-standard' employment have been drawn by researchers studying homeworkers (e.g. Allen and Wolkowitz 1987; Phizacklea and Wolkowitz 1995). Phizacklea and Wolkowitz (1995) are also fierce critics of Hakim's 'grateful slaves' theory. Firstly, it is argued that the evidence relating to the job commitment of women in non-standard forms of work is mixed.<sup>1</sup> Secondly, Phizacklea and Wolkowitz argue that, in her analysis of what are and what are not considered to be 'good' jobs, Hakim relies too heavily on male evaluations. Thirdly, in relation to women's freedom to choose between labour markets, Hakim is describing options that are likely to be available only to better-educated, largely white, middle-class women. Lastly, these authors also raise the issue of the difficulty of assessing the complex issues surrounding the constrained choices women face when entering the labour market. They argue that it is unlikely that tightly controlled questions in large-scale surveys will reveal the patterns and processes involved. However, Dex and McCulloch (1997:69) have shown, using LFS data, that the highest percentages of temporary jobs were found amongst women in the 'Black and Other group' and that women from ethnic minority groups were far more likely than white women to hold full-time temporary as opposed to part-

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<sup>1</sup> This is certainly the case in relation to part-time workers in local government. See Karran (1984) cited in chapter three.



time jobs. These perspectives indicate that, whilst useful data can be gleaned from statistical analysis, it should not be used uncritically to make generalisations, particularly in relation to women's orientations to work.

### *Flexibility and the Public Sector*

The issues of labour market segregation are particularly relevant to this study because the public sector, as the largest source of employment for women and minority ethnic groups, is a primary site of segregation. As Rubery *et al.* note:

...women professionals remain disproportionately concentrated in traditionally female professions associated with care work. Much of this work is concentrated in the public sector, and in many instances women's share of male-dominated professions is also higher in the public than the private sector. This division between the public and the private sector may become an increasingly important feature of gender segregation for this group of workers as may other employment dimensions such as employment contract or firm size. (1996: 435)

Rubery (1996:36) further notes that labour market segmentation has become more complex than the initial core/periphery theories allowed:

Perhaps the major change that is taking place in the labour market is that previously advantaged groups are sharing the risks of instability, unemployment and low income previously faced only by secondary sector workers.

This analysis is particularly relevant to this research. The discussion in chapter three outlines how, along with notions of employment security, the state as 'model employer' has been greatly undermined by restructuring since the 1970s (Carter and Fairbrother 1999). One result has been that occupations that have traditionally been classed as 'jobs for life' are now experiencing

peripheralisation. However, the public sector is another area which has largely evaded the flexibility debate (Fairbrother 1991:69). At the macro-level Rainnie (1991:47) argues:

It should be pointed out that the model of Fordism and all the paraphernalia that goes with it is based on the male dominated car industry. Most mass production industries are female dominated and yet the reasons for and the implications of this phenomenon remain unexplored.

Although Rainnie's emphasis is still manufacturing, in highlighting the gendered aspects of theorising he has captured one possible explanation of the omission of public sector employment from the debates. Similarly, at the micro-level, Atkinson's model of the flexible firm, which sparked much of the debate, is couched in terms specific to the private sector. The notion of a 'firm' is itself an essentially business oriented concept and the emphasis on technological change and production methods reflects the dominance of the private sector in the theorising. The empirical dominance of the private sector is revealed in later but related research (Atkinson and Meager 1986) when only one out of 29 case studies is in the public sector.

Although many contributors to the debate (e.g. Casey, 1991; Pollert, 1988; Rubery, 1989) acknowledge the importance of public sector management in leading the way in attempts to implement flexible working practices, their arguments and conclusions are drawn largely in respect of the private sector.

Although Casey (1991) joins the bulk of the flexibility critics by minimizing the extent of involuntary temporary employment, he concedes that 'it might well be the public sector, not the private sector, which is the vanguard of current



attempts to promote 'flexible' forms of working' (p. 185). Pollert (1988a:53) argues that the flexible firm thesis 'conflates changes in the public sector, and the services in general, with management strategy in the private sector'.

Similarly Rubery notes:

It is in the public sector that there have been the most evident changes in employer strategy: the internal labour force has been increasingly subdivided into those on permanent and those on temporary contracts (1989:166).

It is therefore curious that the public sector has largely been omitted from the debate as anything other than an exception to the rule. This situation is even more puzzling since, when identified with the public sector, flexibility is most clearly seen as inherently political. As Fairbrother notes 'the major reorganisation of labour relations in the public sector must be attributed to the specific political programme of the government' (1991:167). Fairbrother's research in the civil service (1991; 1994a) and more recently in local government (1996) attempts to redress the lacunae left by the private sector bias and in doing so adds some important dimensions to the flexibility debate. Fairbrother notes that the different context of the employment relationship in the public sector has warranted a different set of proposals required for restructuring. The emphasis here is placed on the use of flexible working practices as a 'major weapon to achieve a controlled and malleable workforce in a period of radical restructuring' (1991:69). The cutting edge of this weapon has been moves towards decentralisation, which has encouraged the redefinition of managerial authority particularly at the local level. This has been facilitated and enhanced by the use of temporary employment contracts as evidence

suggests that decisions to use temporary workers fall increasingly to local managers. As a result, weakened employee status is likely to bring newly acquired management prerogatives sharply into focus (see chapter six).

These arguments are supported by research that has shown that the service sector, particularly public services, has been the site of much decentralisation and deregulation. Dex and McCulloch (1995) found that the sectors subject to government reorganisation tend to have the highest proportion of flexible jobs. In relation to local government, Escott and Whitfield (1995) found that numerical flexibility was an increasing aspect of employment policy and practice. They further note that most temporary workers in local government are female. Therefore the result is that whilst restructuring may have created more employment opportunities for women, segregation remains intact and women are concentrated in ever more precarious jobs (Dex and McCulloch 1995).

### ***Labour Law, the Labour Process and the Employment Contract***

The preceding section has explored the issue of temporary work in relation to labour market debates and the economic rationales that have been used to explain its continuance. A number of themes have been identified which explain the overlapping nature of segmentation along sectoral lines and gendered and ethnic segregation in temporary work. The relationship between these issues and the precarious nature of temporary work is frequently implicit and sometimes explicit. However such an analysis cannot identify the specific



facets of temporary work that give rise to these relationships. The aim of the following section is therefore to examine the employment relationship in detail and, by doing so, locate the position of temporary labour.

This is done firstly by an analysis of legal theories concerning the employment contract. However, like the labour market theories, legal analysis is beset with problems of definition that stem from its basis on a flawed model of society rooted in 18<sup>th</sup> and 19<sup>th</sup> century Liberal philosophy. In order to extend the examination it is necessary to incorporate it into a labour process analysis that explains the employment relationship in terms of a struggle for control. The employment contract is identified as a pivotal mechanism in the struggle. The paradoxes arising from the legal analysis are explained as stemming from the contradictory nature of a device charged with at the same time legitimising and concealing the extraction of surplus value.

### *Labour Law and the Employment Contract*

In order to understand the legal issues that surround ‘non-standard’ contracts of employment it is firstly necessary to place them within the context of what is considered to be ‘normal’ or ‘standard’. It is also necessary to move beyond a descriptive assessment of the rule of law to provide an analysis of jurisprudence and compare this to the reality in which it is applied.

The individualist tradition of British labour law contrasts to that of most of Continental Europe, which has been influenced to a far greater extent by Roman

law. The conflicting philosophies of Continental and British systems have been clearly evident in the problematic application of European Union (EU) law in Britain and the often contradictory rulings of the European Court of Justice. A feature of Roman law has been the use of regulatory means of incorporating positive individual legal rights often supported by constitutional arrangements. The British system, by comparison, has been influenced by a tradition based on the feudal concept of master and servant. In this relationship contract was irrelevant as “a servant’s status determined the obligation to work at wages arbitrarily fixed by the justices of the peace, usually themselves masters.” (Hepple and Fredman 1992:41). Although repeal of the Master and Servants Acts was intended to make way for libertarian ideals based on the freedom to contract, the new philosophy was shaped by the tenacity of older traditions; thus ensuring “the form of contract which emerged in the 19<sup>th</sup> Century effectively guaranteed the rule-making powers of the employer” (ibid.).

Fox (1974) considered the ways in which 19<sup>th</sup> Century theorists had viewed contract theory generally and the role of the employment contract within it. Fox argued that liberal theorists Maine and Spencer believed market principles embodied in the concept of contract offered the masses freedom from the shackles of tradition. Maine argued that all progressive societies would move from a system based on the status of its people fixed in a rigid hierarchy determined by birth to a society based on bargained contracts between free and equal parties.



In sum: contract society could be socially and politically characterised as urban, modern and Liberal; status society as rural, traditional and Tory. (Fox, 1974: 210).

Durkheim (1984) added some further dimensions to the Liberal vision of society in “The Division of Labour and Society”. His ideal also encompassed a meritocracy legitimised by both equality of opportunity and equality of contractual relations. In this vision the increasingly complex division of labour required control through contract enforced by a framework of social regulation and obligation.

Both Spencer and Durkheim were aware that the central tenet of equality was absent in 19<sup>th</sup> century society. However, Spencer considered that inequality would subside with an acknowledgement and strengthening of contractual freedom. Similarly Durkheim argued that contract law would aid progress towards a more equal society and help people to accept their place within it. As Fox noted:

The vision is one of social integration based on moral norms of individual obligation serving a corporate solidarity. It is essentially a unitary conception of social structure (1974: 235).

The unitarist perspectives of both Spencer and Durkheim prevented them from acknowledging the specific nature of the employment relationship. The past master of such analysis was Otto Kahn-Freund. For Kahn-Freund the concept of an employment contract was an inevitable oxymoron; the culmination of a legal system based on a flawed libertarian vision of how society should be

regulated. The employment contract becomes the lens through which this distorted view of the world can be seemingly rectified:

It is engendered by a view of society as an agglomeration of individuals who are co-ordinated as equals, by a myopic neglect or deliberate refusal to face the main characteristic of all societies, which is the unequal distribution of power. The law does and to some extent must conceal the realities of subordination behind the conceptual screen of contracts considered concluded between equals. (Kahn-Freund 1972:4-5)

The hub of the problem then is a failure to distinguish between contract as a purely economic exchange and as the instrument that legitimises a social relationship based on inequality. A contract, in the commercial sense, is an exchange relationship between parties who, as equals, are freely able to enter into, negotiate and terminate a contract. The employment relationship can be seen to differ fundamentally from the commercial contract in a number of ways. Firstly, the employment relationship “is typically a relation between a bearer of power and one who is not the bearer of power” (Kahn-Freund 1972:8) and is therefore not a transaction between equals. In fact its very purpose is the subordination of one party to the power of the other. Secondly, subordination is present before the point at which a ‘deal’ may be said to be struck as “Typically, the worker as an individual has to accept the conditions which the employer offers...” (ibid.). This is a condition which prevails throughout the relationship as the “worker does not participate in the making of the rules which govern his (sic) work” (ibid.14). Lastly, because the financial risk of termination of individual employment contracts is diffuse for the employer, the costs of termination are far higher for the worker and provide yet another facet of inequality.



The problematic ‘fit’ of the employment relationship in a form that attempts to mimic the commercial contract is evident in the way disputes are handled. In a commercial contract the terms of the arrangement are most often clear, measurable and are therefore easily agreed beforehand. As such, the courts expect the parties, to a large extent, to be self-regulating. The employment relationship by comparison is complex, on going and, in some sense, is a process of continual re-negotiation. This has been resolved in British labour law by an understanding that the terms of an employment contract need not be expressly negotiated but may be implied by the courts in the event of a disagreement. The courts are however largely led by the traditions of the liberal perspective (Wedderburn 1989), which has meant:

In reality...the superior economic power of employers enables them to dictate terms of the contract which the individual employees are in no position to contest through the courts, least of all when they are still working for the employer. (Hepple and Fredman 1992:41)

In this way the law conceals reality: “... the unilateral rule - and decision-making power of management is presented as based on a ‘contract’, on the free-will of the employer and the employee.” (Kahn-Freund 1972:14). Kahn-Freund identifies the reasons for such elaborate facades as essentially moral:

It is necessary for the law to see relations of subordination in terms of co-ordination, that is an act of submission in the mask of a “contract”, because this is the fiction through which it exorcises the incubus of “compulsory labour.” (ibid:15)

The way in which the law attempts to reconcile these issues raises a number of contradictions deeply rooted within labour law which are illustrated notably by past conflicts between legislature and common law. As Kahn-Freund points out, this arises chiefly because what is freedom for the worker is a restraint for the employer and vice-versa. Therefore, whilst the legislature is seen as a form of protection for the individual worker against the abuses of power by the employer, the courts are, for the most part, ultimately motivated by a philosophy underpinned by the concept of the freedom to contract.

Protective legislation thus enlarges the worker's freedom, his (sic) freedom from the employer's power to command, or if you like, his freedom to give priority to his own and his family's interests over those of his employer. Yet, paradoxically, such liberating legislation must appear to the lawyer as a restraint on freedom, on the "freedom to contract" which, in this context, is the term the law uses for the subjection of the worker to the power of management. (ibid:15).

Positive legal regulation of the contract is alien to the liberal common law approach to the extent that parties are free to contract out of protective legislation unless Parliament expressly says they cannot (Hepple and Fredman 1992). The insistence of the courts to place "conceptual apparatus" before reality has resulted in a legal view of the employment relationship which has, conveniently for employers, transposed the moral and the amoral. As Kahn-Freund again succinctly observes "I know of no case in which a court invalidated a contract by reason of gross exploitation...exploited workers are not plaintiffs in courts of law..." (1972:27).

However Kahn-Freund's critique and prescription are essentially pluralist in nature. For him subordination is a necessary element to the orderly existence of society:



There can be no society without subordination of some of its members to others, without command and obedience, without rule-makers and decision-takers. (ibid:4)

and more specifically in relation to production:

Except in a one man (sic) undertaking, economic purposes cannot be achieved without hierarchical order within the economic unit. (ibid:9)

In Kahn-Freund's view it is the necessity of subordination that means a plurality of conflicting interests is inherent between workers and employers. However, in this argument, the economic power of the employer can be matched by the collective power of workers. True to the pluralist tradition, Kahn-Freund considers that the law must take a backseat and intervene only in circumstances in which the power of labour cannot match that of the employer and, on rare occasions, vice-versa for:

As a power countervailing management the trade unions are much more effective than the law has ever been or ever can be. (ibid:12).

The pluralist philosophy has been the dominant force in shaping British labour law and industrial relations in the post-war period. The central pillar of this approach has been the application of collective laissez-faire underpinned by a belief in voluntarism between employers and trade unions and therefore the abstention of the state from anything but a minimalist regulation of the employment relationship. The voluntarist tradition limited statutory intervention to providing protection for those who fell outside the remit of collective bargaining, specifically women and young workers. It is therefore

important to note that one of the many criticisms of the pluralist approach is its domination by male academics focusing on the work of men, namely the manufacturing sector, and seeing solutions lying in collective bargaining and hence male dominated trade unions.

Kahn-Freund's criticism of libertarianism is useful although as an exemplar of the pluralist view of the labour relationship it too is flawed. The demise of voluntarism has been evident since the mid 1970s and it has been actively reversed since 1979 by a return to neo-liberal values. A belief in collective laissez-faire and a pro-union recognition of a power imbalance that favoured employers has been almost effortlessly replaced by neo-liberal arguments, which consider that contractual equality is inhibited by the monopolistic power of trade unions and legislation which produce barriers to business (Hayek 1980: Minford 1985; Hanson and Mather 1988). Furthermore, the voluntarist view of the role of the state as providing a level playing field between employers and workers becomes inappropriate when the state *is* the employer.

The legacy of the voluntarist tradition has meant that de-regulation of employment structures has been swift and difficult to challenge. The gendered nature of the voluntarist system has also meant "deregulatory measures have had a disproportionately adverse impact on women" (Dickens and Hall 1995:268). Carole Pateman (1988) adds another dimension to a feminist critique of contract theory. Pateman argues that in its conception civil freedom was not intended for universal application. The concept of citizenship is based in the public sphere and is essentially masculine. Therefore, although on the



surface patriarchy seems inimical to the principles of freedom and equality. contracts in various forms have been used to legitimise the subordination of women. Pateman draws interesting comparisons between the marriage contract and the employment contract. It is argued that what appears to be mutually advantageous arrangements for both parties are in fact relationships based on social inequality; both involve an exchange of property in the person in the form of obedience based on the unequal power balance between the parties. In women's employment the two combine to produce a particularly effective form of subordination. A graphic illustration of this point is the marriage bar, which was a formal feature of civil service employment until 1946 but continued informally for much longer (Cockburn 1991). Glucksmann argues that a formal marriage bar was a particular feature of certain forms of public sector employment:

The legally enforced marriage bar covered all local government and civil service employment, including teaching and most other office work. In professional and non-manual occupations work was not so physically arduous as in a factory, and women were likely to be better-off financially and in a better position to afford labour saving domestic appliances...In their situation then, waged or salaried employment was more compatible with domestic responsibility. Hence the need for a formal marriage bar: if married women were to be removed, forcible means were necessary to achieve the end. (1990:223)

Clearly public employers have a history of placing limits on women's employment contracts that would have been considered unthinkable for men. In doing so they exemplify and serve to highlight the contradictions in the contractual status of women.

If, as Kahn-Freund famously stated, the employment contract is “an indispensable figment of the legal mind” (1972:8), the temporary employment contract may be considered to be something of an aberration as it would appear to exemplify and amplify much of the conflict, contradiction and paradox evident in labour law. Unfortunately this is a field which has been a self-confessed area of neglect for most labour law academics (Leighton 1986). However, what has been written reveals a patchwork of legislation and case law which is neither internally consistent nor bears any credible resemblance of what takes place in the world of work. In short it is an area of working life in which “the law has been left behind”(Wedderburn 1986:117).

On the face of it there are precise legal definitions which separate fixed-term contract workers, temporary workers and casuals. What draws them together is that their contracts of employment, if indeed a contract can be found to exist, are unlike other contracts of employment in that they are not open ended but have a specific date of termination. This date may not always signify the date at which the contract will automatically cease but the point at which the arrangement will be reviewed. However, according to the law, it is the circumstances that surround the point of re-negotiation which separate the various forms of temporary work. Fixed-term contracts contain a specified date at which the contract is ended or reviewed whilst temporary contracts are terminable on the ‘happening or non-happening of a future event’ (Brown *et al.* v Knowsley Borough Council [EAT, 1986 IRLR 102]). For example a contract



may be for the completion of a specific task or for as long as funds are forthcoming. This is a fine legal distinction that in practice has proved difficult even for the courts to distinguish. Casual employment is even more difficult to discern as it is a form of temporary employment characterised by its irregular nature (Meulders *et al.* 1994). It is frequently classified as a sub-set of self-employment and may not be subject to a contract of employment at all. This is exacerbated by the fact that employers are not obliged to issue a statement of the terms of employment until 13 weeks have elapsed - a very long time in the world of a casual worker.

One result is that the distinction between the various forms of temporary work breaks down in practice and produces a borderline that is difficult to draw (Hepple 1993). The inadequacy of the law in relation to temporary workers has been attributed to a number of factors. Firstly, and most fundamentally, is the lack of a legal definition of a temporary worker (Hepple: *ibid.*). Secondly, existing employment law is based on the notion of full-time work centred around a 'normal' contract of employment with all the tangible and less tangible benefits that entails for the worker (Leighton 1986). The result is a lack of a comprehensive form of legislation covering temporary workers and what does exist is piecemeal and scattered over numerous statutes (See Hepple 1993 p. 267 for a summary). The absence of a cohesive body of regulation has made the law concerning temporary workers difficult to pinpoint and the concept difficult to define, which may go some way in explaining the reluctance of legal experts to undertake this as an area of specialisation.

The incoherence of statute law has meant that legal disputes concerning temporary work are often resolved with reference to case law and the courts. The dangers of this for the worker have been identified in the preceding section and, in practice, this has meant an interpretation of the equally ethereal concepts of employee status and mutual obligation. The result has been case law that is also *ad hoc* and inconsistent. In support of Kahn-Freund it would seem it is here that the legal decisions concerning temporary workers and reality part company for, as Leighton argues:

In attaching importance to the strict wording of the contract, rather than its workings and practice, the court ignored the essential characteristic of much temporary work...the concentration on legal formalities and the neglect of the economic and human side of the relationship can lead to unfortunate results. (1986:519).

The nature of the human side of the relationship is hinted at by Wedderburn when he states that flexibility, of which temporary work is an important component, is in fact a “buzz word normally masking an increase in management prerogative.” (1986: 118). Leighton, who argues that temporary work is almost always instituted for the convenience of the employer, confirms this and links the human and economic side of the relationship when stating:

[Temporary workers] are united by the fact that they have virtually no job security and limited expectations of work. As recent research has shown...they are generally on the lowest rates of pay, denied sick and holiday pay and are given the least attractive work to do. (1986:519).

The institutionalisation of these aspects of temporary work is explained to some extent by Hepple (1993) in arguing that the approach to temporary workers in the UK has been market led rather than government led as in other EU member



states. Whilst the low number of temporary workers in the UK by comparison to other member states is attributed to the generally unregulated nature of the employment relationship, Hepple notes that the category of fixed duration contract workers is not subject to special legal restrictions as in most other member states. Furthermore, as Meulders *et al.* point out, in 1990 the UK government announced measures to “liberalize the market facilitating the recourse to positions of indeterminate duration” (1994:57) although it is difficult to see how something that appears to be totally unregulated can be further liberalised. It would appear that the libertarian philosophy of the courts identified by Kahn-Freund in 1972 has now also taken a strong hold in the legislature and is clearly illustrated in relation to the weak legal position of temporary workers. What is missing from these analyses is a consideration that temporary workers in the UK are likely to be women, belong to minority ethnic groups and employees of the state. The implications this has when the employer is also the legislator are therefore crucial but left unexplored.

### ***The Labour Process and Contractual Control***

The contradictions inherent in the legal concepts of ‘free’ labour can be traced to a fundamental economic necessity. In *The Wealth of Nations* Adam Smith noted the benefits to employers of free labour over slave labour:

The wear and tear of a slave...is at the expense of the master; but that of the free servant is at his own expense...It appears, accordingly, from the experience of all ages and nations, I believe, that the work done by freemen comes cheaper in the end than that performed by slaves.  
(1986:183-4)

Paradoxically, therefore, the moral objective of the law identified by Kahn-Freund to mask the ‘incubus of forced labour’ also serves to promote an economically superior production relationship. Marx described how the change in relationships previously identified by Smith gives the capitalist mode of production its distinctive character:

When a peasant who has always produced enough for his needs becomes a day labourer working for a farmer; when the hierarchic order of guild production vanishes making way for the straight forward distinction between capitalist and wage-labourers he employs; when the former slave owner engages his former slaves as paid workers, etc., then we find that what is happening is that production processes of varying social provenance have been transformed into capitalist production. (1990:1020)

The contractual relationship between worker and employer therefore forms the basis of capitalism. Marx goes on to explain the effects this transformation has on the formal relations of production:

A man who was formerly an independent peasant now finds himself a factor in a production process and dependent on the capitalist directing it, and his own livelihood depends on a contract which he as commodity owner (viz. The owner of labour-power) has previously concluded with the capitalist as the owner of money. The slave ceases to be an instrument of production at the disposal of his owner. The relationship between master and journeyman vanishes...Before the process of production they all confront each other as commodity owners and their relations involve nothing but money; within the process of production they meet as its components personified: the capitalist as ‘capital’, the immediate producer as ‘labour’, and their relations are determined by labour as a mere constituent of capital which is valorising itself. (ibid.)

Although the transformation provides the apparent façade of equality between commodity owners, Marx continues by outlining what this means for the actual labour process:



Furthermore, the capitalist takes good care that the labour adheres to the normal standards of quality and intensity, and he extends its duration as far as possible in order to increase the surplus-value that it yields. (ibid.)

In linking the “formal” and the “real subsumption” of labour, Marx highlights the relationship between the employment contract and control. The formal subsumption of labour is embodied in the contract of employment, which establishes the commodified nature of the employment relationship. This in turn paves the way for the extraction of surplus-value and therefore the real subsumption of labour under the control of the capitalist.

Control over the labour process has since been defined as “the ability of capitalists and/or managers to obtain desired work behaviour from workers” (Edwards, 1979:17). This is a broad definition and much of the work of labour process theorists has involved drawing out the complexity of the concept. Much of this analysis has been based on the apparent paradox that, whilst employers and their managers seek to control the labour process, the distinctive nature of labour forces them to obtain some degree of co-operation to harness its creative and productive powers. This has led theorists such as Friedman (1977) and Edwards (ibid.) to analyse under what circumstances methods of control adopted by managers are likely to differ. Others such as Burawoy (1985), Fox (1974) and Braverman (1974) have sought to identify the mechanisms by which control is exerted.

Part of the latter approach has consisted of an analysis of the best known and clearly identified methods of control devised by FW Taylor. In its purest form Taylorism was based on a belief that there is ‘one best way’ to organise the

labour process. In brief, this consisted of the separation of planning and performance of labour, the former of which was considered to be the preserve of the manager. Having systematically studied the tasks in hand the function of management was then to precisely define the most effective steps to complete them. With this as a starting point it is difficult to see how the use of temporary contracts by managers to control the labour process is comparable. However Taylorism has been considered to have expanded beyond a tightly defined set of managerial practices to encompass a concept or as Burawoy (1985) suggests an ideology.

The basis of Taylorism as an ideology rests on the argument that the neutral façade of scientific management served both to legitimise management prerogative to demand compliance and obedience and to stunt resistance by limiting trade union involvement. Some comparisons can be drawn here with the legitimising function of the concept of the employment contract and of its degraded form, the temporary contract, as a method of control. Whilst Taylorism gained legitimacy from its claims to scientific management, contractual control gains legitimacy from appeals to legalistic management. Similarly, as a challenge to the basis of management control, trade unions are problematic to both the concepts of scientific management (Burawoy 1985) and, as the empirical evidence in chapters five to nine indicates, contractual control.

Muckenberger (1989) has identified the link between legislation, management prerogative and contractual control. He argues that the 'original' flexibility of labour was assured by liberal concepts of the employment contract 'which



legally opened the way to nearly unlimited entrepreneurial dominance' (p. 269). Subsequent moves to regulate the employment relationship were sought to 'counterbalance the unbearable absence of freedom that the original flexibility of labour brought about' (p.270) by legally establishing employment rights outside the contractual sphere. More recent appeals for de-regulation have sought:

the widening of the contractual sphere or "re-contractualisation" – i.e. a process of shifting back the conditions of employment into the contractual regime and thus bringing them under managerial prerogative. (p.270)

In this view numerical flexibility represents a retrograde step rather than a move forward. Muckenberger also highlights the relationship between contracts and control. However, although the model of a contract is used as an initial form of job control by delineating the work to be done (Fox 1974), the diffuse nature of the employment relationship can not be captured within the scope of a contract – nor would an employer wish it to be. By highlighting this characteristic the mechanism by which the employment contract becomes an important tool for legitimising employers control is uncovered. The employment contract is open-ended in more ways than one for an employer. Unlike certain aspects such as hours and wages, contractual limits cannot be applied to the amount of surplus value that can be extracted. In many ways a true contract would be inimical to employers as the concept is predicated on notions of equality, rights of negotiation and appeal, limited performance and choice – all of which would serve to undermine arbitrary authority as a device to extract surplus value.

In this respect the legitimising function of the employment contract is a double-edged sword. The concept of a contract implies both parties have rights and workers and their organisations have sought to reduce inequality by demanding rights and some form of negotiation in relation to them. Attempts to establish workers' rights at a universal level in the form of protective legislation have been paralleled by a movement at the level of the workplace. Burawoy (1979; 1985) notes that because the amount of surplus value remains unspecified by the employment contract it has become the subject of struggle for control over the 'effort bargain'. Burawoy suggests that the workplace is analogous to the 'internal state' in which 'industrial citizens' (workers) are deterred from anarchy (conflict) by the establishment of "a set of institutions that organise, transform, or repress struggles over relations in production and relations of production at the level of the enterprise." (1979:110). It is argued that under competitive capitalism regulation was largely carried out by a despotic overseer. The advent of monopoly capitalism and trade unionism has given rise to more sophisticated forms of control usually embodied in grievance and disciplinary procedures and collective bargaining.

Although by 1985 Burawoy had dispensed with the 'internal state' analogy he maintained the concept of industrial citizenship. Because the brief in "The Politics of Production" is largely a critique of Braverman (1974), Burawoy's emphasis is on worker resistance and the gains this has achieved. As such he does not emphasise how *managers* may seek to resist making concessions which limit 'arbitrary interventions' and place constraints on managerial discretion. It is true that under certain circumstances managers may be prepared



to relinquish ‘appropriate’ concessions to certain workers. However what Burawoy leaves unexplored is how, when those circumstances change, managers may attempt to regain lost control over the labour process by removing as far as possible rights which bestow ‘industrial citizenship’.

For employers the ideal employment relationship is one in which they can command the obedience of workers in an unfettered quest for surplus value but with limited commitment in return. In relation to this point Fox (1974) argues that, in their support of an idealised vision of the employment contract, Spencer, Maine and Durkheim had failed to note that elements of tradition in the form of master and servant relations had been carried over into the employment contract. Status therefore remains a powerful determinant of the employment relationship now backed, in the form of legislation, by the coercive powers of the state. The state, whilst offering some degree of protection against management prerogative, limits this protection by “discriminating between different groups of workers, on the basis of whether or not they fulfil the main criterion of length and continuity of service” (Muckenberger 1989:274). What theorists have again failed to note is that this task is simplified for the state when imposed upon its own employees.

Furthermore, the work of Pateman (1988) discussed above, indicates that women’s subordination in the workplace is also enforced by their subordination in the private sphere. Therefore women are incorporated into the workplace not only as workers but also as women. One of the “practical strengths of the sexual contract in daily life is that both men and women see women workers as

less than full members of the workplace” (ibid:141). Cockburn argues that women’s working lives are defined by domesticity in that ‘the way women do or do not fit into the schema of paid employment and organisational life is seen primarily as a correlate of their marital status and, more important still, whether they do or do not have children’ (1991:76). In their study of work place discrimination Collinson *et al.* (1990:118) provide a synthesis of these arguments and the concept of temporary work. They note that women were considered by managers to be more suitable for temporary work because of their “divided responsibilities between home and work, which meant that they could be treated first and foremost as wives and mothers, easily laid off, replaced and /or re-engaged”.

Henson (1996) has also noted the strong links between gender and temporary agency work in the US. Temporary agency work is traditionally gendered, a feature that was reflected in the names of the early agencies, most notably ‘Kelly Girl’. Henson argues that temporary work is portrayed as providing flexibility for female workers that is directly linked to child care responsibilities both present and past by targeting the ‘devoted mom’ and the ‘gregarious grandma’ (ibid: 27). However he maintains the reality is similar to that argued by Collinson *et al.* above:

Temporary employment, with its intermittent work availability and without a promotional track, fit well with an existing national ideology that assumed that women’s labour activity was transitory, impermanent and secondary. (Henson 1996:8)



## *Women and Trade Unions*

Theories of resistance to management control have been largely restricted to trade unionism within manufacturing and have limited the study of women's organised resistance to forms of control that particularly affect them. The essentially masculine culture of most trade unions and their antipathy towards women workers has been highlighted by a number of feminist writers. They have detailed how, in the past, this has taken a directly hostile perspective, viewing women as strike breakers and a source of cheap labour threatening men's income, a view that has been supported by some industrial relations academics (Forrest 1993).

Recent views have become implicit rather than explicit as explanations for the exclusion of women have centred on their concentration in industries and occupations that have been considered difficult to organise. Kessler for example argues in relation to local government:

The isolation and dispersal of many manual and to a lesser extent white-collar, local authority workers, combined with the employment of large numbers of women part-time in caring services has always presented the union with major organisational problems. (1991:21)

Ironically, segregated labour markets and the 'feminisation' of work is forcing trade unions to acknowledge the importance of women to the survival of the labour movement (Delsen 1990). This has been particularly true of public sector trade unionism where increased white-collar and female unionisation has added some buoyancy in a period of otherwise sinking national union membership (Cousins 1987). However, although unions have recognised the

numerical value of women's membership. attempts to encourage women into union hierarchy have been halting. Where women have managed to reach senior positions and sway the bargaining agenda of their union they are likely, as with their male counterparts, to have held senior and secure positions within their jobs, for as Rees has notes, there are 'clear links between "careers" in work and "careers" in the union' (1990: 193). Exclusion from the bargaining table means that issues, which are important to particular groups of women, are treated as peripheral if they appear in the bargaining agenda at all. One clear example of this is temporary work (see chapters eight and nine).

Moreover, not only have these issues been excluded from bargaining agendas, but policies that have discriminated against temporary workers have been actively pursued. This has been the more general experience of women in the past as trade unions have colluded with employers in keeping women's jobs in the secondary labour market by excluding them from apprenticeships and professional bodies and worked in partnership with the state in the maintenance of the 'family wage'. Similarly, in the past, trade unions have prioritised schemes which link pay to seniority and redundancy to 'last in first out' (LIFO), both of which discriminate against women who have reduced length of service usually because of care responsibilities. The use of temporary workers to cushion the blow of reorganisation and redundancy is akin to LIFO and therefore contains many of the same discriminatory elements (Dickens 1992). It could be argued that the use of temporary contracts in this way is more detrimental than LIFO as temporary contracts are often constructed in such a way that temporary workers may never gain the required tenure.



Feminists have however been ambivalent towards the trade union movement (Cousins 1987) as a number of studies have indicated that women who are represented by a trade union enjoy better terms and conditions of employment compared to those who are not (Ellis 1988; Millward and Woodland 1995; Main 1996). However most of these studies refer to pay differentials. Women's pay is likely to be increased in the general pay bargaining round and this is of course preferable to lower pay. But it does not indicate any direct engagement by trade unions on issues that specifically affect women. Similarly, in relation to public sector unionism, whilst Rees (1992) identified that NALGO had been particularly active in relation to equalities issues in local government, Terry (1996) notes that, post-merger, Unison had not fully addressed the issue of women's representation.

### ***Summary***

The use of temporary contracts offers employers an attractive option for a number of reasons. Firstly, by bringing the contractual nature of the employment relationship into the foreground, the inequality of the arrangement is emphasised as temporary employment falls through the meagre legislative safety net. As a result temporary employment contracts exemplify the unequal facets of the employment relationship identified by Kahn-Freund and Hepple. The power imbalance is laid bare in the ease with which the employer can offer and withdraw employment opportunities - a feature that is particularly enhanced in depressed labour market conditions.

Secondly, Fox (1974) and Burawoy (1979. 1985) argue that, although a power imbalance certainly exists in most forms of wage employment, the open-ended nature of the standard employment contract introduces a degree of indeterminacy to the employment relationship, which opens the way to struggle over the effort bargain. Temporary contracts, by removing the indeterminacy of tenure present in open-ended contracts, narrow this particular route of worker resistance and further slants the effort bargain in favour of the employer. This is reinforced by the marginalisation of temporary labour from collective representation and trade union protection. Furthermore, temporary work would appear to predominate amongst groups of workers who have traditionally been excluded from both notions of full-time employment and collective representation. Therefore, finally, temporary employment contracts provide a sub-set of labour that can be used as a bridge of compromise between capital, state and organised labour.

The dual role of the state as legislator and employer raises a number of implications that are brought to the fore in relation to temporary labour in the public sector. Labour market theorists, particularly in relation to flexibility, have indicated a relationship between temporary work and state employment but have left the connection unexplained. The aim of the following chapters is therefore to establish the nature of these links both quantitatively and qualitatively. Chapter two establishes the quantitative relationship by a secondary analysis of statistical data, whilst chapter three contextualises this



data within an analysis of public sector restructuring that has surrounded the statistical trends.

## **2. Defining and Locating Temporary Work**

The previous chapter identified links between temporary work and public employment. However, whilst the existing research in this area has referred to this relationship, there has been little in the way of empirical evidence produced to establish the extent and nature of the connection. The main purpose of this chapter is therefore to examine available statistical data that chart the growth of temporary labour in the UK and demonstrate its prevalence in the public sector. This is achieved by providing a novel secondary analysis of Labour Force Survey (LFS) and related data. The quantitative relationship between temporary labour and the public sector is not clear from LFS data in its current format. Therefore a secondary analysis which focuses on a sectoral comparison is applied. However, before a thorough analysis can be undertaken, there are number of theoretical issues that need to be addressed.

Chapter one established that there are a number of conceptual deficiencies in relation to theoretical perspectives of non-standard work. In relation to this point Felstead and Jewson have noted the dominance of the statistical analysis over theoretical concerns in the academic treatment on non-standard work. One result is that definitions have been developed largely as a result of the pragmatic requirements of statistical data collection and remain ‘untheorised’ (1999:5). However the ascendancy of the quantitative approach means that the majority of existing data and research on temporary work is in this form. The challenge for researchers is to draw what is useful from this data whilst being aware of its



limitations. Much of the research that has relied on either primary or secondary statistical data has done so uncritically. The aim of this chapter is therefore to critically examine the available statistical data on temporary work and the research it has provoked. In the light of this analysis and in conjunction with arguments drawn from chapter one, the theoretical and empirical focus of the thesis is stated.

Whilst the empirical focus of this thesis is national and sectoral rather than international and general, it is important to start by locating temporary work in the UK within a global picture because debates about temporary work in the UK are largely benchmarked against other OECD nations. In order to critically analyse this research it is therefore necessary to point out the limitations in comparisons of international statistical data. Furthermore, by systematically reviewing OECD, EU, UK and eventually sectoral and occupational statistical data, important recurring trends and themes are revealed. These include the gendered nature of temporary work and the predominance of such work within the public sector. One causal explanation that links these findings is that temporary work is likely to predominate in the public sector because both are gendered - a relationship that is reinforced by the link between part-time and temporary work.

### ***OECD Statistics***

The overarching conclusion about the extent and trends in temporary work in the eighteen OECD countries is that of national diversity. There are wide

divisions between the countries over the scale and scope of temporary work as well as the national patterns of growth and decline. OECD commentators have suggested that the low magnitude and stability in numbers of temporary workers in the UK points to its relative unimportance as an employment issue (OECD,1996:19). However one influential report does indicate a number of interesting points specific to temporary work in the UK (OECD, 1996). In contrast to most other OECD countries, temporary work in the UK appears to be economically ‘pro-cyclical’. The report describes the links thus:

... if temporary work arrangements are allowed, in particular when they imply a lower cost and/or easier procedures of hiring and firing, economic growth might lead to employment growth mainly through such [temporary] jobs. In a slump employers would tend to let these workers go first. During upturns, the bulk of hirings would then be in the form of temporary work arrangements. The incidence of temporary work should thus increase in upturns and decrease in downturns. (ibid:8)

This seems to imply that temporary work in the UK stems largely from cost-based decisions furnished by limited employment protection for workers.

Nonetheless the report concedes that ‘Temporary employment is likely to be driven by many, not necessarily well-understood factors’ (ibid). As chapter one identified, most of these factors are likely to emanate from the distinct social nature of the employment relationship and are therefore not easily identified in statistical data. However one factor, which is not emphasised by the report but is evident in the figures it presents, is the relatively high percentage of UK temporary workers who are not included in labour force statistics either prior to or after a spell of temporary employment. This is particularly marked in the latter case as Table 2.1 illustrates.



**Table 2.1**

**People in a temporary job at time  $t$  distributed by their labour market status a year later**

**Percentages**

	France	Germany	Spain	Great Britain
	March 1992-3	1992-3	First Quarter 1993-4	1992-3
Incidence of temporary employment at time $t$	10.2	15.0	31.5	9.3
Employed	68.0	84.2	75.0	74.9
Temporary	30.3	68.4	64.0	39.8
Permanent	31.7	14.6	8.9	25.3
Self-employed	6.0	4.9	6.6	9.7
Unemployed	25.3	10.9	18.4	5.7
Not in the labour force	6.7	4.9	6.6	19.5
Total	100.0	100.0	100.0	100.0

Source: OECD Employment Trends 1996 – table 1.14 pg. 17

Although the Great Britain has the lowest incidence (5.7%) of unemployment following temporary employment, it has the highest incidence (19.5%) of temporary workers who subsequently drop out of the labour force. These periods out of the labour market are described as ‘a spell involving family responsibilities’ (ibid:17).

Unfortunately the figures suffer from a number of inconsistencies that make international comparisons difficult. Specifically, longitudinal figures are only available for France, Spain, Germany and Great Britain and even these figures are not directly comparable as they cover slightly different periods. Difficulties of comparative research have been well documented (e.g. Hantrais and Mangen. 1996; Oyen, 1990; Ragin, 1991) as have the problems more specifically related

to cross-national data on employment (e.g. Maurice *et al.*, 1986). Hantrais (1996) notes that, in relation to quantitative research, international comparisons are hampered by a lack of comparable data, whilst Maurice *et al.* (ibid.) argue that such differences emerge from the social traditions and institutional forms specific to nations making it necessary to contextualise comparative research.

In relation to these general arguments, the problems related to comparing OECD figures on temporary work have been detailed by Campbell and Burgess (1997), with reference to Australia. They argue that temporary work is often a weak and unfamiliar statistical category, which is not widely used as a basis for disaggregation. For example they note that:

The OECD uses “temporary employment” as an omnibus category to cover fixed-term contracts, temporary agency employment, seasonal employment, casual employment and some types of government employment schemes. (ibid:5).

By specifying the distinctiveness of the Australian case, Campbell and Burgess argue that differences in definition reflect national divergences in experience. The dominance of casual work in Australia and the way this is emphasised in national statistics means that other forms of non-permanent employment are underestimated. Similar national ‘quirks’ are likely to be reflected in the statistics for each of the OECD countries. In part, this is acknowledged by the OECD:

Given the important differences in definitions and regulations of temporary employment across OECD countries, cross-country comparisons of the incidence of temporary employment are hazardous. (1996, 6).



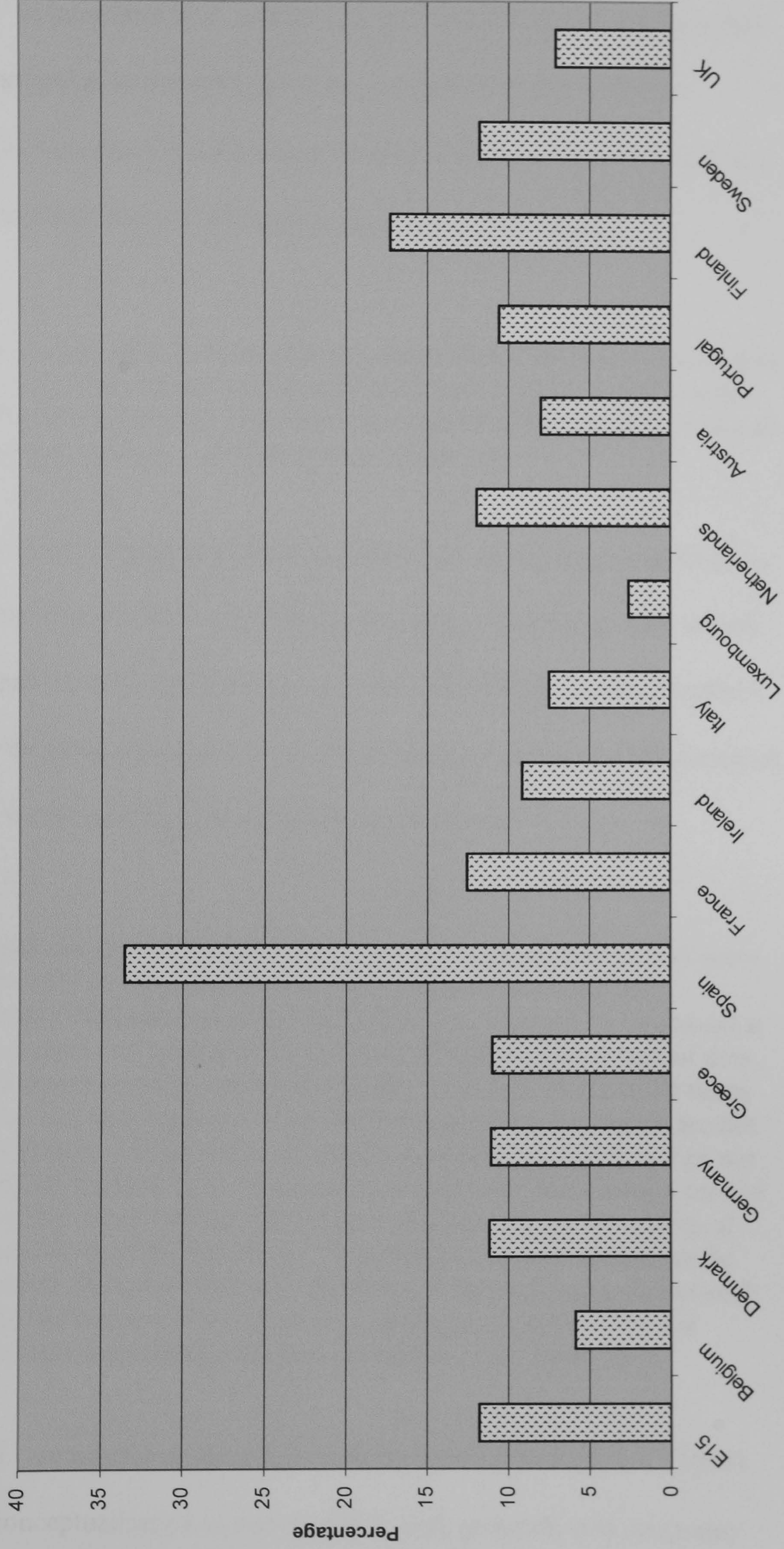
## *EU Statistics*

Campbell and Burgess (1997) note that the problems associated with international statistical comparison are less severe amongst EU countries because of the existence of the European Labour Force Survey (ELFS) which, because it included a common question on temporary employment, offers a more consistent data set. As Figure 2.1 indicates, omitting OECD figures, particularly for Australia (23.5%) and the USA (2.2%), removes two extremes and gives a closer bunching of figures for temporary work in EU countries, although there are still quite wide national divergences with Spain at the top and Luxembourg, Belgium and the UK reporting low numbers of temporary workers.

Hantrais (1996) notes that even so-called harmonised data sets such as Eurostat merely give the impression that quantitative comparisons are unproblematic. In relation to temporary work, Meulders *et al.* (1994) note that, although question 40 of the ELFS gathers ‘harmonised’ statistical data for EU countries, there are still a number of points that need to be considered. Firstly, the question refers to a ‘reference week’ which is not necessarily the same in each country, which could be affected by varying seasonal work patterns.



Figure 2.1  
Percentage of EU Workers on Fixed Term Contracts (1996)



Source: Employment in Europe 1997



Secondly, the question is not asked of identical sets of workers in each country. While the question is only presented to 'persons in subordinate direct employment' in most countries, in Italy and the United Kingdom the data also contains information on the self-employed. In relation to this last point Meulders *et al.* note that the distinctions between different forms of temporary work are particularly blurred in international comparisons stating:

...the concept of the self-employed worker with a temporary occupation is none too clear (since it is the worker himself [sic] who specifies the duration of his activity). This said, this type of self-employed worker is widespread in Italy... (Meulders *et al.*, 1994: 36)

Moreover, sectoral comparisons between different countries may be difficult to establish. This is particularly true of the public sector, which may vary widely in size and function between European countries. In their conclusion Meulders *et al.* sum up the problematic nature of even relatively harmonised EU statistical data and it is worth quoting their remarks at some length:

The statistics that the different countries have been able to collect seem to be largely insufficient to enable a correct understanding and description of atypical employment and its development to be arrived at. In the majority of cases the experts came up against a total lack of data, or data whose accuracy was questionable. This lack of accuracy stems from the fact that the forms of employment under consideration are not always clearly defined (officially and/or statistically), and this does not allow clear distinctions to be drawn between them. Moreover, a certain delay in the taking into account of new phenomenon by the statistical apparatus is naturally inevitable. Nevertheless, the fact should not be overlooked that some relatively old forms of atypical employment such as night and temporary work are very inadequately covered by the national and community statistics. (Meulders *et al.*, 1994: 230)

Meulders *et al.* are reiterating the point made by Felstead and Jewson (1999) that the poor conceptualisation of non-standard work generally and temporary

work specifically has limited the usefulness of statistical data as a research tool. Drawing conclusions on the basis of this data alone is therefore inadvisable.

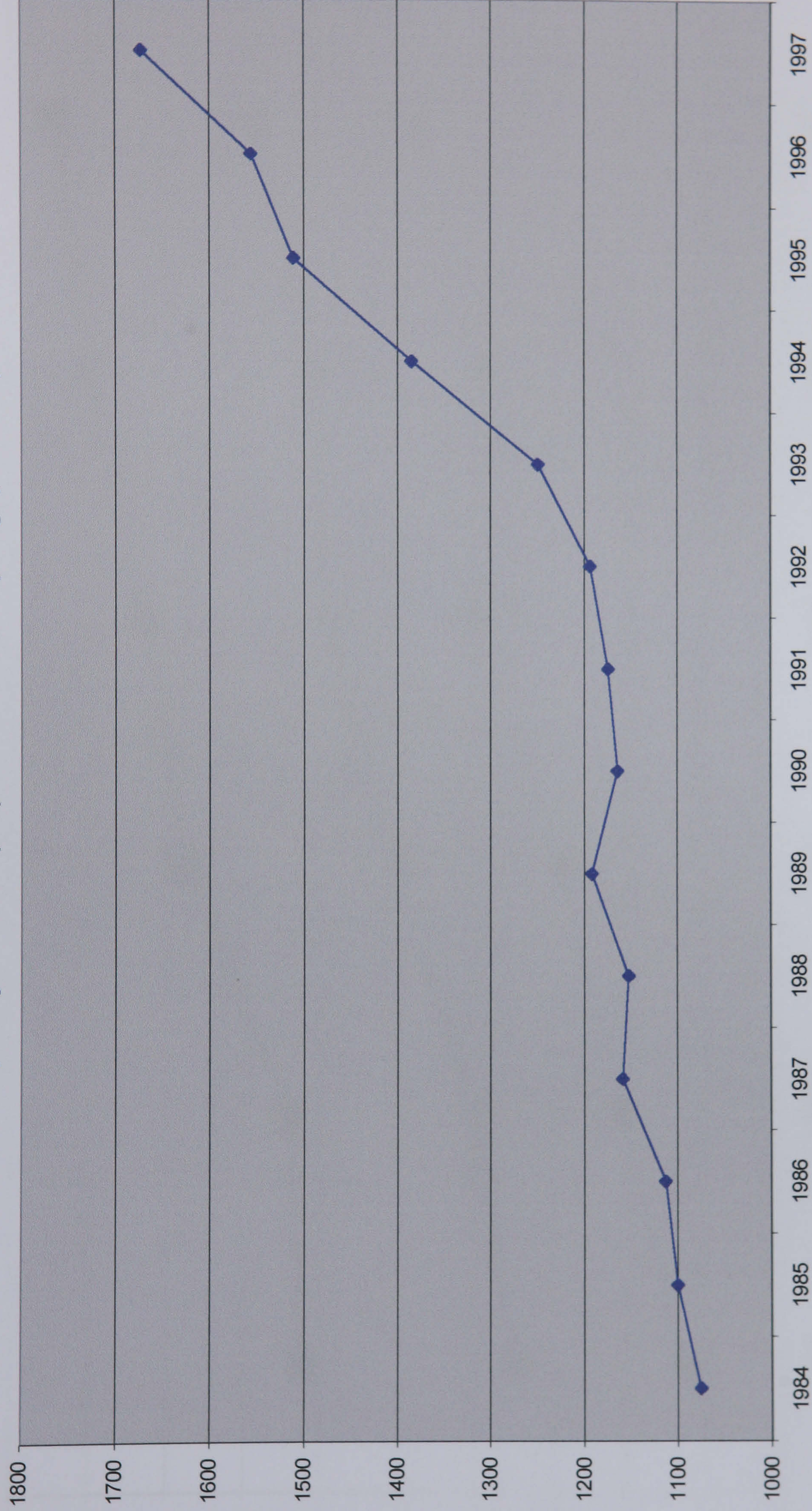
### ***UK Statistics***

Contrary to the suggestion of OECD commentators that temporary work is an unimportant feature of UK labour markets, the graphical representation of longitudinal LFS data contained in Figure 2.2 indicates a sharp rise in the number of temporary workers since 1992. The British Labour Force Survey (LFS) did not begin to collect data on temporary employment until the spring quarter of 1984 and, as Figure 2.2 illustrates, there has been a continual increase since then. The increase was quite gradual between 1984-91 and accelerated after 1992.

The question of gender was not introduced until 1992 (see Figure 2.3 below), but once done, it is clear that women have occupied the majority of temporary jobs. It has been argued that, as recent increases have been more marked amongst men, the gap between men and women in temporary jobs has closed since 1992. However this position should not be overstated for, as Figure 2.3 indicates, any closure has been slight. Furthermore Dex and McCulloch (1997) have noted that, whilst men and women have similar levels of flexible employment in some occupations, there are certain occupations where women are far more likely to hold non-standard jobs than men.



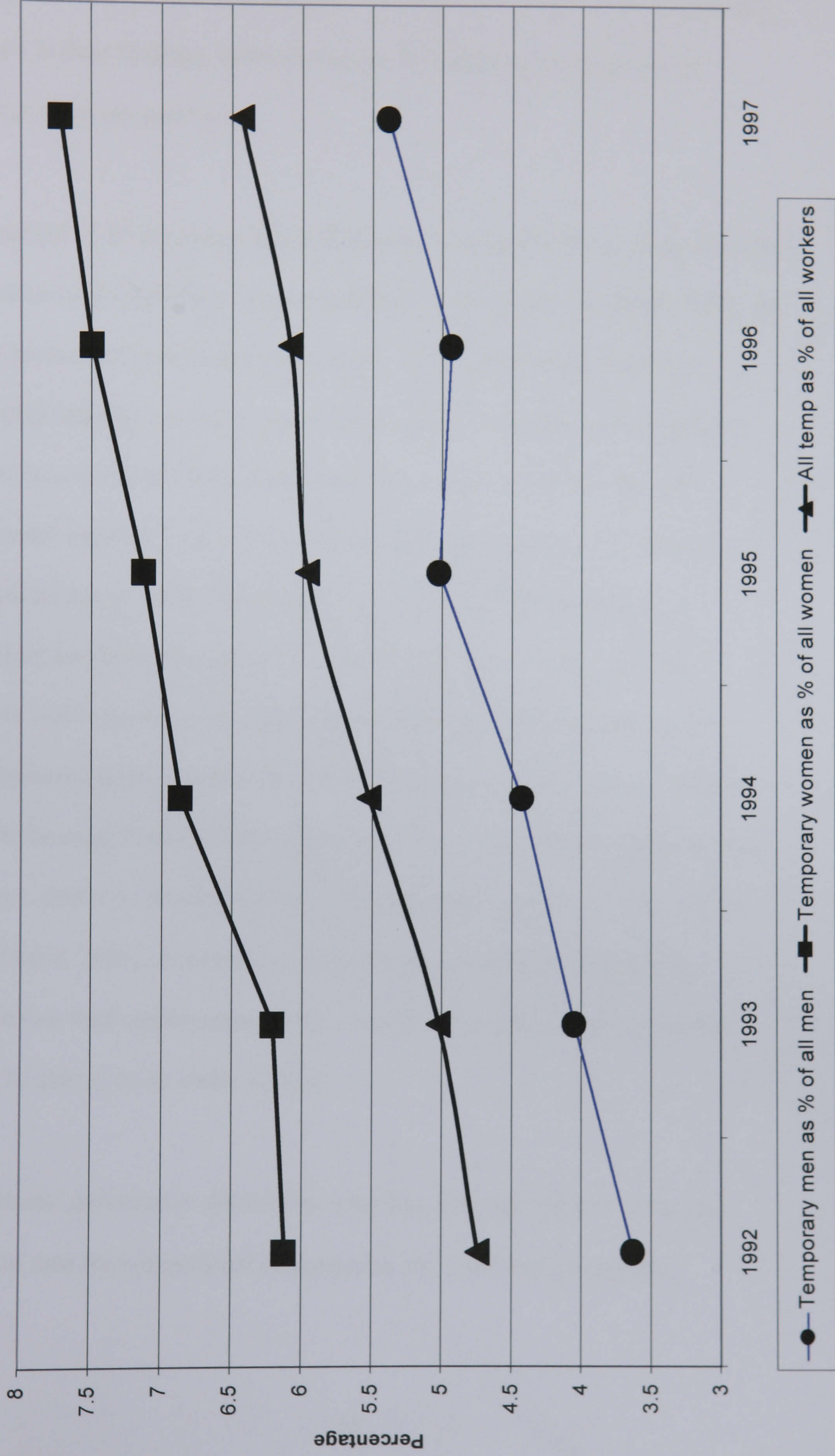
**Figure 2.2**  
**All temporary workers (UK) - 1984 to 1997 spring quarters (thousands)**



Source: Labour Force Survey Historical Supplement - 1997



Figure 2.3  
Temporary workers by gender 1992 - 1997 spring quarters (thousands)



Source: Labour Force Survey Historical Supplement - 1997



Interestingly, Dex and McCulloch (1997) single out health associated occupations, teaching professions and jobs in science and engineering as displaying this particular characteristic. What they do not emphasise, although implicit in their findings, is the dominance of public sector employment amongst these occupations.

Department of Employment statisticians have noted a number of ways in which UK statistics for temporary workers are likely to be inaccurate (King 1988). As noted for international comparisons, many of the problems stem from the conceptual fuzziness surrounding different forms of temporary work and the blurred boundaries between these forms. When this is linked to the self-assessment required by the LFS a number of problems occur. One specific example of this problem is that people working on a long succession of temporary contracts are unlikely to consider themselves to be temporary workers. Self-assessment by respondents is therefore likely to result in the overstatement of permanent jobs relative to temporary jobs. This problem is likely to be exacerbated as 30% of responses to the LFS questionnaire are made by proxy, that is by another member of the household, usually a relative (LFS Users Guide, 1996). If temporary workers themselves have difficulty in categorising their employment contract, the likelihood that a family member would be able to do so seems remote.

Furthermore government statisticians note that, although the LFS is the best source of data for international comparisons, the disadvantages are that:

being a sample survey, it is subject to sampling error and is therefore very limited in what is available at local area level; and second...it is not ideal for industrial classifications (Labour Market Trends, December 1997: S3).

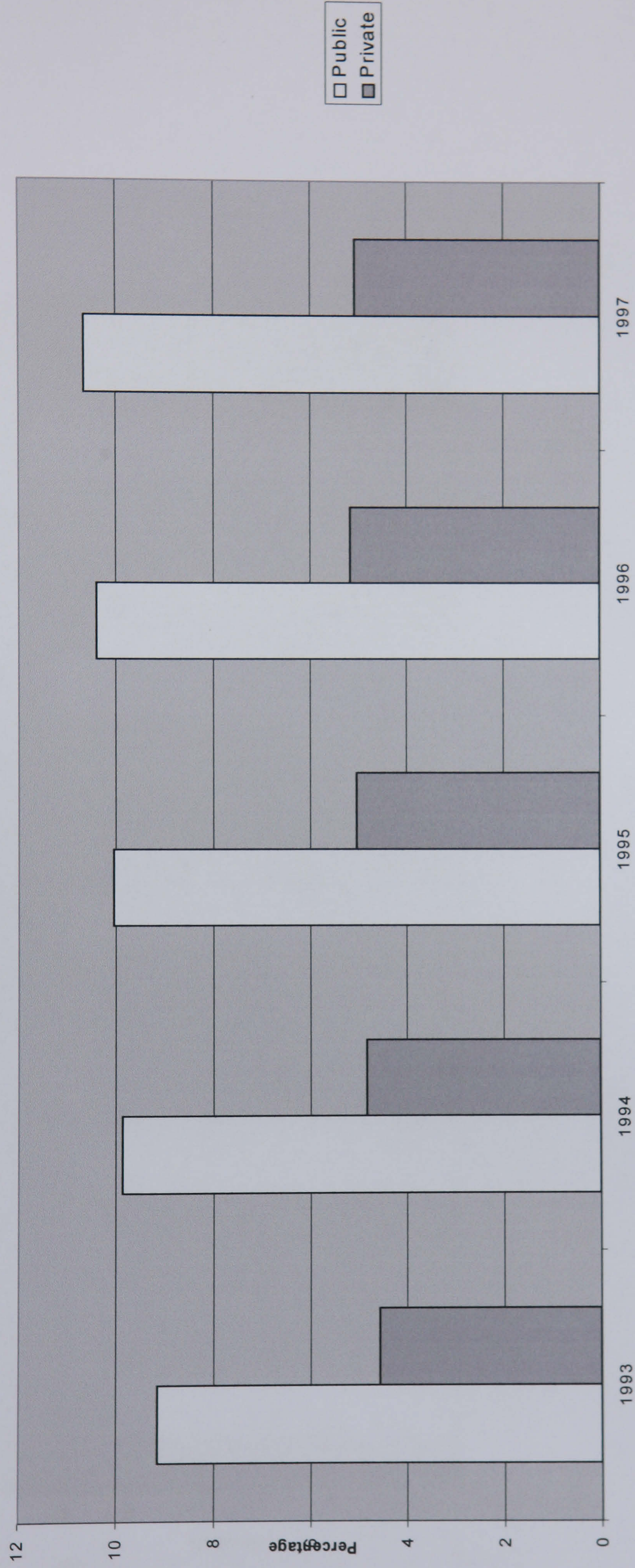
The relevance of this point becomes evident when attempting to compare statistical data on temporary workers in the public and private sectors. If a simple head count is used, the number of temporary workers in the private sector is almost three times greater than for those in the public sector. However if a comparison is made of the temporary workers of each sector as a percentage of the total workforce for that sector, as Figure 2.4 illustrates, a very different picture emerges.

### ***Temporary Work in the Public Sector***

By using LFS data in this way, it can be seen that temporary workers currently make up 10.66% of the total public sector workforce – almost double the national average and closer to the aggregate European average. However these points can be extended still further if the shortcomings of the LFS are avoided. Government statisticians note that the inadequacies of the LFS industrial classifications stem from the ‘self-appraisal’ of respondents ‘who may have a different perception of the sector in which they work to that of their employer’ (Labour Market Trends 1997:S3). They consider another data set, the Workforce Jobs series (WJ formally the WiE, Workforce in Employment series) to be ‘particularly useful for analysis by industry’ (ibid.).



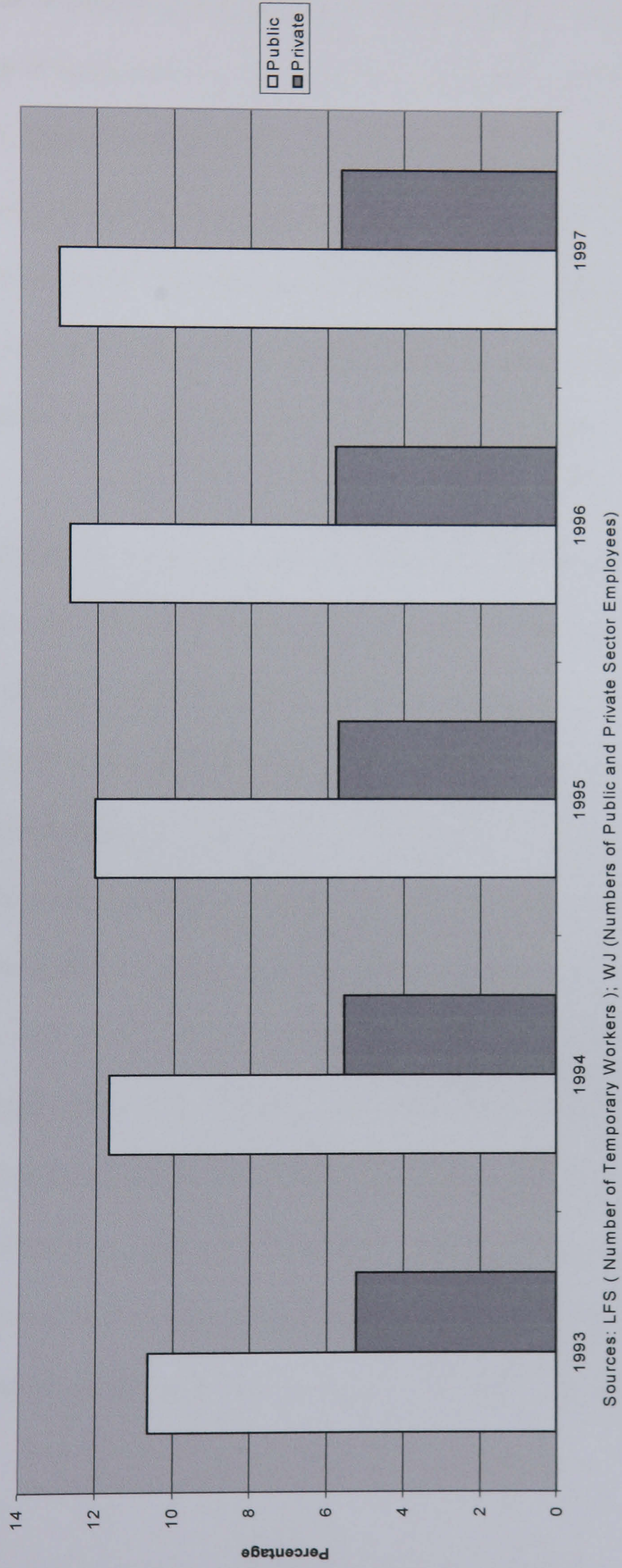
**Figure 2.4**  
**Number of temporary workers as a percentage of total workforce by sector - LFS estimates**



Source: Labour Force Survey



Figure 2.5  
Number of temporary workers as a percentage of total workforce by sector - WJ estimates





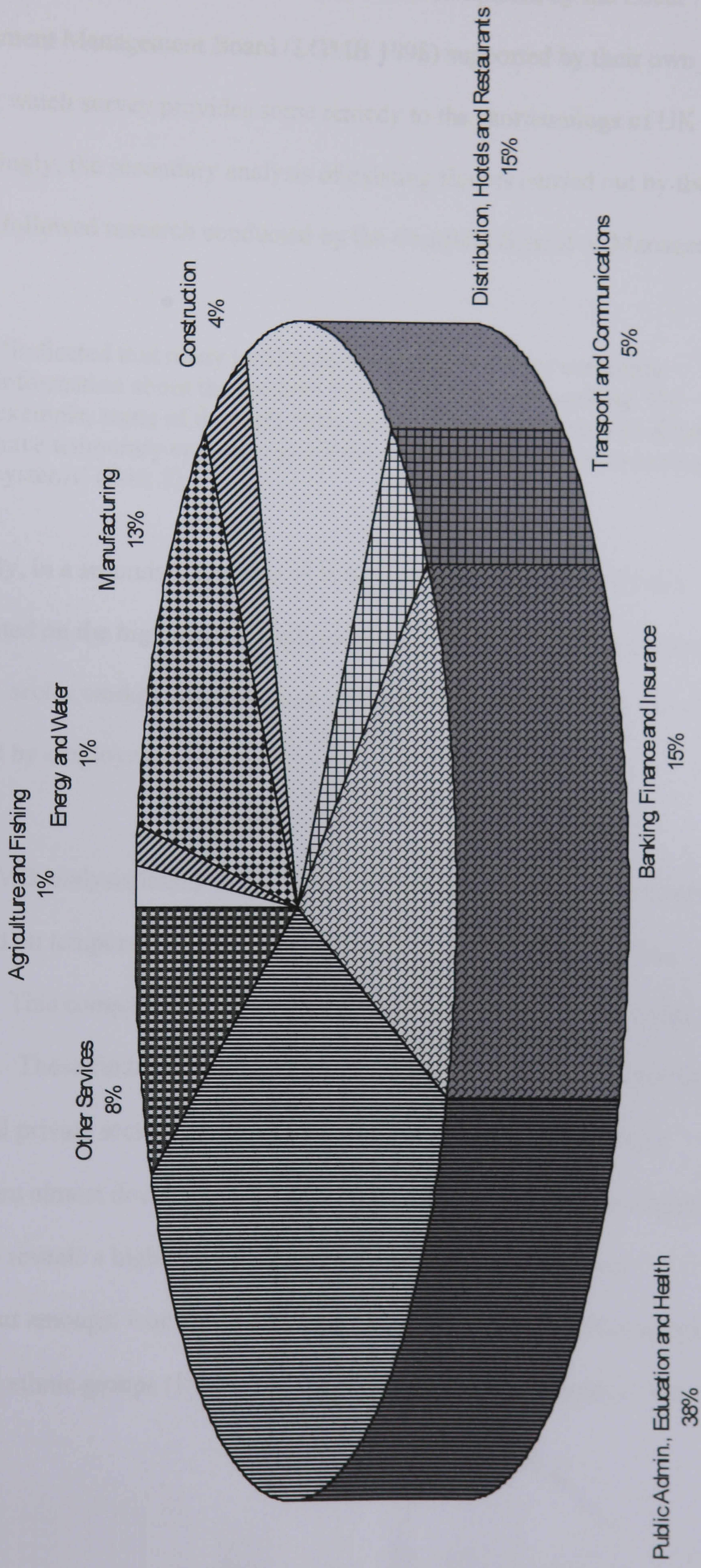
The estimates of the WJ for total numbers of public sector employees is lower than that of the LFS, thereby appearing to confirm that many more people consider themselves to be employed in the public sector than is actually the case. If the WJ figures are substituted in the equation to establish the total percentage of temporary workers employed in the public sector, as illustrated by Figure 2.5, the total rises to 13%. This sectoral divergence is supported by national data, illustrated in Figure 2.6, which provide statistics for temporary workers according to standard industrial classification. These figures show that by far the largest number of temporary workers are concentrated in one single classification – public administration, education and health.

By highlighting the importance of the public sector, further deficiencies in the way national statistics are collected and displayed are evident. Firstly the public sector is a moving target and there have been a considerable number of changes as to how the sector is defined for statistical purposes. Labour Market Trends lists 38 changes between 1983 and 1994 (Hughes 1996) and a clear distinction between the public and private sectors was only introduced into LFS data in 1993. These factors, coupled with changes to survey questions, have inhibited the construction of accurate time series data (Dex and McCulloch 1995).

Secondly aggregation is a particular problem for public sector statistics as the classifications used make it difficult to pinpoint exactly where public sector temporary work is expanding. Furthermore the aggregated nature of labour force statistics masks the true extent of gender segregation (West 1996) as gender divisions are not provided for temporary work in the different sectors.



**Figure 2.6**  
**Temporary Employees by Standard Industrial Classification, Spring 1997**



Source: Labour Force Survey Historical Supplement - 1997



Clearly national and international statistical data have severe limitations and on their own provide only a partial understanding of the nature of temporary work. However a disaggregated analysis of LFS data completed by the Local Government Management Board (LGMB 1998) supported by their own joint staffing watch survey provides some remedy to the shortcomings of UK data. Interestingly, the secondary analysis of existing figures carried out by the LGMB followed research conducted by the Cranfield School of Management:

‘indicated that many local authorities may not have corporate information about the patterns their employees are working. For example, some of the authorities interviewed in the research did not have temporary contracts as a field on their personnel information systems’ (ibid: 2).

Similarly, in a secondary analysis of WIRS data, Casey *et al.* (1997:45) commented on the high non-response rate to questions on short-term contracts in public sector workplaces. Casey *et al.* considered this to result from a lack of data held by employers.

The LGMB analysis found that, in local authorities, one in eight workers are employed on temporary contracts which includes as many as one in five teachers. This compares to a figure of one in fifteen workers in the wider economy. These findings reflect the national patterns of distinction between the public and private sectors detailed above, with temporary work in local government almost double the national average and closer to EU averages. The study also reveals a higher incidence of temporary contracts in local government amongst women (14%), young workers (25%), disabled people (17%) and ethnic groups (15%). This concurs with the more general finding of

Dex and McCulloch (1997:87) that ‘flexible work is not evenly distributed in the British economy. It is disproportionately experienced by individuals with certain characteristics.’ These findings accord with international statistical summaries in which Rodgers (1989) found that women, young people and immigrant workers are more likely to hold precarious forms of work.

Interestingly the LGMB report claims that, going against the trend nationally, recent increases in temporary work in local government have been more marked amongst women than men. In relation to this point, the report draws strong links between part-time and temporary work. Twenty-two percent of part-time workers in local government were classed as temporary in comparison to 7% of full-time workers. This further compares to 13% (part-time) and 5% (full-time) in the wider economy.

As tables 2.2 and 2.3 below indicate, the dispersion of temporary work amongst different local government departments and occupations was uneven with the highest numbers in education and the lowest in social services.

**Table 2.2**  
**Number and proportion of employees in temporary work, major sectors of local government, England and Wales, spring 1996 (thousands)**

	No.	%
Social services	21	6
Teachers, lecturers	112	20
Other education	73	16
Rest of local government	87	10

Source: (LGMB, 1998:97)



However the low figure for social services (6%) should be viewed with caution. Firstly the report strongly and repeatedly draws links between part-time and temporary work, with the contention that temporary work is also likely to be part-time. The report identifies that education and social services departments contain by far the highest numbers of part-time employees. Therefore it would be expected that temporary work should also be found predominantly in these two departments. Secondly, the analysis of temporary work by broad occupational grouping lists the highest numbers of temporary workers amongst ‘professional occupations’ (17%) closely followed by ‘personal and protective occupations’ (15%). It is argued that this latter category particularly will be found predominantly amongst social services employees. Furthermore the second largest category, ‘Rest of local government’ (10%) is an aggregated figure which may disguise the prominence of temporary workers in social services if, as is likely, it is dispersed amongst a large number of departments. Lastly, the low figures for social services arrived at by the LGMB do not match the findings of this research. In both the case study authorities the largest users of temporary workers were the education and social services departments (see chapter four for figures).

Another way of distinguishing the patterns is to examine the data on temporary work by broad occupational group, as indicated in Table 2.3. However, whilst the aggregated category of ‘professional occupations’ is seen as containing the highest number of temporary workers, this is compared with disaggregated categories of non-professional occupations. If a simple professional/non-professional distinction is made, the largest number of temporary workers



(145,000) would be found in the non-professional category. This breakdown suggests a re-examination of the figures for social services is important and necessary.

**Table 2.3**

**Number and proportion of employees in temporary work, by broad occupational grouping, local government and whole economy, England and Wales, spring 1996**

		Local	Government	Whole	Economy
	No.		%	No.	%
Managers & Admin.	*		*	77	3
Professional Occupations	125		17	297	14
Associate prof. & technical	14		8	128	7
Clerical and Secretarial	34		10	261	8
Personal & Protective	77		15	209	9
Sales	-		-	75	4
Plant & machine Operatives	*		*	127	6
Other	20		9	145	9
Total	293		13	1401	7

Source: LGMB, 1998:97  
 \* Figures too small for accurate analysis

***Working with Statistics***

Notwithstanding the general inexactitude of national statistics, a number of conclusions have been drawn from them. As the OECD report typifies, the threat of insecure temporary work is often considered to be low for British workers as 7.5 per cent is lower than most other European countries. This observation has been accompanied by suggestions by some politicians, organisations and academics that job insecurity may be a state



of mind rather than a reality (see TUC 1996). Two such cases will be reviewed in detail.

Robinson (1999) highlights temporary work in the public sector.

However, because of an over reliance on aggregated statistical data, he draws a number of dubious and conflicting conclusions about the nature of temporary work. Firstly, Robinson considers that the growth in temporary employment is a recent phenomenon. However, as he later states, it is difficult to get an idea of long term trends concerning temporary work because figures have only been collected since 1984. He further notes that temporary work has increased in most industries – especially public services where the highest incidence is amongst professionals mostly employed on fixed-term contracts. From this Robinson draws the conclusion that:

These figures on the make-up of temporary employment are worth stressing because in the public debate temporary employment is often associated with low-paid, low-skill, ‘casualised’ employment... this is far from the truth. The ‘typical’ temporary worker is much more likely to be a well-paid professional, employed on a fixed-term contract within the public sector, which gives some clues as to why we have witnessed this recent expansion in temporary employment. Within the public sector, schools and health service trusts have been given greater freedom to determine their own recruitment practices at a time of budget constraints. Many seem to have responded by expanding their use of fixed-term contracts. (p.89-90)



Robinson further states:

Temporary staff waive their rights with respect to unfair dismissal and redundancy pay. However, in every other way a professional worker on a fixed-term contract will look indistinguishable from their permanent colleagues as they will be on the same pay scale, will contribute to the same occupational pension fund, attend the same training courses and so on. (p98-99)

Many of the claims in the above statements cannot be made with any certainty using LFS data alone. Firstly, the concept of a ‘professional worker’ is always tenuous and Robinson offers no definition. Social services are identified in this research as a major user of temporary workers and social workers are often considered to be ‘professionals’. However 80% of social service workers are thought to have no recognised qualifications or training (IRS 1999). Secondly, apart from making the link between temporary work and the public sector, most of the conclusions drawn by Robinson are in direct opposition to those made by the LGMB – despite both having used the same statistical data sets. The reasons behind such incongruous conclusions are likely to stem from the different levels of aggregation used. Robinson bases his analysis on highly aggregated national statistics, whilst the LGMB use a disaggregated form of the same data in conjunction with locally collected information. Furthermore as Dex and McCulloch (1997) note, Robinson’s figures coincide with the change over of LFS data from annual to quarterly surveys. They argue that ‘seasonal/casual work is likely to be considerably more volatile on a quarterly basis’ (1997:96) and the large



dip in temporary work reported by Robinson over this period is likely to have been affected by this change.

Similarly, in examining job insecurity in the public sector, Morgan *et al.* (2000) note a number of dichotomies. They use three aspects to assess the level of job insecurity:

- changes in the structure of public services jobs which have made employment and earnings more uncertain
- the removal or attenuation of protective regulation
- changes in the beliefs and attitudes of public service workers themselves who may have come to regard their employment as precarious. (p.145)

The authors draw mixed conclusions. Whilst they recognise certain aspects of public employment give cause for concern (the high use of temporary workers and reductions in protective legislation) their principal finding is:

...notwithstanding the restructuring of employment relations in the public services, employees remain substantially more secure than their private sector counterparts. Thus, the risk of redundancy is less in the public services, public service contractors tend to provide more advantageous employment conditions, performance pay is less widely used and exposes a smaller proportion of risk and trade union membership and collective bargaining are much more extensive. These objective differences, moreover, are reflected in the attitudes of public service workers who are less likely to regard themselves as insecure than employees in the private sector. (2000:145)



The dichotomy in their findings arises because Morgan *et al.*, like Robinson (1999), view public sector workers as homogenous when in fact they are highly polarised. One of the distinguishing features of the public sector is the wide range of occupations of which it comprises and thus the vast differences between the terms and conditions of employees (developed further in chapter three).

One growing aspect of the polarisation among public sector workers is their contractual status. Whilst it may seem germane to talk of a reduced risk of redundancy, security of pay and trade union representation for workers on permanent contracts, these are issues which are likely to be outside the experience of temporary workers. In this respect Morgan *et al.* fail to consider that there may be links between the security of some public sector workers and the insecurity of others. The growing numbers of temporary workers, as evidenced in chapters five and six, act as a buffer for the core of permanent workers, which reduces the necessity of redundancy amongst their ranks. One reason for the oversights of Morgan *et al.* is their reliance on aggregated quantitative statistical data, which cannot establish causal links between phenomena such as these.

To return to the work of Robinson (1999), a second set of conclusions drawn relates to the relationship between the amount of regulation in national labour markets and the incidence of temporary work. The key question he asks here is: ‘do countries with less regulated labour markets have a higher proportion of their workforce in non-standard employment?’



(p.93). Robinson provides the usual caution about comparing national data but his answer is 'no'. given that the UK and US have the most deregulated labour markets and among the lowest incidence of temporary work. By comparison Robinson cites Swedish statistics that show a high incidence of temporary work in what is widely considered to be highly regulated labour markets.

However, in relation to the UK, Robinson (mistakenly) considers waiver clauses to be an integral part of temporary employment contracts. He argues that, because of deregulated labour markets, waiver clauses offer the only legal advantage to employers for using temporary contracts. He further states that the low level of non-standard employment in the UK is a good indication that employment protection is not burdensome. This position takes a rather narrow view of what benefits might accrue to employers by using temporary contracts. If legal benefits are the only advantage, then why is there an apparent disparity between the public and private sectors when employment law is the same for both sets of workers? Furthermore, as the interim report of the *Workplace Employee Relations Survey* (Cully *et al.* 1998) found, only 20% of workplaces used fixed-term contracts which ran for more than one year, required for the insertion of a waiver clause, and only 22% of those had waiver clauses attached.

As from October 1999, the Employment Relations Act (1999) removed the legal basis by which employers could attach waiver clauses in respect of unfair dismissal. It will therefore be interesting to note the effect this has



on the levels of temporary work. For, as Dex and McCulloch (1997) note, Britain's low level of regulation does not necessarily mean there are no institutional pressures against the use of flexible work as pressures also stem from the custom and practice of individual organisations. This point is particularly relevant to public sector organisations, which have strong traditions of recognising custom and practice.

In contrast, Cousins (1999a) takes a more in-depth look at non-standard work and de/regulation and comes to some quite different conclusions from Robinson. She examines specific examples of legislation and regulation in four countries, Germany, Spain, Sweden and the UK, and examines their impact on non-standard work. In her conclusion Cousins states that, although similar pressures have been influential in the increase of non-standard work, it is not necessarily the case that convergence is taking place, since these forces are mediated by 'social, political and institutional structures within each country' (p116).

Cousins shows how, in Germany, the Employment Promotion Act 1985 has allowed employers to relax the rules regarding fixed-term contracts (FTCs). However the industrial relations and employment law tradition in Germany still strongly favours permanent work. Therefore there has been little increase in the use of FTCs since 1985 and, where they have occurred, they have been particularly subordinated to the superiority of permanent work, producing discrepancy and segmentation. In Spain, by comparison, the weakening of legislation that restricted the use of FTCs has resulted in an explosion in their



numbers. However one similarity with Germany is that there remains a highly privileged core sector, which the trade unions have favoured. Sweden offers yet another variation in that, although there are high numbers of FTC workers, their terms and conditions are highly protected and their jobs more secure than their European counterparts. However, as Robinson failed to note, the increase in Sweden has happened against a backdrop of deregulation, privatisation and decentralisation of collective bargaining.

The UK section of Cousins' chapter does not expand the temporary worker issue – possibly because it is statistically difficult to justify as important.

Similarly, whilst the author points out the importance of the public sector, there is no engagement with the issue. However the value of these findings for this research is the illustration of the subordinate role played by legislative frameworks in the decisions of employers in relation to temporary work.

Industrial relations traditions and trade union involvement are crucial factors and need to be explored for any thorough understanding of the issues surrounding temporary employment.

### ***Assessment***

The preceding debate has sought to show the limitations of using statistical data, particularly in highly aggregated forms. The dangers of an over-reliance on such data when drawing conclusions have been identified. However, a disaggregated analysis of statistical data has revealed some interesting points, which would appear to contradict some of the more conservative theories



concerning temporary work. These figures suggest three things: firstly, that for certain sections of the British workforce, job insecurity is an inherent feature of their employment and not merely a state of mind. Secondly, the higher incidence of temporary work in the public sector generally and local government and education specifically, would appear to indicate particular attractions for public service employers. Thirdly, the concentration of temporary contracts within certain social groups suggests they offer an inferior form of employment to already disadvantaged and marginalised workers.

However, Cousins work illustrates that, whilst the statistical data can pose certain research questions by pointing to the extent and location of certain forms of temporary work, it cannot reveal the complex social relations that are the basis of such forms of work. The previous chapter identified that issues of control are likely to figure greatly in the relationship between temporary workers and their employers. In this respect the statistical data can shed no light on the experiences of temporary workers. Therefore as Felstead and Jewson state:

A fundamentally different approach is needed. One such would be to define non-standard forms of employment in terms of the social relations of production. This principle seeks their common denominator in the relationship between the seller and purchaser of labour power. (1999:5)

In relation to temporary work, both the theoretical debates discussed in chapter one and the secondary statistical analyses in this chapter indicate that the focus for such an approach should be the public sector and more specifically education and local government. Therefore a particular form of social relations



of production is likely to be linked to the majority of temporary work in the UK. The importance of the public sector in such an analysis also reinforces other major themes that have recurred in the review of existing research, particularly women, minority ethnic groups and trade union membership, as high proportions of all three are present in this sector.

One other major and recurring theme has been the conceptual fuzziness that surrounds non-standard work generally and temporary work particularly. This has led to serious definitional problems, which have contributed to flawed theorising and imprecise empirical data collection. In chapter one I argued that the agglomeration of heterogeneous forms of non-standard work into 'one size fit all' theorising has hampered analysis and in this chapter it is clear that aggregated statistical data clouds more than illuminates an understanding of temporary work. The tensions between theoretical and empirical concerns in relation to non-standard work are exemplified by Gallie *et al.* (1998). These authors take up the challenge presented by definitional problems and make the important point that non-standard employment contracts are not homogeneous and represent 'fundamentally different groups in the workforce' (ibid: 173). These authors argue that neglect of this point has meant that a 'good deal of the discussion on temporary work is seriously flawed as a result' (ibid.). However Gallie *et al.* consider the main differentiation between temporary workers to be the length of contract. They therefore draw a distinction between temporary workers employed on contracts of 12 months or less, which they define as 'short-term temporary workers' and those employed on contracts between 12 to 36 months, which they refer to as 'contract workers'. Using data drawn from



their *Employment in Britain Survey* in which the authors utilised this distinction. they conclude that contract workers in comparison to short-term temporary workers are likely to have:

- higher skill levels
- be more qualified
- receive more training
- have higher task discretion
- have more interesting work
- have greater job pressure
- have a more visible career ladder and better promotion opportunities
- feel less vulnerable

It is important to highlight the variability of terms and conditions experienced by temporary workers, but by taking a quantitative approach Gallie *et al.* have fallen precisely into the conceptual trap flagged up by Felstead and Jewson (1999). By attempting to formulate numerical definitions of temporary work that are compatible with the collection of statistical data and quantitative methodology, they have been blind to a number of important qualitative points in relation to non-standard employment contracts.

Firstly one of the main uses of temporary contracts stated by employers is cover for maternity leave (Hunter and MacInnes 1992). The lengths of such contracts are therefore similar regardless of the occupation for which cover is provided. The corollary is that the maternity-leave cover provided for a semi-skilled clerk



is likely to be the same length as that of a doctor or lawyer. Furthermore, because temporary contracts are often 'rolled over', the formal duration of a contract does not necessarily reflect the length of time a temporary worker is likely to be employed. So, as this research identifies (chapter seven), teachers employed on short-term contracts may be employed for indefinite periods. Similarly care workers may be employed for many years on what are still classed as casual contracts. Moreover it is not unusual for workers to have overlapping contractual status resulting from multiple job-holding. As chapter five indicates, care workers often worked at one institution on a permanent contract whilst working at another on a casual basis. It is therefore argued that the length of a contract is not a valid indicator or predictor of employment characteristics. To introduce such arbitrary distinctions leads to an equally flawed discussion of the nature of temporary work.

Similarly Gallie *et al.* note that part-time and temporary work are often treated as sharing comparable labour market positions when in fact they are quite different forms of employment contract. This is of course true in principle, as part-time work *per se* is 'open-ended' in the same way as full-time permanent work. However, what Gallie *et al.* fail to note is that part-time work can also be temporary and, as the LGMB (1998) and this research indicate (chapter four), this is often the case. The theoretical arguments in relation to gender suggest that it is highly unlikely that the links between part-time and temporary work are coincidental. Therefore, to draw a complete distinction between the two, as they have done, is again to oversimplify the nature of temporary work.



The critical analysis of Gallie *et al.* (1998) above indicates the need to guard against arbitrary and simplistic divisions within forms of temporary work and between forms of non-standard work. As the data in this thesis reveals, there are complex relationships between temporary work and other forms of non-standard work and indeed permanent employment. The empirical emphasis in this thesis is therefore on contractual arrangements that are not 'open-ended'. These include fixed-term, temporary and casual contracts in the many numbers of combinations in which they occur, whether part-time or full-time and regardless of the nominal length of the contract. The omission of agency work has been made because one principal purpose of the thesis is to study the state as employer. The introduction in agency work of a third party – the agency – renders this relationship indistinct. Therefore, whilst this form of work is discussed when it is relevant, it has not been studied directly or systematically.



### **3. The Changing Public Sector**

The previous chapter concluded by arguing that, after reviewing the theoretical debates and statistical data, the focus in a study of temporary work should be the specific social relations of employment in the public sector. The first aim of this chapter is therefore to examine the role of the state as employer, its claim to be a ‘model’ employer and the position of temporary work within the model.

Central to this argument is the contested and quixotic nature of the model.

Thornley (cited in Carter and Fairbrother, 1999) has questioned the existence of the state as a model employer. Carter and Fairbrother (1999:141) argue that, whilst state employment may have reflected some aspects of a model employer in the past, the restructuring that started in the 1960s and noticeably gained pace in the 1980s has ‘effectively ended discussion of the state as a “model employer” ’.

It is argued here that the concept of the state as a model employer is based on a profound ambivalence. The traditional suggestion has been that a model employer is essentially one that strives to provide the best working conditions to employees. Such an analysis does not sit easily with predominance of temporary labour in the public sector identified in chapter two, which provides evidence that the role of the state as a model employer is more far-reaching and contradictory than this analysis would allow. Therefore an alternative analysis, which can explain the high levels of temporary work in the public sector, is offered.



By examining legislative, policy and ideological changes in local government and education it is possible to establish mechanisms that have precipitated the levels of temporary labour in these areas. One important aspect of the changes has been a shift in the social relations of production of public services, advanced by a pronounced emphasis on what has been described as the 'New Public Management'. This concept and its relevance to temporary work in public services is explored in relation to the critical management and labour process literatures highlighted in the previous chapters. Similarly the centrality of gender, contractual control and public sector trade unionism continue to be traced within these debates. The chapter is concluded by drawing out a set of research questions to guide the primary empirical enquiry, the results of which are contained in chapters four to nine.

### *The State as Employer – Rethinking the Model*

In the UK the state is the largest single employer and its influence extends beyond this into the private sector. The role of the state as employer is influenced by the role of the state generally. This point is illustrated by Fredman and Morris (1989) when they identify a number of distinctive features of the state as employer. Those which are relevant to this research are firstly that central government has the power to introduce legislation 'which enables the State to endow some of its "managerial" decisions with the force of law' (ibid: 7). Secondly the state has a set of accountabilities different from those of the private sector, which are political as much as economic in origin. The most obvious distinction between public and private employers is their source of



revenue. The public purse from which employees are paid is funded primarily from taxation. Therefore 'this allows governments when dealing with their employees to override commercial concerns in favour of political and macroeconomic factors' (ibid: 7). Lastly public sector employment is essentially bureaucratic in nature, meaning that 'Managerial power does not derive from ownership of capital alone, but from a hierarchy of authority, which is constituted by legal or administrative rules' (ibid: 9).

Whilst the relationship between the state and capital is more complex than their analysis allows (see Carter, 1997; Bonefeld, 1991; Cousins 1987). Fredman and Morris (1989) raise some important distinctions between public and private employers. The contradictory position of the state as employer became clearly evident in the move away from the traditional abstentionist role of the state to a form that has made increasing use of policy and the law to intervene in industrial relations in the public sector. Although this has been a trend since the use of incomes policies in the 1960s and 70s, a fundamental shift in ideology since 1979 has resulted in the most radical changes fuelling a dramatic turnaround in the concept of the state as model employer.

The concept of the model employer has traditionally been used as a form of barometer that is meant to act as an indicator of good employment practices to private sector employers. At the heart of the model was a traditional pluralist conception of industrial relations based on stable and orderly collective bargaining (Carter and Fairbrother 1999). In the past the inception and support



for collective bargaining through the use of Whitley councils and legislation such as the Fair Wages Resolution provided examples of this aspect.

The Whitley councils were recommended by Royal Commission in 1917 to establish collective bargaining throughout British industry. To provide a lead the government of 1919 adopted Whitley councils for civil servants and set the equivalent for teachers in the Burnham committee. Local government was slower to take on the principle of Whitleyism and widespread union recognition was not achieved until 1943 (Carter and Fairbrother 1999) and national collective bargaining was not introduced until after the Second World War (Corby and White 1999). However by the 1940s this form of centralised collective bargaining had become ‘...almost exclusively associated with the public sector...’ (ibid: 124).

Adoption of the Fair Wages Resolutions (FWR) represented a more direct influence of the state, this time as an indirect employer, on private sector employers. The initial FWR was passed in 1891 and updated versions in 1946 (Rubery 1995). The later version of the FWR required private sector contractors working within the public sector to observe the minimum terms and conditions of employment set by union agreements for the relevant trade or industry. As Rubery (ibid: 555) states:

This provision thereby both protected public sector employees from competition based on ‘unfair’ wages and at the same time encouraged the extension of industry-wide collective agreements to firms that otherwise might have chosen to set pay independently.



However the concept of the state as a model employer has since been considered to be over-simplified as discrimination, low pay and poor terms and conditions have prevailed in many areas of public service (e.g. Rahman, 1985; Beaumont, 1981; Thornley, 1996). One explanation for this dichotomy is that the public sector workforce is widely heterogeneous and stratified. At the top levels of public employment there are relatively highly paid professionals which, as the arguments of Robinson (1999) and Morgan *et al.* (2000) indicate, are often held up to be the norm. However much larger numbers of unskilled workers, many of whom are women and/or belong to minority ethnic groups, constitute the majority of public sector employees. As such, Carter and Fairbrother (1999: 127) argue that the concept of the model employer has ‘obscured the nature of class relations’ within the public sector. Therefore, if the model exists at all, it may only cover the top strata of public sector workers, although deciding where that top strata begin may prove difficult. For example, the Doctor’s Pay Review Body (1999) have recently stated that junior doctors, who are nearing what may be considered the top strata, are earning low pay when their long hours are converted into an hourly pay rate. These arguments highlight the inadequacies of the concept of the model employer and the contradictory nature of the forces at play when considering the state as employer.

Contradictions surrounding the model have taken a different turn since 1979. Michael Allison, then Secretary of State for Employment, stated in 1982 in reference to the abolition of the Fair Wages Resolution:



In practice the Government will continue to set an example. The example is a good one. It is that those placing contracts should not interfere with the pay and conditions agreed by contractors and their employees. (cited in Fredman and Morris 1989)

This perspective would appear to turn the traditional concept of the model employer on its head. Carter and Fairbrother (1999) explain this change in direction by arguing that the model employer has undergone a transformation from one 'premised on relatively opaque employment relations to one where, during the 1980s and 1990s, relations between management and employees have become more transparent as wage relationships' (p.122). These authors argue that, whilst state support for trade unions and centralised bargaining masked class relations in public employment, 'the growing emphasis on cost reduction and increased productivity shows that even where state workers do not produce profits...they increasingly have surplus labour appropriated' (1999:128).

One outcome of this shift has been that the employment rights of public sector workers have come under attack. The Fair Wages Resolutions were rescinded in 1983, accompanied by the Government's renunciation of International Labour Organisation (ILO) Convention 94 on Labour Clauses in Public Contracts.

Other examples have included the dismantling of collective bargaining machinery for nurses and teachers and the initial refusal of the previous government to apply Transfer of Undertakings (Protection of Employment) (TUPE) regulations to workers affected by compulsory competitive tendering (CCT). This latter abuse occurred despite private legal advice that this was almost certainly illegal (Foster and Scott 1998). But perhaps the most blatant



example was provided by events at GCHQ in which the right to independent trade union representation was outlawed by the Conservative government, later to be reinstated by the current Labour government.

Horton points to a politically directed shift away from the tradition of the model employer to a 'new mode employer more likely to view staff as "human resources" being used to achieve the organisation's objectives than employees whose welfare is a major concern'(1997:9). However this view assumes that employees' welfare was at some point a leading concern rather than a by-product of a preference for a particular form of industrial relations. It also presumes a narrow sphere of influence for the role of the model. The analysis above indicates that the driving force behind the concept of a model employer was to influence industrial relations in the private sector. Explanations of why the state would seek to do this lie in arguments that contend the major function of any capitalist state is to secure the conditions under which capital can flourish (see Clarke, 1991).

These are complex debates that cannot be fully explored here. However the voluntaristic nature of industrial relations in the UK has meant that the options for the state to intervene have been considerably reduced. This has meant that its role as the largest single employer has taken on a greater importance in efforts to influence capital/labour relations. Therefore, when the prevailing view considered that orderly collective bargaining would secure optimum conditions for the growth of capital, the model employer was determined accordingly. When, on the other hand, market principles and flexibility are



thought to be the key to economic prosperity the model is transformed to encourage this view. By removing any assumption that the material conditions of workers are at the heart of the model, the two seemingly polar aspects of the model can be reconciled.

In this respect the state has also displayed an ambivalent perspective in relation to ‘precarious’ work. The provision of secure employment has been an essential feature of the traditional model employer as indicated in the report of the Priestley Commission (1955):

The ‘good employer’ is not necessarily the one who offers the highest rates of pay. He [sic] seeks rather to provide stability and continuity of employment, and consults with representatives of his employees upon changes that effect both their remuneration and their conditions of work. (p. 39)

It is difficult to know, despite this claim, how far temporary work has featured in public employment in the past. National statistical records of temporary work are a recent phenomena and individual local authorities have not maintained records (Hegewisch 1999). However as Carter and Fairbrother (1999) note, temporary contracts, particularly amongst women, have long been a feature of civil service employment.

In considering the approach to job insecurity in Western European states in general, Ricca (1989) states:

...Government declarations are more often than not opposed to precarious work, yet this opposition is rarely reflected in specific legislative texts or actions. (p. 287)



Ricca argues that the best measure of the intentions of the state towards precarious work is the way in which it treats its own employees and, as the statistical data in the previous chapter has shown, UK governments have taken the lead as promoters of temporary work. The increased use of precarious work in the public sectors of most Western European countries has been a strategy designed to combat the rising numbers and concurrent costs in public employment to avoid tax increases. This offers further evidence that the concept of the 'model employer' is subservient to the needs of capital accumulation and is no longer sustainable in a traditional sense. However such a shift has not occurred in a vacuum but has been, particularly in the UK, an integral part of a radical state restructuring which has held at its epicentre the concept of flexibility.

### ***Restructuring the State***

An ideological commitment to a Keynesian welfare state and the social partnership on which it had been founded had begun to wane well before the election of the Conservatives in 1979 (Farnham and Horton 1996; Corby and White 1999). However the change of government proved to be something of a watershed, as the objectives for dismantling the post-war settlement were openly voiced. Under the new ideology the primary role of the state was openly proclaimed to be the provider and guardian of an environment in which capital could flourish unhindered. One 'barrier to business' was considered to be rigid and over regulated labour markets. The prescription was therefore the provision



of a 'flexible' workforce. However, as Ricca (1989) notes: 'many policy-makers seem to confuse the concepts of precariousness and flexibility' (p. 288) and in most instances flexibility is a euphemism for the managerial prerogative to hire and fire. This has led Standing to claim that the Keynesian welfare state has given way to 'Malthusianism...that sees the stick of insecurity as essential for the wealth of nations.' (1997: 28).

The economic and political objectives of successive Conservative governments since 1979 have been reinforced by previously marginalised right-wing academics and economists. The ideological attack on the trade union movement found succour in the theories of Hayek (1980), Minford (1985) and Hanson and Mather (1988) who all lay the nation's economic ills squarely at the feet of organised labour. Thatcher's view of the 'insatiable' public sector (1995:124) echoes the theories of Bacon and Eltis (1976) whose critique of the welfare state contends that valuable resources ebb from the 'wealth creating' private sector into the 'wealth consuming' public sector. Similarly the public choice theorist Niskanen (1971) identifies public sector personnel as the key cause of inefficiency. It is argued that professionals and bureaucrats will extend their budgets beyond socially optimum levels as their personal rewards in the form of income, status and power are determined by the size of the bureaucracy they control. The theories of the neo-classical academics were transcribed into policy in the think tanks of the 'New Right' namely the Institute for Economic Affairs and the Adam Smith Institute. Accordingly the protestations of professionals against public sector cuts were dismissed as self-interested attachment to bureaucracy (Thatcher, 1995).



Therefore, chief amongst the economic imperatives of the 'New Right' was the intention to curb public spending in an attempt to control inflation and reduce what were considered to be unacceptable tax burdens on business and disincentives for hard working individuals. The political imperatives were shrouded in the contradictory rhetoric of 'rolling back the state' whilst creating the 'strong state' (Gamble 1988) capable of seeing through these policies. In terms of containing the cost of public services, this essentially meant stripping dissenting, largely Labour controlled authorities of their autonomy whilst centralising power in Whitehall (McNaughton 1998). It also meant curbing the powers of another strongly dissenting body: the trade union movement - specifically public sector trade unions whom, after the recurrent public service strikes of 1978-9 which became known as the 'Winter of Discontent' (Kessler and Bayliss, 1992), had been demonised by the incoming Thatcher government.

Containing public sector unionism was seen as essential to the economic imperative of reducing public sector spending, as labour costs were by far the largest single expenditure of most public employers, so that the brunt of economic reforms were borne by public sector workers. Much of the restructuring was explicitly designed at weakening public sector trade unionism (Smith and Morton 1993; Smith and Morton 1994; Walsh 1995; Foster and Scott 1998). This was particularly the case for local government unions as the following remarks of Nicholas Ridley, Secretary of State for the Environment reveal:



...the root cause of rotten local services lies in the grip which local government unions has over those services in many parts of the country...Our competitive legislation will smash that once and for all. (cited in Local Government Chronicle 1989:6)

The ideas of the 'New Right' were applied to a prescriptive academic analysis of local government by Henney (1984) who argued that the performance and behaviour of local government 'left a lot to be desired' and that:

local authorities behave as they do because of a lack of consumer influence relative to the interests of the politicians and employees; an inherently weak management structure...weak sanctions upon poor performance; a lack of effective accountability; and political decision-making that is in the interests neither of consumers or ratepayers. (p. 389).

True to the prevailing zeitgeist, Henney singles out the then Greater London Council (GLC), council housing and education for particular scrutiny. In relation to the latter he states:

The key – and it is only the key – to resolving the crises of local government finance and of ending the confused relationship between central and local government – is to shift the cost of education from local government. (p.) 397

However the majority of the prescription concerns the management of local government:

Councils should be run more like a company board, with the councillors acting as directors, setting policies and checking on performance but not being involved in daily administrative details. For their part, officers should be expected (and have powers delegated) to manage, and performance should be demanded of them. (p. 405)



It is difficult to know if the ideas and prescription propounded by Henney were directly influential. However, as the following section outlines, events that befell local government following its publication bore many similarities to the thrust of his advice.

### *Local Government Restructuring*

Local government oversees the provision of a number of public services including education and social services and can be considered as a key agent of the welfare state (Stoker 1991). It is the biggest sector of public employment and provides an interesting dichotomy when examining the state as employer for a number of reasons. Firstly, local government has some political autonomy in that council members are locally elected and their political affiliations are not necessarily the same as central government (Winchester and Bach 1995). Furthermore, if the Labour Party group controls the authority, the elected members are likely to have some affiliation to the trade union movement (Kessler 1991). However, individual authorities have a good deal of discretion in matters relating to employment (Kessler 1991; Horton 1997; White 1997). Illustrative of this is that, whilst rates of pay are negotiated nationally under the Whitley system, individual authorities and even departments are able to decide exactly which grade should be applied to a particular post. Thus, identical jobs may be on quite different grades in adjacent authorities. Similarly, whilst national bodies have issued models and guidance on matters such as joint consultation, job evaluation and grievance and disciplinary procedures, it is left to each authority to determine locally whether to adopt these models or not (Kessler 1991). Furthermore, there is no set pattern to the decision-making



processes of individual authorities in any field and this includes decisions on personnel matters. The Council committees, sub-committees, chairs, chief executive, departmental chief officers and departmental personnel officers may be empowered to take decisions on personnel matters depending on the extent of delegation given by the Council (Stoker 1991).

The powers of local authorities, including their capacities as employers, derive ultimately from statute. Authorities are essentially bound by legislation passed by Parliament, which gives central government the ability to control their activities. As such, local government has been the location of 'one of the primary political and industrial battlegrounds of the 1980s' (Foster 1993).

Although, as Cochrane (1993) notes, 'attacks' on local government predated the Thatcher government, the pace and the mode altered dramatically after 1979 as the state used its role as legislator to radically alter the public sector industrial relations environment. Within three weeks of the general election in 1979, after a meeting with local authority associations and unions, the new Secretary of State for the Environment placed a recruitment freeze on all local authorities and commissioned a review of staffing requirements (Karran 1984).

In the years following 1979, although local government reform was unidirectional (away from public ownership and towards the private), legislation was piecemeal and tentative. However, following the re-election of the third Conservative government in 1987, legislation in 1988 firmly established CCT in local government services and introduced Local Management of Schools (LMS) into primary and secondary education (Foster and Scott 1998). These



legislative changes coupled with policies such as the purchaser/provider split and bolstered by funding cuts have required public sector managers to operate under vastly different criteria and conditions to those previously considered to be appropriate for the 'model' employer (White 1997). The new environment has created pressures and uncertainties that, amongst other things, have fostered the use of temporary employment contracts and other non-standard working conditions (White: *ibid.*). Support for these developments is concisely illustrated by a quote from a 'leaked' internal circular issued by Michael Portillo, then Secretary of State for Employment, which suggests that all new temporary workers be offered contracts of limited duration "to avoid workers qualifying for full employment rights" (LRD 1995:15)

Clearly the main tool of central government in attaining its objectives was legislation backed by administrative directives. Between 1980 and 1995 over one hundred pieces of legislation affected local government (Colling and Ferner 1995). These have been accompanied by over 20 changes to local government finance administration (Farnham and Horton 1996). The 'aggressive use of the law' has resulted in the juridification of central-local government relations by which major constitutional changes have been brought about with the minimum of consultation (Stoker 1991:154). The main thrust of the legislative and policy changes was to reduce the financial and political autonomy of local government by putting tight controls on their revenue raising capabilities. Most avenues for independent means of raising funds were blocked and restrictions on asset sales, rate capping, the uniform business rate and the infamous Community Charge brought local government finance under stringent legislative control.



The effect was to create a greater reliance on central government grants, which take three main forms: specific grants used to finance particular services – largely education; the revenue support or ‘block’ grant; and challenge funding for which authorities may compete for additional capital grants. All local government grants are tightly circumscribed by central government and have become even more so since the introduction of ‘spending guidelines’ or expenditure ceilings in 1990 (Gibson 1998). In relation to the block grant, central government ministers set the amounts for individual authorities after the Chancellor of the Exchequer announces the total sum for local government in the annual budget. Even the revenue support grant, claimed in the 1980s when it was introduced by Michael Heseltine as the vanguard of local self-government, is rigidly defined by the Standard Spending Assessment (SSA), which effectively removes any negotiation between central and local government (McNaughton 1998). Specific grants and challenge funding are awarded for limited periods, usually no longer than three years, after which a fresh application has to be made. In addition to these tight controls on central government funds, a system of targets was introduced with penalties for authorities that over-spent. The penalties were deducted from the following year’s grant but the precise formulae used to set targets was changed every year (Stoker 1991). These features introduced a large element of uncertainty into the financial planning of local authorities and were cited in the research as major reasons for the increased use of temporary and fixed-term contracts.



In addition to financial control, local government faced a barrage of centrally enforced internal restructuring. The main thrust of this change has been to impose market principles by transforming what was considered to be the inefficient bureaucracy of publicly administered services to a new form dubbed the 'enabling' authority. First introduced by Nicholas Ridley in 1986, then Secretary of State for the Environment (Young 1996), the enabling authority is essentially a purchaser and monitor of services rather than a direct provider. Rather than undertaking provision of services using their own directly employed workforces, it was envisaged that authorities, where possible, would facilitate or enable other agencies and organisations (both private and voluntary sector) to act on their behalf. This was achieved by a mix of policy and legislation, which, amongst other things, introduced CCT into areas of public employment which could most easily be performed by the private sector. At the heart of the contracting procedure was the issue of cost minimisation, which was achieved in the main, by reductions in the terms, conditions and job security of public employees (Foster 1993; Colling 1993a; Colling and Ferner 1995; Foster and Scott 1998). The need to compete with contractors ensured that this was the case even when services were retained 'in-house' by direct service organisations. A second motivation was an instinctive dislike of the influence and strength of the public sector trade unions (Ascher 1987) and CCT often placed the unions in the untenable position of having to negotiate pay cuts and other unpalatable concessions in order to retain services in-house.

Specific local authority departments and services that remained within the remit of local government employment were also the target of central government



reform. Market testing and internal or ‘quasi’ markets were established in areas that initially proved less amenable to outside contracting. This was accompanied, in the case of social services, by legislation such as the Children Act (1989) and the NHS and Community Care Act (1990), both of which were aimed at reducing the professional autonomy of social workers and cutting costs (Carpenter 1994). Similarly, as discussed in greater detail below, eight major pieces of legislation in education introduced the development of the national curriculum and pupil testing, which are argued to be a form of de-skilling for teachers, whilst LMS has fundamentally changed the management and financing of schools (Ironsides and Seifert 1995).

For some authorities this ideological shake-up was also accompanied by a physical geographical re-organisation. Local government re-organisation (LGR) has often been used in the past by central government in attempts to bring local government to heel. The most blatant use of this tactic was seen in 1986 when the Greater London Council and the six other metropolitan counties, all under Labour control, were abolished. Stoker (1991) argues that, although no cost-benefit analysis was allowed and the reform went against the thrust of government policy: ‘The Government wanted to make a dramatic gesture, to show that it could take action against those who opposed it’ (p17). A second round of re-organisation, less vengeful but equally disruptive, was undertaken between 1992 and 1996 when 46 of the county councils lost control of second-tier district councils in the creation of new ‘unitary’ authorities.



Local authorities are heterogeneous organisations and have not reacted uniformly to the changes imposed by central government. Whilst some authorities embraced the 'New Right' ideology, others devoted great ingenuity and their remaining powers to deflect the onslaught. These included 'a wide range of measures to buy time, raise revenue or cut costs, some of which go under the collective title of creative accountancy' (Elcock 1996). In an effort to counter such resistance and police the uptake of their legislative and policy measures, central government created the Audit Commission. Established in the 1982 Local Government Finance Act, the Audit Commission is nominally independent. Their governing body is however appointed by central government. The role of the commission was largely to oversee the implementation of centrally imposed procedures and to support the previous government in their ideological quest for 'value for money'. In this capacity the Commission are also charged with ensuring that local authorities have made 'proper arrangements for securing economy, efficiency and the effectiveness in the use of resources' (Local Government Finance Act s.15 (1)). However, on occasion the recommendations of the commission were less than supportive of key central government reforms and local authorities used them as a basis for resistance.

In a revealing article Karran (1984) pinpoints the gendered nature of much restructuring by examining the rise of part-time workers in local government. He disputes the claims of the Conservative Government of the time that local government staffing and wage costs were expanding beyond control. Karran establishes that increases in staffing numbers had been amongst largely part-



time women workers and that crude 'head count' statistics were used to inflate staffing estimates. Karran further shows that, by substituting part-time for full-time labour, local authorities made considerable direct cost savings on a number of different dimensions. Firstly, women are generally in lower paid jobs than men; secondly, part-time work is generally paid at lower hourly rates; thirdly, women and part-time workers are less likely to remain in employment long enough to accrue pension rights; lastly, at that time, part-time workers were subject to longer qualification periods for most employment rights. Karran also notes a number of less obvious benefits from employing part-time staff:

Stopping work before lunch or starting work after lunch, part-time workers are less likely to use local authority catering provisions for a midday meal...trying to cram work into a half working day, part-timers may be willing to do unpaid overtime to complete a job while their full-time equivalents, having longer working hours, might leave an unfinished task for the following day. Hence part-timers may represent value for money... (p.53)

In conclusion Karran argues:

Local authorities altered their employment patterns in favour of more lower paid women and part-time workers, so as to obtain the same amount of labour at a lower cost. Hence paradoxical as it might seem, local government increased total employee numbers and cut labour costs. (p.56)

In relation to these issues it is important to note that the recent legislation establishing the same access to employment rights for part-time workers will have significantly reduced the economic benefits to employers. However many of these rights are removed if part-time work is linked to temporary employment contracts (Dex and McCulloch 1995). In a study of local



government the link is established by Escott and Whitfield (1995) who found that numerical flexibility, largely in the form of temporary employment contracts, to be a growing feature of employment policy and practice. They argue that such work is based upon 'low pay, on very short hours, with poor terms and conditions, few employment rights, little or no job security and no short-term or long-term income protection' (p. 164).

### *Education*

Schools are a major site for much part-time employment amongst women employed in the public sector and are one of the most highly unionised sectors (Ironside and Seifert 1995:3). As the statistical data reviewed in chapter two highlights, the education sector also employs a considerable number of temporary workers. Furthermore, the largest element of most local authority budgets is that allocated to education, which in turn has been the site of direct central government intervention. Although formally part of the local government system, education departments have traditionally enjoyed a large degree of autonomy recognised in the establishment of separate local education authorities or LEAs. The result has been that many issues concerning the running of schools, including industrial relations, have by-passed the local government committee system and have been directly handled by the LEA.

The education system generally, and the tripartite relationship between central government, local government and the teaching profession specifically, has borne the brunt of the growing paranoia concerning the declining economic



health of the nation (McVicar 1996). Declining productivity and what was considered to be an outmoded skill base was blamed on an education system accused of being out of touch with the needs of a competitive economic system (Ranson 1990). Criticism took the same form as that leveled at local government generally, in that it took shape and gained momentum with the growing confidence of successive Conservative administrations after 1979. Educational crisis was considered to be the inevitable result of poor management of schools and colleges (Ranson, *ibid.*). The general arguments concerning inefficient bureaucracies and self-interested professionals were directed squarely at LEAs and teachers respectively and much of the ensuing legislation was aimed at demolishing the tripartite relationship by incrementally removing the power base of both.

Teachers displayed continuing collective strength during the pay strikes of 1985. The government's response was to marginalise the teaching unions by dismantling the Burnham Committee, the teaching profession's version of the Whitley Council system of centralised pay negotiation and settlement. Its replacement was the School Teacher's Review Body (STRB). The main political arguments used to justify the change were that 'affordability' rather than 'comparability' could be the only workable way in which public sector pay could be set. Therefore, after years of successive weakening by various governments, Burnham was abolished under the 1987 Teacher's Pay and Conditions Act. After three years of supervision by the Interim Advisory Committee the STRB was established under the 1991 Education Act to create 'a form of permanent and compulsory arbitration operating within cash limits



imposed by the government' (Ironside and Seifert 1995:33). The declared intent was to rule out both collective bargaining and industrial action. Ironside and Seifert (1995) interestingly note that ironically 'it is the new employers and managers who are most frustrated by pay review: it limits the ability to vary pay to accord with the needs of the school and its budget' (p.44). These authors suggest that attempts to circumvent these restraints have included using higher levels of incentive allowances, new gradings, and 'local flexibility' (1995:44.). Although Ironside and Seifert are not clear as to the type of flexibility, the statistical data in chapter two confirm this could easily mean numerical flexibility and the increased use of temporary teachers.

As in its attacks on local government, central government has used legislation to radically restructure the role of the LEA. Again, not by coincidence, the Inner London Education Authority (ILEA) was singled out for particular attention when, under the 1988 Education Reform Act (ERA), it was dismantled and its role fragmented between individual London boroughs. The Act also introduced the option for schools to opt out of LEA control altogether by seeking Grant Maintained status which allows schools to be funded directly by central government. This development plus the creation of the City Technology Colleges in 1986, a forerunner of Private Finance Initiative (PFI), and the removal of Higher Education and Further Education colleges has meant that the jurisdiction of the LEAs has been progressively reduced. However, because the vast majority of schools remain within the remit of the LEA, the main instrument under ERA has been the creation of Local Management of Schools (LMS), which substantially weakens the LEA's role. The political rhetoric used



to justify LMS was based on the preference for market based competition. The arguments revolve around the necessity for schools to be more responsive to parental or 'consumer' needs and the increased accountability of school managers for the use of resources (McVicar 1996).

In order that some form of market mechanism might be brought to bear in schools, ERA introduced the open enrolment in accordance with parental preferences. In addition, following ERA, the financial management of schools has undergone radical restructuring. Individual schools were allocated budgets by the LEA of approximately 85% of their total expenditure. However, under the Act, LEAs were also required to use predetermined formulae to ascertain the amount each school will be allocated. At least 75% of the amount was determined by pupil numbers or number on roll (NOR) although these levels will be increased as a result of reviewed policies under the 'Fair Funding' initiative. The combination of open enrolment and financial restructuring meant that school finances were increasingly tied to pupil numbers at a time when these could not be relied upon with any certainty. Furthermore, underpinning the restructuring of school finances has been attempts to cut public expenditure and offset the growing financial needs of schools by searching out alternative time limited sources of funding. In conjunction these developments have had a particularly dramatic effect on the uncertainty of school budgets, which has resulted in the increased use of temporary labour.

As well as financial insecurity ERA significantly altered the major personnel function formally carried out by the LEA by bestowing greater powers of



appointment, suspension, discipline and dismissal on head teachers and the governing body. Discretion for the contractual arrangements of staff now falls to the head teacher and governors with the role of the LEA relegated largely to that of administrator. However, the LEA still plays an important role as the legal employer and, as a result, responsibilities are somewhat fragmented. This has led to an interesting situation in which head teachers and governors, who are often not employment specialists, are empowered to make employment decisions, whilst the LEA are financially liable under tribunal rulings. The position has recently been clarified in a statutory instrument (The Education (Modification of Enactments Relating to Employment) Order 1998 SI No. 218). This states that, although the governing body is the correct respondent to any application to an industrial tribunal, any award of compensation or costs is to be made against the LEA. Thus a number of tensions have been introduced into the management of schools, with the use of temporary employment contracts again offering a good example.

The culmination of a raft of education reforms has been that, whilst management had been a term that had largely evaded the education service until the 1980s (McVicar 1996), legislation and policy has been directed at bringing about a culture change in schools in which senior teachers are increasingly required to take on a management function. The result in practice has been to marginalise the LEA until 'there is a major question mark over whether [they] are needed any more' (ibid:227). An important result is that the future of industrial relations in education is uncertain, which, as Ironside and Seifert (1995) argue, has wider implications for the quality of the service:



...the breakdown in LEA-wide personnel and industrial relations functions means that some of them must be devolved to schools, and that this requires school managers to take decisions previously outside their competence. This opens the door to both poor quality decision-making and, more importantly, to the creation of a management-staff split in schools with all that implies for the continuation of team management and whole-school development. (p.120-1).

These points raise a number of issues that illustrate the contradictions evident in public sector restructuring and the premises on which it is based. During the introduction of restructuring the contradictions were obscured by neo-liberal rhetoric. The following section examines how, following a change of government, the focus but not the thrust of the rhetoric has been altered.

### *New Labour*

Clearly the last twenty years have been traumatic for public services but the election of a Labour government in 1997 appeared to offer respite. In February 1997, three months before the general election, Peter Hain, the then Labour shadow employment minister, announced that the New Labour Government would tackle job insecurity by firstly looking within the government's 'own back yard' (Hain 1997). By this Hain meant public employment, specifically the Civil Service after research had revealed a particularly high percentage of casualisation following the creation of the 'Next Steps' agencies. However since their election, this initiative has disappeared without trace whilst many of the old controls remain in place and new ones such as 'Best Value' are as yet uncharted territories.



The details of Best Value are contained in the Green paper *Modernising local government – improving local services through best value*. Under Best Value, CCT will be replaced with a statutory requirement on local authorities to look for continuous improvements in quality and costs. Whilst the compulsory tendering of services has been withdrawn, the emphasis on competition between public and private provision is retained. Under Best Value standards of performance will be set for all council services either nationally or locally. Local authorities will be compared against each other and private service provision. Auditors will maintain the adherence of local authorities to Best Value and central government will have powers to intervene where authorities fall short of acceptable standards.

Best Value is underpinned by the long term plans of the New Labour government to stay within the stringent public sector spending limits set by the previous government. This is despite the remonstrations of the unions that public sector pay and conditions are falling further behind those in the private sector (Denny 1998). Travers (1998) has therefore argued that, although the faces and the vendetta may have changed, the agenda looks remarkably similar:

Labour has clearly decided to use its first term to sort out local government. Never again will councils bring the Labour party into disrepute. In many ways this is Thatcher's early-1980s agenda... (ibid:1998)

In support of this argument the New Labour government also targeted local government funding. A major review was announced by the Department of the Environment, Transport and the Regions (DETR) in July 1997, just two months



after taking power (Gibson 1998). Local government budget difficulties have given rise to internal departmental conflict as struggling authorities attempt to 'pay Peter by robbing Paul'. Education departments have been particularly sensitive to what they view as the siphoning of school budgets and regional disparities have led the head teacher's union NAHT to lobby the government to introduce a tighter national funding formula (Gadher 1999). In response the government has introduced "Fair Funding" regulations taking effect in April 1999 which aim to make local authorities 'more accountable', thus removing even more financial discretion and autonomy.

Similarly the extension of the Public Finance Initiative (PFI) into local government and the creation of Educational Action Zones by the New Labour government have sanctioned the search for private funds for public services initiated by their predecessors. Furthermore the endorsement of the Office for Standards in Education (OFSTED), feared and hated by teachers, and the extended contract of its equally unpopular figurehead Chris Woodhead, the chief inspector of schools, has done little to convince teachers and their unions that the 'witch hunt' is over (Carvel 1998).

The historic relationship between the Labour Party and the trade union movement has also been called into question by the refocusing of New Labour. There have been repeated assertions by the Labour leadership that there will be no return to 'beer and sandwiches at Number Ten' in reference to the famous quote that has come to typify the corporatist arrangements of the 60s and 70s. Public sector unions are still faced with pay review bodies and the limitation of



collective bargaining this entails. Furthermore, although the trade union movement has largely welcomed ERA 1999 and the statutory provision of a wide range of employment rights, the minimum wage legislation demonstrated the continuing contradictions between the state as legislator and as employer. As Thornley and Coffey (1999) illustrate, setting the minimum wage at £3.50 excluded the majority of public sector workers from benefiting from the legislation. They cite evidence from the report of the Low Pay Commission, which indicates that the number of public sector workers affected by minimum wage legislation would rise exponentially at a rate between £3.50 and £3.70. Thornley and Coffey conclude: 'The government has thus been saved any major embarrassment or expense in its role as employer.' (1999:532).

Patterns of continuity between Conservative governments since 1979 and the New Labour government are clearly evident in the policies outlined above. The response of the public sector trade unions is covered fully in chapter seven, but in short it has been subdued. One explanation for a restrained response is that, in line with the TUC, the public sector unions favour moves towards 'social partnership'.

As, as Heery (1999:2) notes, social partnership is an imprecise term, which can occur at a number of levels in the relationship between trade unions, the state and employers. The term is, however, associated with conciliatory rather than adversarial relations and the election of a Labour Government has revived this possibility at the level of the state. The problem this approach conjures for public sector trade unions is that any criticism of the state, be it of legislator or



employer, could jeopardise tentative social partnership arrangements or, more importantly, the return of a Labour government at the next election.

Furthermore, the concern for preserving cordial relations at a national level has a number of implications following public sector restructuring. Decentralisation and the related moves towards managerialism have altered the nature of the employment relations within the public sector generally and local government and schools specifically. Therefore, whilst national trade union organisation is seeking to return to centralised relations, the structures to support this no longer exist. The following section examines the implications of this dichotomy in relation to temporary labour.

### ***Public Employers and New Public Managers***

In the light of what has already been discussed it is not surprising that when, during this research, local employers were asked the question: “Why do local authorities and schools employ so many temporary workers?” the blame was placed firmly at the door of central government. The empirical findings of the research support this view but they also reveal how the centrally imposed burdens of local government re-organisation, LMS and budget cuts mask and provide opportunities for restructuring initiatives and political objectives at a local level. This has arisen largely because within the vision of the enabling authority and the locally managed school, emphasis is placed on the ability to manage in what has been termed the ‘new public management’ (NPM).



NPM, as a concept, is ill-defined (Farnham and Horton 1996: Ferlie *et al.* 1996). Ferlie *et al.* (ibid.) suggest that there are at least four identifiable models of NPM: (i) The Efficiency Drive; (ii) Downsizing and Decentralisation; (iii) In Search of Excellence and (iv) Public Service Orientation (pgs. 10-14). However what Ferlie *et al.* describe as individual models of NPM may only represent divisions between political and managerial rhetoric which are not necessarily mutually exclusive. As Pollitt (1990:49) states:

Better management provides a label under which private-sector disciplines can be introduced into the public services. political control can be strengthened, budgets trimmed, professional autonomy reduced, public service unions weakened and a quasi-competitive framework erected to flush out the natural 'inefficiencies' of bureaucracy.

Notwithstanding difficulties of definition, NPM has clearly been based on eroding the traditional differences between private and public sector management. Key aspects of putting the vision into operation have been moves to decentralise decision-making and devolve budgets whilst retaining overall control within highly centralised financial frameworks. The concepts of decentralisation and devolvment have been main themes of central government policy since 1979 (Thompson 1992). They represent the primary ways in which private sector organisation has been used as a template for public sector reform. Devolved financial management was first prescribed for local government by the Audit Commission (1988). The report was critical of existing centralised local government financial arrangements for depriving local managers of the powers to enable them to strive for 'value for money'. The prescription was that local managers should be the budget holders for all costs under their control. Therefore, based on the once popular concept of the 'M-Form'



(Williamson *et al.* 1975) or multi-divisional organisation. the rationale was that devolved decision making and financial responsibility ensure that local managers become 'market-driven' and therefore pay greater attention to cost effectiveness. The principle is that, in this way, public managers can be forced to manage and public spending can be contained:

Give managers and staff control over resources, make them accountable for balancing the books, add a framework of performance targets, and perhaps a few core values and mission statements, finally add a dash of competition and there you have it - a disaggregated, self-regulating form of public service production (Hoggett 1994:45).

Fostering the concept of NPM therefore represents another political solution to what is perceived as inefficient and self-interested public administration.

However, a direct transition to market principles has been problematic. Tonge and Horton (1996: 78) argue that a key function of NPM, measuring performance, has been one such problematic area:

Measuring and evaluating effectiveness is difficult especially where the goals are ambiguous or not clear, or where the activity is an intermediate one, such as giving advice. This often results in an undue emphasis being placed on economy and efficiency.

However, Walsh (1995) argued that the adoption of private sector styles of management had become the driving force in the public sector precisely because efficiency is difficult to define in terms of profit.

In a study of local government in the 1970s Cynthia Cockburn (1977) demonstrates how imported management techniques have previously found fertile ground in local government. What is fascinating about reflecting on this



study is the realisation that, although the macro-pressures exerted on local government have changed remarkably little, the management techniques enlisted to ameliorate the strain have gone through cycles of periodic flux. As Cockburn states 'The moment when a new style of management is looked for is the moment when existing means of control are under pressure' (1977: 7).

Cockburn shows how 'corporate management', the text-book novelty of the 1960s, filtered from the business schools into local government to stem what was already considered to be a crisis in financial management. Local authority expenditure as a percentage of all government expenditure had risen from 23% in 1954 to 31% in 1974 and by this time employed no less than 11% of total workforce and the fastest growing sector of state expenditure was social services (1977:62). The uptake of corporate management was encouraged by central government following the Maud Report in 1967 in the belief that it would make local authorities 'more directly responsive to the centre, more intrinsically geared to national economic and political priorities, and provide them with the skilled financial planning and resource management that could make centrally imposed cuts and incentives effective' (ibid:66).

Cockburn argues that, before the changes brought about by corporate management, local government had been traditionally organised into semi-autonomous departments or services, each dominated by a particular profession. However, the management ethos of the time meant that departmentalism and competitive professionalism were strongly criticised by the Maud Report. Therefore, in response to what were paradoxically considered to be the



inefficiencies of decentralisation and competition. corporate management was introduced. The centralisation at the centre of the model of corporate management implemented following the Report represents the complete transverse of the rationale behind NPM showing that, in less than two decades, the management pendulum appears to have swung between two extremes.

Looking back on Cockburn's study and comparing it to more recent state restructuring, it is possible to identify a number of continuities in the pressures and forces in operation on the welfare state generally and in local government specifically. It is also possible to observe how the 'sticking plaster' of one management technique is exchanged for another as the wound stubbornly refuses to heal. It would seem that even these changes have a repetitive cycle that lurches between a limited repertoire of levels of control. The repetition stems from the confined options available to state managers. The options lie between reducing the 'social wage'; cuts in services as Cockburn demonstrates and reducing the cost of the state labour which produces those services. The compromise has usually involved a combination of both. However, further overt cuts in services have become politically dangerous for governments seeking re-election. State labour on the other hand has been increasingly viewed as culpable and a legitimate target for 'new' management initiatives.

### ***Contractual Control in the Public Services***

Numerical flexibility in the form of temporary work is one amongst a raft of human resource methods adopted by public employers in their quest to provide



‘value for money’ and a precondition of labour market flexibility is that labour must be considered as a commodity (Muckenberger 1989). As argued in chapter one, numerical flexibility, rather than representing a neutral indicator of organisational efficiency, is largely a method of control used for extracting surplus value. The obscured nature of key concepts such as surplus value and profit have made the labour process of state employees difficult to analyse at an abstract level (Cockburn 1977; Cousins 1987; Fairbrother 1994a; Carter 1997). At a concrete level conflict clearly exists between state employers and state workers. This is evident at a collective level in public sector strike records (Lyddon 1998) and the resilience of public sector trade union membership in a period of otherwise general decline (Cully and Woodland 1998). The frequent appearance of public employers as defendants at industrial tribunal proceedings confirms it at an individual level.

Conflict arises from the growing instability of the welfare state within capitalism, which places the emphasis not on the need for increased profitability as in the private sector, but on an imperative of reduced public spending. At a central level this has resulted in state managers attempting to contain costs by demanding productivity and efficiency gains under the aegis of ‘value for money’ or more recently ‘Best Value’. In the labour intensive arena of public services, decentralisation is therefore aimed at making local managers act as though they are required to extract surplus value. Consequently processes of control have shifted from largely hierarchical forms to more managerialist approaches. One outcome as Fairbrother (1994:66) argues in relation to the civil service is that:



With the shift during the 1980s to more devolved forms of management it has been evident that local managers have begun to exploit the 'flexible' margins of their workforces. This involved a consideration of forms of numerical flexibility...

Furthermore, as Cousins notes, 'state managers are not just constrained to act as capitalists but are also subject to a non-market rationality which does have consequences for state managers and workers' (1987:53). In relation to numerical flexibility the result has been that its use in the public sector has far outstripped the private sector. As Walsh notes 'if care is not taken, the public sector, not for the first time, will be finding itself adopting approaches to management precisely at the time they are being abandoned as effective by the private sector' (1995:30). These comments seem to be particularly relevant when considering Cockburn's (1977) account of corporate management in local government.

By utilising an analysis that couples legal and labour process literatures, chapter one identified the links between managerial control and the employment contract. However the analytical bias of labour process theorists in favour of the private manufacturing sector has hindered the accurate location of the public sector within the typologies they have proposed. Furthermore, labour process theories that have sought to classify strategies of control have been heavily criticised (e.g. Storey, 1985; Littler and Salaman, 1982; Child, 1985). It has been argued that surplus value can be extracted in a number of ways that do not entail the direct control of labour. Littler and Salaman (1982) contend that asset stripping, pricing policy and market speculation are all ways in which surplus



value can be realised. Similarly Kelly (1985) points to 'circuits of capital' in which surplus value is also realised through the sale of commodities. Like the original theories, many of these criticisms have been cast in relation to the private sector. While it is possible to debate the technicalities of surplus value and its relation to the labour process, the arguments of Littler, Salaman and Kelly are not easily applicable to the public services and do not often represent viable options for 'non-trading' public sector managers.

Furthermore most public sector professionals have not been susceptible to the crude market principles evoked by CCT. As noted by Foster (1998):

...logistics in professional and technical public-sector services were very different, and mandatory tendering proved inappropriate to transform such work for several reasons. The nature of service quality in white-collar work was difficult to ascertain and rarely susceptible to ascription of crude output measures. Similar definitional and calibration problems pervaded the character of professional expertise itself, especially in occupations requiring high levels of conceptual or interpersonal skills. (1998:130-31)

Similarly Ironside and Seifert (1995:116) argue that it is the nature as well as the costs of teaching that makes control imperative:

The teacher workforce is a major preoccupation of the government for two main reasons. First is the state's interest in the outcome of school education, and second is its cost. Both the nature of the work that teachers do, and the size and composition of the teacher workforce, are issues that the government has an interest in seeking to control. From the teachers' point of view this need to control teacher labour represents a threat to their job security, to their status and to their autonomy.



In this respect Ironside and Seifert recognise the importance of weakened job security to methods of control. which when accompanied by the difficulty of direct job control, raises the likelihood of contractual control.

Control strategies that seek to lower labour costs and increase productivity are therefore likely to differ in public services. Fixed-term and temporary contracts consequently represent a discerning form of control in occupations that have been notoriously resistant to more direct approaches. The statistical dominance of fixed-term contracts amongst professional occupations identified in the previous chapter supports this hypothesis.

By acknowledging the specific context of public sector employment it is possible to apply labour process theories to an analysis of temporary work in public services. In addition to the indirect economic forces capitalism exerts on public services, these services have remained largely labour intensive. A particular culture or 'public service ethos' that has at its centre the concepts of professionalism and autonomy has accompanied this emphasis on labour. Therefore technical control (Edwards, 1979) would not on the whole be easily attainable. Largely because of these characteristics Edwards' 'bureaucratic control' typology has seemed the closest fit. In this model the allegiance and duty of workers is sought in return for a 'career' which offers job security and opportunities for promotion and training. Power and control are institutionalised in 'objective' sets of company rules and procedures that are considered to legitimise managerial authority by removing arbitrary punishments.



However, the basis of the bureaucratic control model is incompatible with public choice theory, the ideological cornerstone of a neo-liberal state approach to public services as outlined above. Public choice theory, when applied to public services, views bureaucracies as inherently wasteful and public sector workers are identified as being the key cause of inefficiency (Niskanen 1971; Bacon and Eltis 1976; Henney 1984). It is considered that “public services will be wasteful because it is in the interests of public servants not to work harder than they have to because they are able to act without effective supervision” (Walsh 1995). In this vein public choice theorists provided a focus for much of the previous government’s policy aimed at re-organising the public sector by dictating a change of emphasis from professional to managerially supervised market-based accountability. Therefore the clearer wage relationship established by state restructuring means that typologies of control developed to explain early capitalism could now ironically be applied to the public sector.

Returning to Edwards’ typologies of control it would appear that, as a result of decentralisation, temporary workers in local government are subjected to a form of control that most approximates what Edwards calls hierarchical control:

Hierarchical control was based on the concept that each boss – whether a foreman, supervisor or manager – would create in his (sic) shop the situation of the capitalist under entrepreneurial control...each boss would have the right to fire and hire, intervene in production, direct workers as to what to do and what not to do, evaluate and promote or demote, discipline workers, arrange rewards, and so on; in short each boss would be able to act in the same arbitrary, idiosyncratic, unencumbered way that the entrepreneurs had acted. (1979:31)



Edwards argues that control was achieved because supervisors directly held the power to dismiss and punish workers. A power that was made all the more apparent by its arbitrary use and the organisation of work in ways which sought to minimise workers opportunities for resistance. Interestingly Edwards also describes that, although budgets were not directly devolved under hierarchical supervision, 'a system of appropriation' acted as a book-keeping device which gave supervisors power over the earnings of workers and provided supervisors with some benefits if they did not use it all. There are some clear comparisons with devolved budgets in local government departments. Departmental managers have little control over the size of their budget but they have control over the way in which it is allocated within the department. And, whilst managers do not directly determine the pay rates of temporary workers, they do have control over the allocation of work and payment for holidays and sickness absence. Lastly, whilst managers do not profit directly from budget savings, their performance is judged on how well they manage their budget. Devolved budgets therefore contain a double control function. They allow employers to exert control over managers by forcing them to manage. However, for managerialism to be more easily accomplished, the position of workers must be insecure and vulnerable – precisely the conditions created by contractual control. Therefore the job insecurity inherent in temporary contracts provides a tool by which managers can exert control over workers.

The links between the heightened powers of local managers and job insecurity have been related to increases in the level of workplace bullying. In an article in the *Independent on Sunday* a number of sources were cited that indicated that



‘job insecurity has left workers vulnerable – and employers are taking advantage’ (Streeter 1996). Interestingly head teachers are singled out for particular scrutiny:

Teachers are among the worst affected by bullies, as boards of governors and head teachers acquire more power. (ibid.)

It is therefore not surprising that more recent research (Gardiner and Oswald, 1999) has found ‘teachers are Britain’s unhappiest workers’ (cited in Elliot, 1999). This is an aspect of workplace control that had not gone unmissed by Edwards:

Through these powers, supervisors effectively rule over all aspects of factory life. Getting on the foreman’s good side means much; being on his bad side tends to make life miserable. (1979:5).

Fostered by public choice theorists, ingrained ideological contempt for bureaucracies has been blind to the positive principles on which they were founded. Although Edward’s work emphasises the control aspects, bureaucracies did provide impersonal boundaries fenced by rules and procedures designed to promote even-handed and fair treatment by avoiding arbitrary favouritism. By ignoring these points Du Gay (1993:647) argues that proponents of NPM come “perilously close to sanctioning the practice of corruption”. The ‘new public management’ has been based on undermining public service ethos by subjecting many local government workers to a deterioration in job security, worsening career prospects, work intensification and a growing inequality of treatment between permanent and temporary workers (Stoney and Anderson 1996). From these perspectives there is clearly



nothing ‘new’ about the ‘new public management’. When stripped of its rhetoric, NPM may represent nothing more than a retrograde move to a less sophisticated form of worker control predicated on the elemental inequality of the employment relationship.

### ***Establishing Research Questions***

The review of literature and secondary analysis of empirical data contained in chapters one to three has identified a number of issues that are central to an understanding of the nature of temporary work. The primary component of the analysis, and the focus of this chapter, is the significance of the public sector, specifically local government and education. In exploring which characteristics of these areas may have given rise to this phenomenon, a number of factors have been identified. These have been used to establish a set of research questions to guide an empirical exploration of temporary labour in the public sector.

Research questions offer broad areas of academic enquiry, which should be applied within a relevant research design and methodology. The research questions detailed below have been explored using a case study design. Details of research design decisions are contained in appendix one.

1. What is the origin, extent and pattern of temporary work in the case study authorities? As identified, temporary employment is a feature of social services and education departments. In restructuring these areas of public



service, decisions have been made to recompose the balance between permanent and temporary employment contracts, with unspecified consequences.

2. How and why did public sector managers focus on temporary work as a preferred mode of employment? The decisions to implement temporary employment policies were taken at different levels of management within the context of public sector restructuring during the 1990s. These processes are complex and relatively opaque.
3. What is the composition of temporary employment in terms of gender, ethnicity and age? How does this relate to restructuring and with what impact? The review in chapters one to three points to the importance of focussing on the gendered nature of temporary employment. It may also be the case that questions relating to ethnicity and age are raised by these developments.
4. What role have public sector trade unions played in articulating and representing the concerns of temporary workers? Historically, public sector trade unionism has developed to represent permanent workers. With increasing numbers of temporary workers, they may find difficulty in meeting the challenge of representing these workers.

The research questions were operationalised in interview schedules developed to investigate these issues from the perspectives of various respondents. Copies



of the main schedules used are contained in appendix two. Chapters five to nine have likewise been divided to encompass the perspectives obtained by using this format. The following chapter introduces the case study authorities and provides important contextual information necessary for a full appreciation of the events and analysis contained in the remaining chapters.



## **4. Introducing City and County**

The previous chapter detailed the general pressures placed on local government by state restructuring in the 1980s and 90s. By using this analysis in conjunction with the theoretical debates concerning temporary work, a number of research questions have been developed. These questions have been tested empirically by applying them to the experiences of two local authorities and the main responses and analysis are contained in chapters five to nine. However, the previous chapter also emphasises the heterogeneous nature and the varying experiences of local authorities. Therefore, whilst at one level the pressures towards the increased use of temporary work can be generalised, locally they are likely to be mediated through diverse circumstances, histories and traditions.

The two case study authorities, City and County, differed along a number of dimensions (see appendix one for a summary analysis), some of which were crucial to the way temporary work had been used and developed in each authority. The purpose of this chapter is therefore to elucidate the relevant factors in order to place the main empirical findings into a clearer context. As with most local authorities, the largest departments in City and County were social services and education. The research discussed in chapter two identifies these departments as likely to be major users of temporary work in local government generally. The empirical focus of the research is therefore narrowed to these departments in City and County.



## *City*

City is a large, metropolitan council serving a population of almost one million. Essentially a product of the industrial revolution, much of City's history is rooted in the manufacture and transport of industrial goods and materials. Previously at the centre of the 18<sup>th</sup> and 19<sup>th</sup> century canal system, City has continued to exploit these traditions more recently in the development of extensive road and rail networks. Like many industrial centres in the UK, City has suffered the dismantling of much of its manufacturing industry. However City also has a thriving commercial centre which has supported a continued expansion of its population. The community served by the council is multi-racial and City is a 'high profile' authority trying to live down a reputation for poor race relations in the 1980s. The obvious social unrest in City during this time has led some commentators to suggest that central government funding, although still tightly controlled, has been more generous for City than some of the less conspicuous authorities.

The council chambers are housed in an imposing Victorian building at the heart of the city, which is regaled by oak staircases, polished wooden floors and portraits of long dead councillors; all giving the air of grand institutionalism. In 1998 the authority was Labour controlled with 85 of the 115 councillors being members of the Labour Party, whilst 17 were Liberal Democrat and 13 Conservative. The overall political stance of the authority could be described as 'left of centre'. The authority employed approximately 52,000 workers in 1998 with an almost equal distribution between the sexes. Approximately 34% of the



authority's employees were part-time, 86% of whom were women. Authority-wide policy and decision making was conducted via a committee system containing 18 main committees, including a Personnel Committee, and a number of sub-committees all of which were chaired and vice-chaired by Labour councillors.

The 1996/1997 annual budget was £1,925 million but the Director of Finance claimed this represented a cut in real terms of £42 million on the previous year. The budget shortfall in the authority's yearbook was described as being met by 'efficiency gains' and the 'reduction' of 409 council employees. Interestingly however, a senior regional negotiating officer for Unison claimed that although budget deficits had led to fears of compulsory redundancy, the situation had greatly improved following a more generous than expected standard spending assessment for City after the election of the Labour government in 1997.

Expenditure on social services totalled £236 million in 1996/7, amounting to the third largest budgetary depletion. The department was the second largest, after education and employed approximately 6,000 people almost 2,500 of whom were part-time. Approximately 85% of the department's employees were women. The department was divided into eight directorates but the main operational divisions were between children's and adult's services, which covered 61 children's service units and 107 adult's services units respectively.

At £552 million in 1996/97, the expenditure for education was the single largest depletion of City's budget. In 1997 the department employed 20,500 people.



8,700 of whom were part-time. These people were mainly employed in the authority's 467 (332 primary; 63 secondary; 40 'special'; 32 nursery) schools. There were 16,291 teaching staff with less than 500 employed directly in the LEA. Seventy eight percent of the teaching staff were women. A high profile chief education officer, who has been outspoken about many of the education reforms, headed the LEA in City and, at the time of the research, the LEA was undergoing OFSTED inspection. The methodological implications of these circumstances are discussed in appendix one.

One outcome of the racial unrest of the 1980s was that the authority had made attempts to be innovative, particularly in terms of equal opportunities (EO) initiatives. However, there was some suggestion that budgetary fears had put these under some strain. Although City had an EO policy they did not have a separate committee. There had been a women's unit which was disbanded, it was claimed, because of cost. In 1998 City was in the process of putting together an EO unit as a subsidiary of the Personnel and Organisation department. However, the plan was to employ two people when previously there had been six. In addition it was planned that the new unit would incorporate race equality. Race was an extremely important issue in its own right in City and a report conducted by an independent body had recently concluded that ethnic minorities were underrepresented amongst council employees – particularly in higher paid positions<sup>2</sup>. In line with a policy of decentralisation, each department had some responsibility for EO monitoring. However, trade union officials felt that this often meant little more than

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<sup>2</sup> To maintain the anonymity of City it is not possible to reference this report.



designating someone, usually with very little training, as the departmental EO officer.

The authority was largely structured on a departmental basis with 12 of the 13 departments reflecting functional specialisms, which were headed by the chief executive's department. Because of the size of the authority and the geographical dispersal of the departmental offices, departments operated fairly autonomously. Each department had its own personnel function and, certainly in social services, there seemed to be some friction between this and the central personnel department. Statistics were collected on a departmental rather than authority-wide basis and departments made use of a number of different methods. Some departments were more thorough than others with the outcome that City could not collate consistent or accurate authority-wide details of its employees.

Since 1984, City had embarked on a number of decentralisation programmes in response to criticisms of central government that local government was 'divorced' from its service users. The aim of this response was to establish a number of 'neighbourhood offices' for each of the main services departments, but this had been confined largely to the housing department. These initiatives were accompanied by moves in all departments to devolve managerial responsibility including the creation of a number of budget-holding centres. In other areas City had resisted central government pressures and notably privatisation via CCT had resulted in only one outside contract being awarded.



At an authority level, decision-making structures in City were formal and elected members played an active role. The leader of the council was considered to be particularly charismatic and powerful. As a lead branch trade union negotiator commented:

...if she says jump they all jump - there's no argument about it. (Unison branch secretary, City 23.5.97)

Although there had been some past conflicts between executive officers and elected members these had been resolved. Trade union officials considered that the current chief executive, who had previously been a Labour councillor in City, facilitated resolution. As a result there were well-established formal lines of communication between councillors, chief officers and the unions via a longstanding Joint Consultative Committee (JCC). Therefore, whilst there had been a move towards decentralisation in City, these factors were influential in gaining the compliance of executive officers and departmental managers.

A regional Unison negotiator felt the situation had started to change and provided another perspective:

...the council leader frankly appears to have lost touch with reality and she will be challenged in May [next council elections] for the leadership there is no question about that. She has previously been subject from a half-hearted challenge from the right. The challenge is going to come from the centre and the left this time. She appears to be manipulated by the chief executive and by the current director of personnel and she doesn't move without an officer's say so at the moment. What that means is that there is a lack of political input in to most things but particularly industrial relations and so you can't get a balance in what you are dealing with. It is effectively the political preconceptions of senior officials within the city council. (Unison senior regional officer, City 6.1.98)

The officer further complained that the new director of personnel had been recruited from a public body that had experienced extensive privatisation in



which he felt she had played a major role. He was suspicious that her brief was to achieve the same results in City.

In summary, City was a large bureaucratic organisation that controlled a multi-million pound budget. The size of the bureaucracy meant that even individual departments had sizeable budgets and decentralisation had given them a large amount of autonomy in how the funds were allocated. However the authority was also characterised by the strong leadership of Labour Party politicians. This meant that, in the past, the autonomy of non-elected officials was, to some extent, curtailed. At the time of undertaking fieldwork for this research the *status quo* was under challenge. One example of this history was that EO policies had previously received considerable support from elected members, which appeared to be under threat. Another was that industrial relations in City were in flux.

### *Industrial Relations in City*

The (non-teaching) trade unions recognised within City were Unison, T&GWU, GMB, AEEU and UCATT. Created from the merger of NALGO, NUPE and COHSE in 1993, Unison is the largest public sector trade union nationally. Unison, with around 18,000 members also, had the largest membership base in City. However, Unison appeared to have the same number of seats at the formal bargaining table as the T&GWU, GMB and the AEEU, with each of these unions being represented by two negotiating officers. UCATT had only one negotiating officer, but he was the chair of the Joint Trade Union Forum



(JTUF) and played a particularly active part in the negotiations. All of the negotiating officers were white and only one, Betty, was a woman who, along with a male colleague, represented members from the T&GWU. Although Betty attended every meeting she did not speak once. Her colleague, on the other hand, was quite vocal. The Unison negotiating officers were the branch secretary and EO officer. The branch secretary was active in the negotiations, whilst the EO officer did not contribute to the discussions.

The main forum for negotiations was the consultation and negotiations sub-committee meeting (CANS) – a sub-committee of the personnel committee. The chair of the CANS group was the only black council member on the committee. He was considered to be on the left of the Labour Party, but trade union officials felt that he had been given this responsibility largely as an attempt by council leaders to dampen his militancy:

I think they thought it was better to have him on the inside pissing out than on the outside pissing in (Unison regional officer, City 10.12.97).

The remaining employer representatives consisted of three other elected members, two of whom were women and the director of personnel, also a woman. The authority's chief clerk also attended to advise on constitutional points and to take minutes, but did not have a voting role.

The CANS meetings took place bi-monthly and were preceded on both sides by a separate 'pre-meeting' where employer representatives and trade union officials from each of the unions respectively agreed on a united course of



action. Unison regional officials occasionally attended these meetings but usually only if there was a threat of industrial action. Inter-union relations were carried out prior to the meetings via the JTUF, which consisted of the negotiating officers of all the recognised unions. The secretary of the JTUF was the branch secretary of Unison whilst the chair was the UCATT branch secretary. Both of these positions were particularly influential in the CANS meetings as they in effect acted as the combined trade union voice. However the working relationship between these two officers was not close and, in an informal interview, the UCATT officer was scathing about the tactics (see chapter nine ) of the Unison officer.

Communications between employers and trade union officials at the meetings took on the rhetoric of an 'open and inclusive exchange of facts'. However this was usually delivered in the form of managerially oriented presentations designed to confuse and 'blind with science'. Trade union officials complained that there had been a history of executive officers and departmental managers by-passing union representatives. As a result information was often gained via politically sympathetic council members. It was therefore interesting to note as an observer at a number of these meetings that the preferred strategy of the JTUF secretary (also Unison branch secretary) was to by-pass wherever possible the executive officers by appealing directly to the elected members.

Council leaders in City were actively involved in industrial relations and negotiations. Channels of communication between councillors and trade union



officials were generally considered open and accessible. The authority retained an incremental and traditionally pluralist approach to industrial relations:

They [the trade unions] are listened to at least by the councillors who are sympathetic... But here members [councillors] do have a strong say so in the way the organisation runs. In some authorities Councillors are just there to essentially rubber stamp stuff. That doesn't happen in [City] and they are very, very interested and there are some very high calibre councillors. And their affiliation has traditionally been the Labour movement and there are good contacts there. And I think the contacts are used very wisely on occasions [laughs], but it has taken time to see that. But certainly they [the trade unions] have communication networks through to the highest levels and they are listened to. Even if someone comes in with the view that they are not going to listen to the unions, they would never get away with that. (Principal personnel officer, City social services, 29.7.97)

One result of this relationship was that, although reorganisation and restructuring had taken place, the 'new right' agenda had largely been resisted. Illustrative of this was the authority's resistance to CCT and its amenability to retaining services 'in-house'. Similarly there was a 'no compulsory redundancy' agreement in operation in City which was taken very seriously by both employers and trade unionists. However, budget cuts had put this under strain and the subject was tentatively broached in times of particular pressure.

The industrial relations climate had become particularly strained during the course of the research because of the authority's intention to unilaterally change the pay date of monthly paid staff. The dispute escalated to the point where strike action was planned and certain union members balloted. Rifts between unions and within the factions of Unison meant the action was postponed, eventually lost momentum and the support of even the members who had been initially enthusiastic.



The decline in industrial relations in City had been exacerbated by the appointment of the new director of personnel. She was disliked by all of the trade union officials who were interviewed, most of whom felt she was attempting to import 'right-wing' employment policies from her previous posts.

I have told the director of personnel in this room as it happens that I don't trust her. That I feel that she is working to her own agenda. I have never said that to a personnel officer before. It is that bad... [The director of personnel] is probably Tory. She would never tell anybody that but it is probably true and she comes from a background of working with a Tory controlled authority (Unison regional officer, City, 6.1.98).

This sentiment was echoed by the UCATT branch secretary (also the chair of the JTUF) who felt that the director of personnel was using the pay date issue to force declining industrial relations in City to a head. He felt that the pluralistic approach to industrial relations generally adopted by council leaders 'was not her style'. It was also rumoured amongst trade union officials that her appointment had widened existing splits amongst council officials and officers and that the chair of the CANS group had expressed particular difficulties in working with her. This was confirmed to some extent by observations of CANS meetings in which the director of personnel clearly became exasperated by the deference often shown by the chair of the personnel committee to leading trade union negotiators.

As is usual in most local authorities, industrial relations in schools between the teaching unions and employers were not carried out via the authority-wide channels described above, but directly between the unions and the LEA. Non-



teaching staff in schools in City are largely represented by Unison whilst teaching staff were mostly represented by the National Union of teachers (NUT) and National Association of Schoolmasters and Union of Women Teachers (NASUWT) with a small number belonging to Association of Teachers and Lecturers (ATL). The Professional Association of Teachers (PAT) was not recognised by the authority. Due to the limited information that could be gained from the LEA it was difficult to assess their position, but trade union officials considered the LEA had input on policy and procedures such as sickness and absence, competency, grievance and disciplinary issues. Regional officials, who were in a position to make comparisons between different LEAs, felt that schools in City retained close links with the LEA and still relied upon them to a great extent.

However, union officials felt that the introduction of LMS had distanced the LEA from industrial relations in schools. One NUT regional officer felt that although LEA officials in City were normally receptive to trade union arguments, particularly when they concerned aspects of discrimination, they had been resistant to any trade union restrictions on the use of temporary contracts. An NUT association official considered that the LEA was reluctant to get involved with schools that were 'in trouble' and that the union had to threaten industrial action to get them to become involved. He felt that this was a symptom of the decentralisation inherent in LMS and the increased power this bestowed on school managers, particularly head teachers:

The problem is that teachers and heads don't take complaints to the chief education officer, so on the surface everything looks rosy...He [the



chief education officer] wants to make sure that whatever head teachers ask for head teachers get. That is why [City] has devolved and delegated more of the budget than it really needs to [92% as opposed to the statutory minimum of 85% at that time]. That is because head teachers in [City] have asked for that. Well of course head teachers want their budgets devolved. Of course as far as they are concerned the bigger their budget the better. But that has a knock-on effect for LEA services. (NUT association official, City 5.3.98)

The same branch official detailed the impact this had on workplace industrial relations for teachers:

There used to be a system that every school had reps and when there was a problem the rep would go to the head and the head would recognise that the rep was simply acting for the union. Whereas now people feel that heads see reps as individual troublemakers. In the old days when we felt that reps were being treated like that we would take it to the LEA and the LEA would step in and sort it out. Now the LEA won't because it is governors who run schools and the heads know that the LEA can't come in and tell them off or threaten to discipline them, because they can't do that any more. Only governors can discipline head teachers. And so head teachers feel perfectly safe in their little castle (NUT association official, City 5.3.98.).

Throughout the 1990s there had been a process of devolving industrial relations to a school level, with implications for trade unions.

### *Temporary Employment in City*

Officials at City had recently been made aware of the increasing numbers of temporary workers by union protests and the installation in certain departments of a new computerised payroll system that was able to deliver detailed personnel information. There was also concern over the embarrassment caused by a number of industrial tribunal cases that implicated the council in poor employment practices. Lastly there was some suggestion that councillors were



uneasy about the uncertainty in the wages bill created by temporary workers. As a result City councillors gave backing to a union initiative which called for the reassessment of the contracts of temporary workers and for the issue of permanent contracts where possible.

Because of the difficulty of collecting authority-wide staffing details, City was unable to state with any certainty how many workers it employed let alone how many of those were subject to temporary contracts. The personnel officer for the social services department in City did provide figures for temporary workers in that department which stood at 406 casual workers and 179 temporary and fixed-term contracts. Out of a workforce of approximately 6,000 this represented a total of 9.8%. Of the employees on temporary and fixed-term contracts, 117 or 65.4% were women but no gender breakdown was available for employees working on casual contracts.

Figures for temporary workers in the education department were provided for ‘salaried’ employees on fixed-term or temporary contracts covering teaching, support and unqualified staff. They are detailed in Table 4.1 below:

**Table 4.1**  
**Numbers of fixed term and temporary contracts amongst ‘salaried’ employees in ‘City’ LEA as at 3<sup>rd</sup> March 1998**

	Total	Temporary	%
Male	3976	308	7.7
Female	12615	2083	16.5

Source: Education Officer, City, correspondence 3.3.98



These figures represented an overall total of 14.4%. However, as City LEA put the number of temporary contracts at 17%, it can be assumed that temporary contracts were also a feature of non-salaried employment. By referring only to fixed-term and temporary contracts, the figures do not take account of supply and agency teachers. The outstanding characteristic of the above statistics is the high number of women employed on temporary contracts in comparison to men. They reveal that 87% of temporary salaried staff were women. Statistical information contained in a recent LGMB report (LGMB 1998) reveal that the percentage of temporary workers in social services (9.8%) and education (17%) departments in City is far greater than the regional average of 6%.

### *County*

County is one of the oldest rural counties in the UK and occupied an important position in feudal Britain. The county was largely by-passed by the industrial revolution with one outcome being that the county council had become the largest employer in the area. Outside this, most local jobs were found in tourism, retail and a small proportion in agriculture. The landscape in County was picturesque and had attracted a number of older, retired residents. The population numbers in County were fairly static. The authority served a largely white, ageing, relatively wealthy community. There were also large pockets of poor housing containing low-income families, making relative deprivation a very real concept in County.



Belying County's historical heritage, the council chambers were housed in an uninspiring 1960s building on the residential edges of its medieval County Town. The building was functional, displaying none of the institutional grandeur of City and was, on the whole, rather shabby. During the period of the research the authority reluctantly underwent local government reorganisation (LGR). This entailed the separation of the largest of the six associated district councils to form a new 'unitary' authority. Prior to LGR County comprised 66 elected members but, with the establishment of the new unitary authority, 22 constituencies were lost. Politically the council was a "hung" council made up of a Lib/Lab coalition with the Conservatives making up the largest single group. The political complexion of the authority was fairly volatile, and before the 1996 elections the Labour group led the coalition. At the time of the research the council leadership changed, passing to the leader of the Liberal Democrat group.

LGR further affected the political balance as the loss of urban seats meant the county was even more rural and therefore tended to be more Conservative. The council was arranged around six committees: Education; Community and Economic Development; Environment; Planning and Transportation; Policy and Resources; Public Protection; Social Services. There was no separate personnel committee; major employment decisions were dealt with by the Policy and Resources committee whilst day-to-day control of personnel issues fell to a Resource and Management sub-committee. During the LGR process the LGR advisory committee also dealt with relevant personnel issues. There were six non-elected officers: Chief Executive; County Education Officer; Director of



Community Services; Director of Environmental Services; Director of Central Support Services; Director of Social Services.

Before LGR, County served a total population of 431,120 in an area of 348,767 hectares. This gave the county a population density much lower than the average of the other Shire counties. The importance of this factor was that officials in County considered that the authority had suffered particularly unfairly in past revenue support grant (RSG) settlements mainly because of its rural and sparsely populated geography.

Geography greatly affected the financial position of County in a number of ways. Firstly low numbers of inhabitants meant Council Tax receipts were low. Similarly the relatively small numbers of business and commercial properties reduced receipts from the Business Rate. Secondly, financial difficulties in County were considerably exacerbated by the central government formula for calculating the RSG. Reductions were made for sparsely populated areas, although budget reports in County claimed that providing services in isolated regions was actually more costly. In addition, the RSG was reduced by area cost adjustments, which required local authorities to take account of local pay levels when employing staff. Wages in rural areas were considerably lower than in cities, which was confirmed in County by figures that rated male earnings at 13% less than the national average and female earnings 16% below the average – 80<sup>th</sup> out of 83 counties and London Boroughs. This had a particular impact on County, as 75% of its employees were women. The situation was set to worsen for County after LGR as the new unitary council contained the most densely



populated districts. After LGR the population covered by County dropped by 35% to 280,000 whilst the geographical area covered by the county fell by only 8.3% to 320,000 hectares.

County had a 1996/97 total expenditure of £253,246,000. However this has been reduced following LGR to £172 million for 1998/99. The first RSG settlement of the Labour administration was received with particular dismay as it left County with a £10m budget shortfall as opposed to the £8m reduction that was anticipated. In a press release following the announcement of the RSG settlements County officials noted that:

The Government's settlement gives [County] one of the lowest level increases of any county authority in the country – at a time when funding for its services is under the greatest pressure because of local government reorganisation. (Documentary records)

The annual reports were conspicuous by their lack of information directly relating to personnel issues. Unlike City, numbers of employees were not indicated and labour costs were not noted separately from other expenditure. The 'corporate' personnel officer stated that, before local government reorganisation, there were 12,000 employees dispersed over 500 workplaces. He considered that this would be reduced by one third following LGR to approximately 8,000. A budget update circular issued to the public in 1998 following LGR put the figure at 7,379.

All of the non-elected officers were white males, as was the corporate personnel officer. Although the authority advertised itself as 'working towards equality',



equality issues were generally given a low profile and equal opportunities policies were not advanced to any significant extent. In the past County had advertised itself as ‘an equal opportunities employer’. Following a number of successful discrimination claims by employees the council had changed this phrase to ‘Working Towards Equal Opportunities’ (Documentary records)

The non-elected officers had a major input into the decision-making process in County and the elected members played a far less active roll when compared with City. One trade union official felt the politics of executive officers had impacted on the overriding political complexion of the authority:

Although we have had a Labour council here I think we have suffered severely here with very Tory chief officers. And they are saying to the councillors this is the story, this is how it’s got to go, this is how you have got to do it. And the councillors don’t know enough to be able to say we are not going to do that; we are going to go this way. So they are having to take the officers’ view point who happen to be extreme Tories. (Unison Branch Secretary, County 19.5.97)

Personnel issues were particularly affected in this respect and the situation had been exacerbated by the lack of a designated Personnel committee. The corporate personnel officer described major personnel decisions in relation to LGR as being drawn up by executive officers and “rubber stamped by the advisory committee process” (12.11.97). This reflected the more general position that personnel decisions in County were largely decentralised to individual departments and then in turn devolved within departments to service areas. The corporate personnel officer viewed the central personnel function as offering specialist, mostly legal advice. However it was clear that, during LGR,



many personnel decisions, including the compulsory recruitment of all new staff on temporary contracts, had overridden the authority of local managers.

Notwithstanding LGR, executive officers retained a great deal of power and in some respects worked closely together. One outcome was that the authority was committed to the rhetoric of becoming an 'enabling authority' with the result that, although CCT was suspended for the duration of LGR, a considerable number of public services and internal administration functions had been 'externalised' without even being subject to voluntary competitive tendering (VCT). Social services were particularly effected in this respect with the most recent loss of eight residential homes for the elderly to private contractors. Furthermore, decentralisation had resulted in large variations between departments in respect of personnel issues, which clearly caused the corporate personnel manager some concern.

I mean the more personnel management is, and it is devolved here, the more difficult it is to ensure every manager on each occasion follows the same process and the same logic. And at the end of the day you can't ensure that. The way you ensure that is by having a very tightly prescribed central system and central administrative system. Now that has its advantages but it has considerable disadvantages in terms of the style and the way the local authority works. And most local authorities have gone away from that if they were ever that type of administration and gone down the devolved path. So the advantages outweigh the disadvantages, but there is an issue. (Corporate Personnel Manager, County 9.7.96)

The social services department was restructured following LGR and it was feared that the 1997/8 budget cuts would result in the loss of 100 jobs in social services. The new structure covered five divisions with, like City, the main operational division between adult's and children's services. However, unlike



City, adult services in County were subject to a pronounced ‘purchaser/provider split’ as 60% of adult’s services were ‘bought in’ from external sources. This accounted for approximately £15 million of the £51.3 million social services budget. Divisions in children’s services, by comparison, were made between resource centres, effectively residential establishments, foster care and adoption services. In 1998 approximately 2,000 people worked in the department. In addition, the personnel officer for social services considered that the department employed large numbers of ‘sessional’ or casual hourly paid workers who were not included in that figure.

The 1997/8 education budget in County was £155.8 million, accounting for the authority’s largest single expenditure. It was generally felt that education had been shielded to some extent from budget cuts. However the severity of the financial crises meant that the department was also now facing the prospect of job losses. In 1998 the LEA employed 3060 teaching staff, of whom 450 were part-time. Most of these were employed in the authority’s 245 schools (209 primary; 29 secondary and 7 special needs). The education department could provide neither a gender nor racial breakdown of staffing figures.

### *Local Government Reorganisation*

County was scheduled to complete LGR by 1<sup>st</sup> April 1998 but procedures to comply with the requirements of LGR were drawn up two years prior to this date. The personnel procedures were based on guidelines produced by the central government Staffing Commission and comprised a complex system of



rating jobs to determine how they would be allocated post-LGR. Certain jobs, roughly those that necessitated direct contact with the public, were protected by a statutory transfer order to one or other of the authorities. Other, largely administrative posts, were subject to a series of 'jobs rounds' in which available jobs were advertised. Staff who had not secured a statutory transfer-order post were, in accordance with a number of provisos, allowed to apply for these posts. Staff employed on a temporary contract with less than 2 years service as at 31st March 1998 were not eligible to apply for any post until the final round; that is for jobs that permanent staff had not applied for in the earlier rounds.

Initially, at the outset of the LGR process, there appeared to be a relationship of trust and co-operation between the two authorities and, with some reservations, the trade unions. As the budget was to be split on a 35/65 basis between the two authorities, it was similarly decided County would take 65% of the non-statutory transferred posts and the new unitary authority would take the remaining 35%. However by 1997 relations had deteriorated between the two authorities and trade unions had started to become more cynical about the process. This was largely triggered by the realisation that both authorities were using LGR as an opportunity to restructure. In County this meant trimming budgets and changing job descriptions with accusations from the union that the process had been used to selectively oust certain people – usually trade union activists. In the new unitary authority it meant a reluctance to take on the 35% of workers County was trying to shed. These developments were described by a County personnel official in the following way:



The other county gets a third of the money and we keep two thirds but the other county has designed their staffing structure and we have redesigned our staffing structure. So...a lot of people are statutorily transferred – they are easy – they are the direct service people and there are about three thousand of those. The ones where it is much more complicated are the ones providing indirect services. administration, payroll, finance, I.T., all those things, personnel, clerical and admin. where there isn't an automatic transfer. The other authority designed their structure. We will reduce our structure and we are then trying to fit people into our fewer jobs and therefore into the other authority's jobs. Now you might think on paper that's easy isn't it. You just put the third into the expanded other authority but its not as easy as that...In numerical terms there are more jobs but when you actually look at all the different types of work and specialisms around there isn't an easy match. (Corporate personnel officer, County 19.5.97)

More detail was provided by union officials, who drew attention to a process of down-grading in the context of re-organisation. As noted:

Restructuring has been used as a way of cutting budgets. Departments have been told to provide the same service with a lot less money. This has resulted in a cut in the number of jobs and in some cases they know the new structures aren't going to work...In my old department they actually restructured the jobs, downgraded all the jobs without either the old or the new job description. The new job description was written some two or three weeks after they had downgraded all the posts. So they had obviously drawn up the job description to fit the story...they have altered the job descriptions, they have altered the goal posts, they have moved them, they have jumbled things about and its been absolutely horrendous. Some departments have prepared person specifications, which have been very prescriptive and have kept their own people ring-fenced basically. And other departments have purposely opened them up to get chances to get other people in so they can get their own people out. (Unison, full-time branch officer, County, 12.11.97).

Although there was a national 'no redundancy' agreement in place covering LGR, officials in County had not adopted this and, by the end of the process, there were 35 permanent employees still unplaced and facing redundancy. Furthermore there had been no firm agreement that the use of temporary contracts would revert to pre-LGR levels.



There was also some retrospective concern on behalf of the union that LGR had been a very costly exercise that had merely succeeding in duplicating the numbers of high ranking officials at the expense of those lower down the scale and the provision of public services:

I was concerned at one stage that they would over-kill on the down sizing so that when they got to be the new authority they would be able to say look what a wonderful authority. We are going to do this, we are going to do that. But in actual fact they did their figures wrong and we have actually got an 8 million budget deficit so we are in real, real trouble now before we even get into the new authority ... But we were told right at the very beginning that LGR would cost the best part of 16 million... Well you have got two heads of education for a start you see. That's why I say that I can't see that there has been a saving in it at all because if you turn it into two unitaries then we would have lost five chief executives. We have now got seven chief executives and two chief education officers instead of one and two heads of social services where we only had one. So, on that end of the scale, it has definitely doubled up. But when they have come down in to the other part of it they have definitely compressed it much more and they have got a flatter management structure just below the director... You wouldn't believe all the rest of the cuts. There is virtually total closure of school meals in rural parts. Four hundred thousand off a 1.4 million budget for youth service in the county, mainly in the rural areas again they are going to be shutting the projects... (Unison full-time branch official, County 12.1197).

### *Industrial Relations in County*

The (non- teaching) unions recognised in County were Unison, MPO, FBU, T&GWU and GMB. However one of the features of County councils was that many of the 'blue-collar' occupations which had traditionally provided membership to T&GWU and GMB were contained within the associated district councils. Therefore, in County, by far the largest union and as such the lead union in all negotiations was Unison. Following the national merger the



Unison branch in County had recently merged its one ex-NALGO and two ex-NUPE branches.

The extensive externalisation in County confronted the newly merged branch, formerly exclusive to the public sector, with the predicament of multi-employer negotiations. The branch was particularly ill suited to this task for a number of reasons. Firstly the branch had a tradition of largely informal, unstructured negotiations between the branch organiser and individual executive and departmental officers. This had led to the Joint Consultative Committee (JCC) and shop stewards committees being largely redundant until eventually they were not convened. The vulnerability of this arrangement was sharply illustrated when stress-related illness led to the long-term absence and eventual retirement of the branch organiser. This left the branch in considerable disarray at a time when, under the aegis of LGR, considerable erosion of terms and conditions for the majority of workers in County was taking place.

Secondly the heavy reliance on support from regional officers and the weakened position of the branch following the loss of the branch organiser reinforced dependence. This was further bolstered by the belief of the regional officer assigned to County that the shop stewards were generally poorly placed to act as representatives:

I think the problem is that they [shop stewards] are not becoming involved... because of the complexities, because of the difficulties and because of their inexperience [they] don't see the problems and therefore let things go. (Unison regional officer, 19.7.96)



Inevitably trade union involvement became increasingly distanced from the workplace with the result that already waning branch and workplace activism virtually disintegrated. One consequence was that workplace issues were not dealt with at source and local managers, strengthened by devolved powers, could easily by-pass the union. This had the effect of further undermining the confidence of the remaining few active shop stewards:

If you have a branch organiser going into a meeting the management will respect that person because they see that as their full-time post and basically that's what they are there to do [but] they probably wouldn't get as much respect as a regional officer. I have actually seen it, it's unreal. And there is this thing - its almost like oh you, you are a secondee. (Unison shop steward, County social services 12.11.97)

Some departmental and local managers took full advantage of the situation with the outcome that treatment of stewards across departments was variable with access to resources and facility time largely dependent on the attitude of individual managers.

Ironically the union action against budget cuts fostered the perception of common ground between employers and trade unions. Such a view directed attention away from the restructuring that was taking place masked by LGR. This had progressed to the extent that the corporate personnel officer had come to view the branch as source of assistance during the LGR process:

...they [Unison] have been working with us to set up agreements, to work through agreements and deal with the many issues that have arisen. (Corporate personnel officer, County 10.7.97)

The following passage also indicates that the branch had accepted this role:



...the personnel officer is annoyed because he only seconded me here to help the branch organiser and he is saying that he didn't do that to replace a full-time Unison officer. And he wants the same service as when there was two of us here. (Unison branch officer, County 12.11.97)

However LGR began to create tensions between the branch and departmental managers as it became apparent that some branch officials were possibly facing redundancy. The branch had responded by threatening to press claims to industrial tribunal on the grounds of discrimination against trade union activity. This proved to be unnecessary as the individuals in question were all eventually re-deployed.

The LEA in county recognised Unison for non-teaching staff and the NUT, NASUWT, ATL and the head teacher's unions NAHT and SHA for teaching staff. Consultation and negotiations between the unions and County were still largely carried out at the level of the LEA. The focal point of negotiations was the personnel handbook, which the governing bodies of all the schools in County had adopted. In this respect LMS did not appear to have had a great impact. However both NUT and NASUWT officials reported a number of changes in the way local industrial relations had been conducted since LMS.

Firstly, although the majority of negotiations still concerned local terms and conditions, divisional and federation officials were now caught up in redundancy negotiations. This had rarely been a feature of their role prior to LMS and was therefore somewhat uncharted territory. The teaching unions handled this issue differently with the NASUWT divisional secretary playing a



more direct role and the NUT divisional secretary tending to pass more of the casework to regional officials. One official stated that:

Local negotiations are mostly about local terms and conditions. Although I do spend, specially at this time of year, a lot of time negotiating with governing bodies over redundancies. And none of the other unions in the county bother doing much about that but I don't know why... So then we go down into the school and it is my job to try and persuade the governing body not to make people redundant – which isn't always easy. (NASUWT negotiations secretary, County, 10.2.98)

Both NASUWT and NUT lay officials considered that the relationship between the LEA and individual schools was greatly changed by LMS. The NASUWT official felt this had a pragmatic basis:

Pre-LMS I used to think there was a degree of impartiality with LEA officers. There isn't any more because, if it wasn't for schools buying into their personnel services, they wouldn't have a job. So if a head says I want this to happen then the head of the education department says 'yes Miss' and it will happen because otherwise they will miss out on all that money. (NASUWT federation secretary, County, 10.2.98)

It was considered that, although the LEA had managed to retain a semblance of control over personnel issues by persuading governing bodies to adopt the personnel handbook, many school managers paid only lip service to putting its policies into practice. Head teachers were considered to be particularly 'selective' in their use of the procedures. As a result the NUT divisional secretary was aware that, since LMS, a rift had started to appear:

...because in between working with people who are in the LEA and out in the schools, what the LEA believes happens in schools and what actually happens in schools, I don't think quite matches. (NUT divisional secretary, County, 22.2.98)



Like City, the introduction of LMS had begun to impact upon industrial relations and thus trade union issues.

### *Temporary Employment in County*

Although numbers were not formally provided, LGR was cited as the reason for the increased use of temporary contracts in County. When asked how many people were employed on temporary contracts the corporate personnel manager replied 'oh hundreds'. When pressed he expanded upon this stating:

...until six months ago the proportion of fixed term contracts would be very small. It would certainly be less than five percent and probably much less than that actually in some areas. What we have now got to cope with is local government reorganisation which will happen in this county on 1<sup>st</sup> April 98. That means we have in the last few months had to look to using more fixed term contracts for those staff that are most at risk. (Corporate personnel officer, County, 9.7.96)

However, in a interview the following day, the Unison full-time branch officer said figures had been produced at a recent meeting about LGR (at that point 2 years before the vesting date) which suggested that as many as 4,000 of the authorities 12,000 employees were already employed on temporary contracts. Throughout the course of the research no accurate authority-wide figure was volunteered although it was clear that centralised personnel records were computerised and could be accessed with relative ease. To illustrate, the social services personnel officer produced a report for that department during the course of an interview, the results of which are displayed in Table 4.2 below:



**Table 4.2**

**Numbers and (%) of Temporary Employment Contracts in the Social Services Department of County as at 15.12.97**

	<b>Full-Time</b>	<b>Part-Time</b>	<b>Total</b>
<b>Female</b>	48 (2.4)	89 (4.45)	137 (6.85)
<b>Male</b>	18 (0.9)	20 (1.0)	38 (1.9)
<b>Total</b>	66 (3.3)	109 (5.45)	175 (8.75)

Source: Social Services Personnel Officer, County, correspondence, 17.12.97

These figures represented 8.75% of the total workforce in this department.

However, the figures do not include casual or sessional workers whom, as it has already been stated, were considered by the social services personnel officer to be used in large numbers. The above figures further demonstrate the links between temporary and part-time employment, particularly for women.

Teaching is classed as a statutory transfer order post and therefore is unaffected by LGR. In education, the departmental personnel officer, claiming they were ‘not readily available’, initially withheld figures for temporary contracts. This is despite the fact that the figures must be collected and returned on an annual basis to the Department for Employment and Education (DfEE) in a report known as ‘618G’. When this was pointed out, he provided the name of the LEA official who collected the statistics for 618G and who provided Tables 4.3 and 4.4 below<sup>3</sup>.



**Table 4.3**

**Numbers of Full-Time Permanent and Temporary Teaching Staff in County as at 31.1.98**

	<b>All Full-Time</b>	<b>Full-Time Temporary</b>	<b>%</b>
<b>Secondary</b>	1199	171	14.3
<b>Primary</b>	1411	91	6.4
<b>Total</b>	2610	262	10.0

Source: Education Officer, County, telephone conversation, 26.11.98

**Table 4.4**

**Numbers of Part-Time Permanent and Temporary Teaching Staff in County as at 31.1.98**

	<b>All Part-Time</b>	<b>Part-Time Temporary</b>	<b>%</b>
<b>Secondary</b>	256	212	82.8
<b>Primary</b>	194	77	40.0
<b>Total</b>	450	289	64.2

Source: Education Officer, County, telephone conversation, 26.11.98

An overall percentage of the number of temporary teaching staff in County was 18.2%. Gender and ethnicity information was not required for the 618G return and this information was not collected separately by County. Therefore a comparison in this respect cannot be made with figures from City. However, like the figures for social services in Table 4.2 above, what is striking about the above figures are the very high percentages of temporary contracts amongst

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<sup>3</sup> These figures were collected prior to LGR and therefore include teaching staff in both authorities. The figures do not include teaching staff in Special Needs schools.



part-time teachers. This gives some indication of the possible connections with gender if not ethnicity. Like City, the statistical information contained in a recent LGMB report (LGMB 1998) reveal that the percentage of temporary workers in County was far greater than the regional average of 6%.

### *Summary*

It is worth summarising the main points of this chapter, as many of the issues that have been introduced here are important contextual factors in the following chapters. The following analysis also re-emphasises the centrality of themes identified in previous chapters. Both City and County have experienced an extensive use of temporary labour. The greatest numbers of temporary workers were in social services and education, the departments that employed the largest percentage of women workers and/or part-time workers. However, whilst the edicts of central government have had generally similar impacts on the staffing policies of local government, these were mediated by a number of local factors.

City had obviously fared better than County in the allocation of centrally controlled funds. This did not prevent officials in City from using the threat of budget cuts to justify restructuring and put pressure on the unions. County, by comparison, had suffered years of chronic under-funding - a situation that did not seem set to improve following the election of the Labour government. The effects of general under-funding had been exacerbated by the costs of local government re-organisation, with the prospect that the new structure would be less rather than more efficient in the use of resources. Although LGR was cited



as the driving force behind the increased use of temporary labour in County, the evidence suggests that prolonged budgetary difficulties had initiated the process quite some time before LGR.

In both authorities under-funding and LGR (in the case of County) were used to a large extent as a smoke screen for the locally initiated restructuring which gave rise to increases in the use of temporary labour. Yet these initiatives were again transmitted via quite different local circumstances and structures.

In City the strength, stability and politics of the elected officials clearly had some impact on the authority's employment policies. The pluralist tradition of industrial relations had been maintained and personnel issues were given a high profile. Furthermore councillors were sensitive to adverse publicity from industrial tribunals, particularly in relation to EO issues. The outcome was that EO policies were given some import, the externalisation of services via CCT had largely been avoided and there had been some attempt to monitor and reduce the use of temporary labour when pushed by the unions. However there was some evidence to suggest that the grip of elected officers had begun to weaken largely because power had been held by a few charismatic leaders who had become susceptible to the challenge of a new and equally charismatic Director of Personnel.

The grip of elected officers was also considerably weakened by the extensive decentralisation that had taken place in City. This meant that EO responsibilities were devolved to individual departments and dispersion had led



to a reduced profile and considerable inconsistency. Similarly the personnel function had become divided and friction had arisen between the centralised and departmental levels. This had a particular impact on policies concerning temporary work as recruitment of temporary staff was largely the remit of departmental officials and local managers. Furthermore statistics on temporary work were collected inconsistently, making it difficult for central policymakers to gauge the extent and trends in its use. This appeared to be a deliberate attempt on the part of departmental personnel officers to cloud the issue in order to prevent centralised interference rather than administrative incompetence.

By comparison, the situation in County was almost reversed. Elected officers in County were weakened by the instability of Party politics and control in the authority, whilst the dominance of the non-elected officers was bolstered by the maintenance of a 'corporate', centralised system of policy and decision-making. One result was that personnel issues were downplayed, a factor that was clearly illustrated in the lack of a separate personnel committee. Unlike councillors in City, councillors in County had not resisted the tendering of services and a number of services were 'externalised' – a euphemism for being sold to private or voluntary sector organisations. Similarly, barely a nod was made in the direction of EO policy, a factor that was again clearly evident in the lack of monitoring of relevant statistics. One similarity with City was the lack of detailed statistical information made available on temporary work. While it was felt that this information was almost certainly collected and could be easily accessible, the authority preferred to withhold it wherever possible.



In County although decentralisation appeared to have occurred, LGR had been used to reassert centralised decision-making by executive officers. In particular, LGR had been used as an excuse to restructure employment in the authority. Centrally imposed LGR was used to justify the partisan shuffling of jobs and to veil the selective use of redundancy.

The differences in the *modus operandi* in the two authorities were accompanied by divergent industrial relations environments. In both authorities the lead union was Unison. However the collective power of the other unions in City meant that Unison could not dominate collective negotiations. It was clear from observations of negotiations and the existence of an active joint trade union body, that the combined strength of other unions did not allow Unison to have a free hand in the conduct of trade union dealings with employers. By comparison, the dispersion in County of 'blue-collar' jobs to the district councils meant that Unison virtually stood alone. However a common feature in both City and County was that, apart from one largely inactive white female officer, all the negotiating officers were white males.

In City the maintenance of a pluralist tradition encouraged the unions to adopt a combination of co-operation and conflict in their negotiations. This divergent approach was in some part the result of differences between the unions and factions that existed within Unison (see chapter eight). Furthermore, whilst co-operation was encouraged by councillors via informal channels of communication, conflict appeared to be preferred by executive officers, if only because they could not be excluded from formal industrial action.



Industrial relations in County were conducted on a predominantly informal basis and had been dependent to a great extent on the relationships between the branch organiser and individual executive officers. This tradition had arisen largely because of the dominance of Unison, particularly at a regional level. The weaknesses of this arrangement became clear when the retirement of the branch organiser plunged the branch into chaos. Initially Unison took part in what was portrayed as a united front against budget cuts and the costs of LGR. But, this amounted to little more than the incorporation of union officials into the restructuring process. The result was that internal restructuring under the aegis of LGR went virtually unchallenged. The only spark of resistance occurred when, well into the restructuring process, some branch officers were faced with redundancy themselves.

The experiences of the education departments in the two authorities were more clearly matched as the introduction of LMS had drastically altered the relationship between unions and the LEA in both City and County. The weakening of the LEA under LMS has marginalised teaching union associations. In both authorities the teaching unions felt that the LEA had a survival interest in placating school managers with the result that negotiations at the level of the LEA were now largely superfluous. In County there was still some evidence of local negotiations with the LEA. But this had been restricted mainly to redundancy issues. The day-to-day staffing decisions, particularly in relation to temporary staff, are now taken at the level of the school and, as yet,



there is little evidence that the teaching unions have regrouped in order to redress the change.

This chapter has outlined the general context in which decisions concerning temporary workers in City and County were made. In both authorities it has been identified that centralised pressures, both from Whitehall and local politicians provided only part of the account of how decisions concerning temporary workers are influenced. In education and social services departments of both authorities local managers provided considerable input into the hiring and firing of temporary labour. Overall, these developments point to a complicated process of decision-making and negotiation over restructuring in general and the employment of temporary workers in particular. To explore these issues in greater detail, the following chapters examine aspects of the temporary employment relationship by presenting and analysing the perspectives of employers, temporary workers and trade unions respectively. In this way the detail of temporary workers' experience, the scale and scope of temporary employment and attempts at organised resistance are revealed.



## 5. Employers

Despite the impetus behind the reforms of the previous government, local authorities remain bureaucratic and complex organisations. As the previous chapter has highlighted, local government is heterogeneous, displaying political, geographical and organisational diversity between authorities. There is no set pattern to the decision-making processes of individual authorities and this includes decisions on personnel matters (Kessler 1991; Colling 1993a).

Furthermore, notwithstanding the previous government's aversion to bureaucracy and the attendant logic behind NPM, decentralising management functions and devolving budgets to lower echelons within authorities has merely succeeded in adding to complexity by feeding the different and often competing motivations of various levels of line managers.

The issue of temporary work offers a prime example of this variation in City and County and this chapter examines how structural and organisational characteristics of the two authorities identified in the previous chapter promoted or restricted the use of temporary workers in each. This is done separately for City and County in respect of social services to reflect the individual circumstances faced by the authorities and the different organisational arrangements through which they were mediated. By comparison, the combined analysis of these factors for the education departments of both authorities reflects the homogenising effect of legislation on the structure and organisation of LEAs and schools.



## *City*

As a Labour controlled authority with close links with the unions, the elected members and executive committee in City found themselves confronting diametrically opposed pressures. On the one hand was the ever-present threat of budget shortfalls and on the other a politically sensitive ‘no compulsory redundancy’ collective agreement. One councillor suggested that the increased use of temporary workers relieved this pressure, as the shedding of temporary workers in times of budgetary difficulty did not constitute redundancy. In this way jobs could be lost without breaking the redundancy agreement. Similarly, part of the agreement was an assurance of re-deployment for all permanent council employees should it be necessary to make their current position redundant. However this had become difficult to implement as devolved budgetary restraint meant that local managers were reluctant to offer permanent jobs for re-deployment. Again temporary work offered a solution, as no such assurances of redeployment were necessary for temporary workers and no requirement of a commitment was expected from local managers.

One outcome of decentralisation in City was that, although recruitment and selection decisions had been devolved to social services unit managers, the recruitment of temporary workers was indirectly fostered by the blanket imposition of periodic recruitment and over-time bans on departments. Unit managers, particularly in children’s and adult’s services, faced with the closure of their units if sufficient staffing levels were not maintained, often had little choice but to take on casual and temporary staff to avoid breaking the bans. However, although authority-wide policies limited the decision-making



capacities at a departmental level. it was clear that devolved authority and budgets gave local managers a high level of discretion. This was particularly apparent in the treatment of temporary workers, as their working arrangements were often ad hoc and informal. Temporary workers were mostly recruited from small, localised pools known only to respective unit managers and there were complaints from staff that this practice often resulted in a great deal of favouritism and patronage.

The terms and conditions of temporary workers, particularly casual staff, varied widely between units within social services. Some unit managers paid holiday and sick pay whilst others did not. In one unit, the manager gave permanent staff separate casual contracts for work that normally would have been classed as over-time. However the rate of pay was well below what they would have received as over-time premia. When another unit manager in the same department was questioned about this practice (11.5.98), she said that she had not used temporary work in this way as the personnel director had expressly forbidden it. In another unit, staff complained that part-time staff, all women, were only ever given temporary contracts regardless of the nature of the position.

Not surprisingly, there was some concern amongst central and departmental personnel specialists that local managers did not appreciate the legal intricacies of temporary contracts and might lay the authority open to expensive and embarrassing tribunal rulings. It was also clear that the informal approach to the use of temporary workers by-passed equal opportunities policies with a high



probability that arbitrary decision making would allow discriminatory practices. As a staunch Labour council in a multi-racial, inner-city area this was a particularly sensitive issue for the officials at City. This, coupled with some suggestion that councillors were uneasy about the uncertainty in the wages bill created by temporary workers and the quality of the staff that were being recruited, had led to attempts to take tighter control over the use and recruitment of temporary workers. In social services this involved creating a centralised ‘casual pool’ of workers that had been recruited by personnel specialists and team leaders (middle managers). The allocation of these workers was also controlled at a centralised level which allowed tighter monitoring.

These policies proved to be highly unpopular with unit managers with the result that the central pool was effectively boycotted. The departmental personnel manager told how unit managers had persisted in contacting favoured casuals directly and steps had been taken to prevent this development. However he further stated that the onus for making sure that casuals were booked centrally had been placed on the casuals themselves. Casuals who accepted work, which had not been booked via the central pool, were threatened with loss of pay.

When questioned as to what punishment unit managers received for ignoring the new procedures he replied that “managers always have a number of excuses when confronted with breaking procedure” (departmental personnel manager, City, 1997).

Following pressure from trade unions, officials in City also agreed to a reassessment of the contracts of existing temporary employees. The process



involved assessing, on a departmental basis, the numbers of temporary workers in employment. The 'worst offending' departments were then subject to a case-by-case review with a view to making some temporary workers permanent. Social services was the second department on the list. However the review was only conducted after the imposition of a number of criteria had produced extensive screening which successively reduced the amount of temporary workers who were eligible for conversion to permanent status. Finally, only employees who had worked at least ten hours per week for a two-year period or more with no more than four breaks were considered eligible. These criteria would clearly adversely affect women with childcare responsibilities. However neither employers nor trade union negotiators noted this and EO monitoring of the procedure did not take place. As a result of applying these criteria, after starting with a total of 405 casual workers, only 7 were offered permanent contracts.

Applying the criteria also meant the process was extremely time consuming for the department; a feature that was exacerbated at an executive level by a considerable 'dragging of feet' by councillors and chief executives. Firstly, there was a general lethargy in bringing the issue to negotiation and, even when this had been achieved, allowing it frequently to fall off the agenda. Secondly, once an agreement had been reached to monitor the use of temporary workers, meetings to discuss the details of the operation were set weeks and sometimes months apart and even then often postponed and rearranged. Further tactics at this level involved failure to agree to the request of the joint trade union group for a collective agreement which by-passed the existing lengthy and unfruitful



review process by transferring all temporary employees to permanent status after two years service. In one departmental meeting, the suggestion of a collective agreement caused the usually conciliatory personnel manager to refuse, point blank, to discuss the issue further. Throughout the process it became clear that, although the trade unions had been involved, the eventual decisions would be made individually on a case-by-case basis. Furthermore, there seemed to be no mechanism in place to continually review the use of temporary workers, meaning that the current arduous process was likely to need repeating at some stage in the future when and if the trade unions again raised some opposition.

### *County*

In County the pressures exerted by central government were overt and immediate as impending local government re-organisation (LGR) coupled with a severe budgetary crisis were the engine behind much of the authority's personnel decisions. In this respect central government also provided part of the 'solution'. The Staffing Commission sanctioned and encouraged the use of FTCs as a way of reducing the uncertainty of restructuring and protecting permanent employees from redundancy during LGR (LGMB 1998) and, no doubt, shielding the authority from costly redundancy awards.

As 'corporate' decision-making structures within County were devolved to non-elected officers, the decision to use FTCs to fill posts until LGR has been completed was essentially the decision of the corporate personnel manager, "rubber stamped" by the elected members and with limited consultation with



unions. In principle the day-to-day staffing of individual social services establishments was devolved to unit managers. However, authority-wide policies put in place to meet LGR took precedence. Therefore, in the two-year period prior to the vesting date of the new unitary authority, all new appointments in County were made on a temporary basis. The express intention was that these workers could be cheaply and easily shed, if necessary, once the split had been completed.

Centrally imposed local government re-organisation was therefore portrayed as the main culprit for the increase of temporary workers in County. However during the course of the research it emerged that at the outset of the two-year period prior to the split, approximately 4,000 of County's 12,000 work force were already employed on temporary contracts. Furthermore, towards the end of the process, it was clear that the re-organisation would still result in a number of redundancies amongst permanent staff with no firm assurance that the use of temporary contracts would be reduced. Employees and trade union officials felt that LGR had been used as a smoke screen for an already excessive use of temporary labour and a fundamental internal re-organisation of individual departments.

As in City, devolved recruitment and selection of temporary workers gave local managers a high level of discretion. Although LGR meant that a choice between permanent and temporary workers was not an option, local managers still had discretion over selection and length of contract for temporary workers. Differences between departments made management decisions hard to justify



and the reality of inequality more apparent. However, there had been no EO monitoring of the policies put in place to manage LGR. Trade union officials had not used EO as a platform to resist restructuring, but felt that union lay activists had been unfairly treated during re-organisation, with certain key officials facing redundancy. Accusations of victimisation and threats to take cases to industrial tribunal on the grounds of trade union discrimination were enough to ensure that the individuals in question were all re-deployed.

In parallel to these features it was considered by both managers and unions alike that the organisational culture of County, like many local authorities, had undergone a dramatic change over the past ten or so years. The overarching feeling was that the job security traditionally associated with public service was now a thing of the past. The constant threat of budget cuts and legislative pressures which forced local government to seek out alternative and usually uncertain sources of funding meant the threat of job losses was always present. Trade union officials felt that, to a large extent, insecurity had been used by managers to intimidate workers and extend management prerogative.

Some clear indicators of this consolidation of management control were apparent from the interview data. Firstly, it was felt that the balance between the numbers of grievance and disciplinary procedures that had been invoked were greatly altered in favour of the latter. A trade union official in County felt that the numbers of grievances brought by workers had dwindled dramatically over the last ten years as job security had become a major concern. However he felt the reverse was true of the disciplinary procedures and, as managers became



more confident, the number of disciplinary proceedings had increased (Unison Regional Official, 19.7.96). These observations were confirmed by the corporate personnel manager in County who described the grievance procedures as a 'non-issue' because they were used so infrequently (12.11.97).

Other indicators identified by union representatives were the amount of unpaid over-time that it was felt was being worked and the tightening of absence procedures that occurred in both authorities. One union official expressed the sentiment that the tightening of sickness procedures particularly affected women employees (Unison Branch Official, County, 12.11.97). In the past sickness leave for local authority workers had been generous and was often used for child-care commitments. The greatly changed working relationships between local government workers and their employers meant this was not now possible.

### ***Summary***

The use of temporary workers in both City and County was clearly an established part of employment policies. Although budgetary considerations played a leading role in both authorities, the pressures to use temporary workers emanated from varying sources and decisions to use temporary workers were clearly mediated through different organisational structures and relationships. In City the leading role taken by the elected members and their relatively close relationship with the unions had some bearing on how temporary workers were used in the authority. By comparison, in County, the leading role was taken by the executive officers with the result that the trade unions were effectively



marginalised and temporary work, under the aegis of LGR, was delivered as a *fait accompli*.

In both authorities the use of temporary work gave rise to EO issues and, despite the higher profile of EO in City, temporary work in both authorities was not EO monitored or pursued as an equalities issue. An important factor in many of the inequalities associated with temporary work in both authorities was the devolved management of the recruitment of temporary workers. Devolved decisions concerning temporary workers were largely informal and therefore fell outside centralised EO policy. Informality resulted in arbitrary decisions by local managers with the outcome that disparities were apparent in the terms and conditions of temporary workers in different departments.

### ***LEAs and Education***

Under the 1988 Education Reform Act, devolved budgets and the decentralisation of decision-making in relation to personnel issues has been uniform and more clearly delineated in schools. Discretion for the contractual arrangements of staff now falls to the head teacher and governing body with the role of the LEA relegated largely to that of administrator. This did not prevent LEA officials in both County and City from holding rather ambivalent perspectives on the use of temporary employment contracts. Various contractual arrangements had been encouraged by the LEAs as part of what was considered to be the flexible and prudent financial management of schools. One LEA personnel officer in County considered that all schools should have at least



one teacher employed on a temporary contract in case of a “financial emergency” (15.1.98).

However during the same interview the officer said that the LEA had become increasingly uneasy about the high numbers of temporary contracts that were being issued and the way in which they were being used. Of particular concern in City was the growing number of newly qualified teachers (NQTs) who were employed on temporary contracts. However, rather paradoxically, the LEAs in both authorities maintained a ‘pool’ of NQTs who were available for schools to recruit on a temporary basis, which emanated largely from a preference of head teachers. One head teacher explained that he preferred to hire teachers from the pool rather than use teachers from an agency as he felt he had more control over which teachers he could use:

...it [the NQT pool] gives you more of a say in choosing who is actually suitable for the school. Supply, because it is generally for a limited period, you have little or no control although there are teachers who you are well aware are very capable and you tend to ask for those. But you can’t always guarantee that you will get them. (Head teacher, City, 2.6.98)

Growing concern had led LEA officials in both authorities to draw up guidelines on the use of temporary contracts in their respective personnel handbooks. The guidelines in both stressed the legal necessity for the correct use of temporary contracts but did not, however, emphasise the damaging effects on equal opportunities policy. Furthermore, although most schools adopted these procedures, under LMS there was no obligation for them to do so and no remit for the LEA to enforce them. The only recourse the LEA would



have, should an industrial tribunal award be made against the authority, would be to deduct this from the offending school's budget. Since the upper limit for discrimination awards has been lifted, the effect should this be enforced, could be disastrous.

Most of the school managers interviewed considered that the LEA impinged very little on the day-to-day personnel issues of their schools and this included decisions on using temporary employment contracts. Similarly, in most instances, school governors played a very minor role in such decisions:

For somebody just to fill in as this temporary contract will be, then [the head teacher] is left to his own judgement on that. And that is what we allow him to do because if he sees somebody that he likes and he knows how good they are he wants to have them before another school snaps them up. So we give him the leeway to pick and choose who he wants. (Governor, City, 10.7.98)

Of the five governors interviewed, none were aware of the legal or equal opportunities issues concerning temporary contracts. Neither were they aware of LEA policy guidelines concerning the use of temporary contracts for teachers. As a result head teachers and other school managers had almost total autonomy in the recruitment of staff and enjoyed a considerable amount of power over their contractual fate.

Devolved control of school finances means that 'all is driven by the budget' as a head teacher in County succinctly remarked (23.6.98) and legislation, notably the Education Reform Act (ERA) 1988, has ensured that school budgets are fraught with uncertainty. Most of the money that eventually ends up in LMS



school coffers starts life as part of grants made to authorities. The political pressures that determine grant allocation have already been discussed.

Following ERA, individual schools were allocated budgets by the LEA of at least 85% of their total expenditure. Under the Act LEAs are also required to use predetermined formulae to ascertain the amount each school will be allocated. At least 75% of the amount is determined by pupil numbers or number on roll (NOR). In a number of the schools visited, head teachers stressed that the uncertainty in the school budget created by fluctuating NOR was a major pressure in deciding to use temporary contracts for staff.

The fluctuation of NOR was exacerbated in both authorities for quite different reasons. In County there were a number of small rural schools in which the loss of only one or two pupils has an impact on the school budget. By comparison City, with a large number of inner city schools, served a different socio-economic group. One head teacher in City explained that most of the children in that school lived in rented accommodation and it was quite common for families to move to different properties in order to secure better living standards. He gave the example of one six-year-old child in the school who had already attended four different schools in the authority (21.5.98).<sup>4</sup>

Secondary schools also faced the added pressure on numbers created by the curriculum options of pupils:

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<sup>4</sup> In addition to this, although numbers were not provided, head teachers felt that schools in City served relatively high numbers of 'traveller' or 'mobile' children who were often at the school for no longer than a term or so.



Well it basically revolves around our budget. you know and it is also driven by the student's options. So if the students want psychology one year then we have to employ somebody...It depends what the curriculum is, it is driven by the curriculum you see. For example if psychology in the sixth form is very big one year and then it dips then obviously you have to let that colleague go. (Deputy Head teacher, County, 5.5.98)

However, as this interview progressed, it was clear that the use of fixed-term contracts to cover for student number fluctuations created by curriculum options was more of a cautionary measure than a real necessity:

*Q:* How often does it happen that you have to let a teacher go because of a drop in course numbers?

*A:* Well luckily not very often because our numbers are growing, very slowly, but they are growing. But we still have to maintain that flexibility. (ibid.)

Infant's schools, on the other hand, have the uncertainty of not knowing how many children will be received into reception classes until almost the day that school begins. One infant's school head teacher explained how increasing options for parental choice had exacerbated this problem and how difficult planning was as a result:

With an infant's school it is the uncertainty of not knowing how many children are going to materialise in reception. You see if you are a junior school, then you know because those children are already somewhere in the system whereas in an infant's school they are not. And that is quite an issue for us, looking at numbers and trying to project ahead. We have made plans to appoint a teacher for example for the summer term but if then the numbers haven't materialised, well we can't afford that teacher and the children just have to join the existing classes, making them bigger. So all the plans go out of the window. I think it is very difficult for a school that is just key stage one because until you have got the child in school, you are not paid for them. And with parental choice, parents do look around and make choices even up until quite the last moment and I have found from experience that they



have probably got the child's name down at about three schools, which doesn't help. So right up until the last minute we don't know exactly how many children are going to come in to reception. (Head teacher. County, 23.6.98)

Another head teacher in County explained how a number of variables influenced parental decisions and how this in turn influenced how he perceived his roll:

Some parents just look at pure statistics and move their kids away... There is a market out there of four-year-olds and parents are very discerning now. They go and look round before they start and see what the quality of the fabric, décor, teachers, you name it and then they go away and make their mind up about it... Now we have to meet the needs of the customer. Now we have to maintain bums on seats to make sure that we can maintain our present provision of staffing... It is a pure business now. I don't regard myself as head teacher at all. I regard myself as the person who controls this business, which is educating children... It is no good being good out there with curriculum and all that when the roof is falling in and the place is tatty. You have got to have a balance. (29.6.98)

Tight budgets meant that schools were increasingly expected to seek funds from additional sources. The proposal to set up 'Education Action Zones' was the latest example of this. The reliance of schools on specific grants has long been a feature of funding in education. Section 11 of the Home Office Act (1965) allowed local authorities to apply for additional funds to support the special, usually educational, needs of 'children of the new commonwealth'. The rules governing Section 11 funding have undergone numerous changes. What remained unchanged was that funding was secured for a fixed period, usually three years, and therefore the posts funded by it were also often for a fixed-term. This raises an interesting issue, because, whilst the grant was not provided to specifically employ teachers from ethnic groups, the funds were



usually required for language integration. Therefore teachers employed under these schemes were often from ethnic groups. This may go some way to explaining why higher numbers of teachers from ethnic groups were employed on temporary contracts.<sup>5</sup>

The extremely tenuous nature of time limited funding is expressed in the following short history of the funding of one such post:

I identified the need for developing community out-reach work and working with parents in partnership, so we put in a bid to a schools agency and were successful to get some money. So we appointed somebody for twelve months from the money we got from that. He works in classrooms to support targeted youngsters and he works with their parents and he has set up a family literacy project. We have got to the end of the first year's contract and we haven't got money in the school budget so we are putting in a CRB bid, civic regeneration budget for part of the inner city here and many of our youngsters come from the inner city so we made a bid to the community that those youngsters live in and we were successful. So we have now extended his contract for a second year and in twelve months time we will either be going back to the government or trying to find other funds that we can bid for. (Head Teacher, City, 19.5.98)

The same head teacher also stated that all three of the school's technicians were employed on temporary contracts. At least one of these technicians was funded from external sources as a result of an equal opportunities programme run by the city council to encourage employing units to consider people with disabilities for vacant posts, but again the insubstantial nature of the funds were evident:

Equal opportunities in the City is offering work placement opportunities for people with disabilities. So we have put in a bid to have somebody here on one of those placements...we were successful with that bid and

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<sup>5</sup> This was supported by the research findings as both the teachers from Asian ethnic groups who were interviewed were employed for temporary language integration posts.



we made an appointment of a partially sighted technician in the technology department. He was with us for a year and we very successfully supported him and so the City said that they would pay half his salary for a further year and the technology department are going to put in a bid to see if they will fund his post full-time permanently. But that depends on the funds coming in from the government, because we are a very expensive staff in that the age profile is high. There are people who have taught here since the beginning of their career so that makes them very expensive and so we haven't got many margins beyond staffing costs. So although we want him, we are really looking to external sources to be able to keep him. (ibid.).

Budgetary considerations also determined the type of temporary teacher sought by schools. Most of the school managers expressed that fixed-term and direct temporary contracts were preferable to the use of agency teachers— particularly if cover was required for any length of time. A number of issues regarding quality and control over supply drove this preference, although budgetary considerations were also at the forefront as indicated by a school governor in City:

Basically when it comes to this three months notice that teachers have to give and the amount of time it take to advertise, interview and select well then that kind of contract is very useful because without being able to do that we would have a teacher short. Then rather than having a teacher being paid a normal wage on a temporary contract, we would have to have supply teachers and their wage is normally quite a bit higher. So without the temporary contract I suppose that would be quite expensive for the school and money is always at a premium. (10.7.98)

A number of head teachers said that agency teachers were only used in an absolute emergency when informal supplies had been exhausted. One head teacher also said that if he was sent an agency teacher who he considered to be of high quality, he would consider offering them a temporary contract even though he realised this would constitute a break in the terms of the agency agreement (City, 21.5.98).



School budget considerations were not the only motivation behind the decisions of head teachers and governors to use temporary contracts. Firstly, in County there is an authority-wide policy of admitting infants in the term in which their fifth birthday falls. This is done essentially to save costs at the LEA level as it means there are three 'reception' intakes each school year and money does not have to be allocated to the school until the term that children are admitted. As a result, a reception teacher is usually employed on a temporary basis at the beginning of each term to cover each new intake. Therefore by the end of the year there are three reception teachers but there will only be one reception class in the September of the new school year. A difficult situation ensues for head teachers and the teachers involved, as it is clear that only one of the three teachers will be taken on for the following year as the routine rolls over (see chapter seven).

Secondly, during the course of the research it became apparent that teachers employed on temporary contracts fell into clearly defined groups. Newly qualified teachers (NQTs) seemed to be particularly affected. All the teachers interviewed (and some head teachers) considered that it was an unwritten policy that a new teacher's first appointment would be on a temporary basis. The main reasoning behind this is simple: head teachers and governors considered that an initial appointment on a temporary basis provided a good way of trying out NQTs without making a commitment:

It's a strange job education. You don't know what you are getting sometimes. For example when you get people out of universities, very



often they go onto a temporary contract for at least a year. I have had one, two, three in the last two years on temporary contracts, which I have now made permanent because they are worth their weight in gold... I would say that normally if they are any good that I will employ them. I had one on temporary contract and I gave them the sack before the twelve months were up because they were no good. And that was an NQT. (Head teacher, County, 29.6.98)

Prior to the Education Act (1994) there was a national requirement for a probationary period for all NQTs. The probationary period had a number of stages at which the performance of NQTs was assessed. It also contained a number of requirements of head teachers to assist NQTs who were considered to be failing. After the abolition of the national probationary requirement, a number of LEAs set up similar local schemes – City being one. However it was suggested by a number of trade union officials that head teachers found the requirements of the procedure too onerous and that it was far easier to dismiss an NQT who did not perform as expected if they were employed on a temporary contract. The weakening of the power and the role of the LEA in relation to school personnel matters has meant that school managers have been able to circumvent LEA recommendations as the following discourse illustrates:

Head teacher: ... I see that too many schools are using too many temporary contracts. The advice from the LEA is not to, but there are still one or two schools that continue to have a series of temporary contracts.

Q: Why do you think that is the case?

A: To cover their backs.

Q: In a budgetary sense?

A: No, if you get somebody in and they can't actually deliver then, if they are on a temporary contract, when their contract comes to an end you can readvertise the post and get somebody else. And I know that is done widely in the city.



Q: So it is like an unofficial probationary period?

A: Yes I think it has become that. But it is strongly, strongly suggested by the LEA that schools shouldn't do that. So if the LEA keep saying don't do that they must know that some schools are. (Head teacher, City 19.5.98)

It was also suggested by a number of trade union officials that employing a different NQT each year avoided having to pay an increment and also avoided at least one member of staff ever accruing employment rights. This may not be as cynical as it sounds for Her Majesty's Inspectorate of schools found that LMS had resulted in the appointment of younger and less experienced staff (HMI 1992:16 cited in Ironside and Seifert, 1995:135). Similarly Ironside and Seifert note that the replacement of expensive experienced teachers by cheaper, newly qualified teachers had become commonplace since LMS (ibid.).

Other strategies that increased the number of temporary contracts in schools involved covering posts that had been left vacant at 'difficult' periods in the school year. As one governor explained:

...the other thing is that if somebody is leaving and it is the wrong time of year and you think you are not going to get a wide range of applicants. There are certain times of the year when you think that all the best ones have gone and you might be better to wait until later on. (City, 9.7.98).

Similarly it was felt that senior posts that became temporarily vacant due to secondment were often filled internally by a process of 'acting up' as the likelihood of filling a senior position externally on a short-term temporary basis was remote. However this created a 'trickle-down' effect until the vacancy occurred at a level low enough to be considered suitable for cover by an



external temporary contract. These strategies highlight the perceived low status of temporary employment, a feature that is discussed at greater length later.

Although the use of partial temporary contracts for purposes of 'acting up' is not a direct form of temporary work and was not studied as a primary source in this research, the indications were that their use was extensive and raised a number of other issues. Firstly, although the original job and pay of the employee involved remains secure, the portion of the pay and conditions covered by the temporary contract are insecure. A number of teachers interviewed expressed that if the acting-up position had been held for any length of time (and this could sometimes mean years if the post was difficult to fill), the extra salary was included in their personal budgets and therefore relied upon. If the extent of this practice is mirrored in other areas of public employment, the insecure aspects of public sector workers' pay are likely to be far wider than performance related pay as singled out by Heery (1998).

The 1992 HMI report noted an increase in the number of part-time staff in schools and the statistical evidence presented in chapter four highlights the link between part-time and temporary work in the case study LEAs. A number of researchers have also noted the link between temporary and part-time employment (eg. Dex and McCulloch 1995; Dickens and Hall 1995; Gottfried and Hayashi-Kato 1998) and point out the detrimental effects this has on women's employment. It became clear throughout the course of this research that the overlap was so great that employers in both social services and



education often did not distinguish between the two and the equalities issues involved had largely gone unnoticed.

In City, during the review of temporary workers in social services, the initial procedure included screening out workers who were not considered suitable for transfer to permanent status. The criteria immediately ruled out all those who worked less than ten hours per week without considering the adverse impact this would have on women workers. Furthermore, in at least one social services unit in City, the link between part-time and temporary contracts appeared to have become informal policy. Similarly a teacher in City recounted how her head teacher had planned to transfer all part-time staff onto temporary contracts until it was pointed out by the LEA that this was highly discriminatory and certainly illegal. However it was clear that many of the teaching staff newly recruited into temporary positions were part-time. Temporary staff were also widely used to cover maternity leave. The links between labour market segregation and segmentation highlighted in chapter one mean that temporary workers covering maternity leave are almost always women. These two factors are likely to account for some of the higher proportion of women found in temporary employment.

### ***Summary***

This chapter has sought to draw together the arguments put forward in previous chapters. By showing how central government pressures towards restructuring have been mediated at an authority level by the organisational characteristics peculiar to each of the case study authorities, the research data supports the



arguments set up in chapters three and four. This chapter has identified clear links between central government policies and temporary work in local government. However, although pressures towards temporary work emanated from these sources in County and City, employer policy in both authorities was influenced by power relationships between elected members, executive officers and the trade unions. Following LMS, such power bases in education are less opaque. LEAs in both authorities have been clearly less effective at influencing the use of temporary workers as a result of the statutory devolution of power to school managers.

The next chapter takes a complementary perspective by utilising an analysis of the impact of structural factors on management practice and the outcomes of this at the level of the workplace. A leading structural factor was the legal relationship between employers and temporary workers. Therefore a close analysis is made of how this influences other aspects of the employment relationship by further enhancing the power imbalance in favour of the employer. In doing this, further empirical evidence to support the theoretical analysis of contractual control developed in chapters one to three is offered.



## 6. Managing Temporary Workers

The previous chapter detailed the interplay at a number of levels between employer policy and practice in the use of temporary workers in both the case study authorities. Although pressures to use temporary workers are mediated through different organisational structures and relationships with trade unions, one key feature to emerge from this analysis is the importance of devolved decision-making in relation to temporary work. The aim of this chapter is to therefore scrutinize aspects of temporary employment that influence the nature of the relationship between local managers and temporary workers.

The locus of influence was the vulnerability created by the job insecurity inherent in temporary work. A number of respondents commented that, as job insecurity was largely the engine of change, its effects were magnified for temporary workers. This was summed up by a regional trade union official for County:

The word on the street is that nobody's job is safe and if you rock the boat and you are a temporary worker then your name is first on the list. (19.7.96)

This general sentiment was underpinned by a number of formal and informal mechanisms which, for temporary workers, revolve not only around the fear of job loss but also the hope that a temporary contract will be renewed or become permanent. A Unison branch officer in County described this as both a 'carrot and a stick rolled into one' (11.7.96). The 'carrot' of a renewed or even



permanent contract rested on the need of temporary workers to create a good impression, which was fostered by local managers in an informal system of favoured temporary workers. Although this was an informal practice its existence was well known by senior personnel officials, who noted in a council meeting in City that some 'favoured casuals had become semi full-time' (13.5.97). As the discussion proceeded the same personnel manager suggested that perhaps 'good hard core temps' should be given permanent annualised hours contracts rather than temporary contracts. Another departmental personnel manager in City supported these observations. He bemoaned the fact that unit managers had been disrupting the newly created centralised 'pool' of casual workers by offering their favourite casuals permanent contracts in order to keep them in their establishment.

The criterion for becoming a favoured temporary was described by a number of workers in terms of their 'face having to fit' (1.3.98; 11.5.98). In relation to this point it is interesting to note that in Atkinson's model of the flexible firm, one explicit assumption is that flexibility is used as a management device to be selective and to get the 'right sort of worker' (1985:31). It was clear that workers in both case studies felt that fitting this mould meant, in some part, being compliant. An NQT in City felt that acquiescence was more important than doing a good job.

If you are not prepared to creep around her [head teacher] and do what she wants or if she just doesn't like your face then that's it. (1.3.98)

The NQTs also felt that their head teacher's preferences were fickle and arbitrary. An NQT in City, described this and offered an explanation:

It keeps you on the edge. You never know how they are feeling about you. It is as if they are keeping you in your place in a way. (1.3.98)

Trade union officials had also commented upon management preferences and how they impacted upon the labour process. One interviewee emphasised the role of temporary contracts and job insecurity as a method of control:

[Temporary contracts] are used to manage people in the way managers want to manage them. In other words to cut down sick leave and to force people to work harder and longer hours or whatever because they are frightened of not getting it renewed. (Unison branch official, County 11.7.96)

The same official went on to note the selective nature of managers in relation to temporary workers:

[Managers] have done their own thing to make sure they don't employ anybody who is in the union, don't employ people who don't agree with them and don't employ people who are liable to rock the boat. They get what they want and have their own agenda (ibid.)

Another official highlighted the importance of the informal methods used to hire and fire temporary workers to secure a compliant workforce and undermine union influence:

Management use them [temporary contracts] as a tool to get compliance and as a tool to get more work and as a tool to, if you like, have people breaching agreements that have been reached. Because if you are only an 'as and when' and somebody asks you to do something then you are



going to do it because if you don't you are not going to be called in again. (Unison regional officer, County, 19.7.96)

The above statements associate contractual control with changes to work organisation and procedures. Work intensification, absence control and grievance and disciplinary procedures were specifically raised and are now considered in greater detail.

### *Work Intensification and Temporary Work*

Case studies have identified higher levels of stress and fatigue related to work intensity amongst temporary workers (Buchtemann and Quack 1989; Marshall 1989). Some indication of why this may be so can be deduced from the LGMB employer's guide to using fixed-term and temporary contracts. The publication lists work intensification as one of the advantages of using temporary contracts stating:

There may be a greater incentive for the employee to perform well in order to secure the renewal of the contract (LGMB, 1992:15)

Work intensification for temporary workers displays a number of facets. Long hours of work seemed to be a particular feature of employment for some temporary workers. Katy, an NQT in City, complained:

She [head teacher] is going to get her blood out of us and make us work as hard as we can. I mean we are there from half past seven until at least half five or six o'clock every night. She just likes it - its her power. She gets a kick out of it, I don't know. She just likes us there. On the first day of term I got in at 8 o'clock, which I thought was a reasonable time, and she said to me 'problems with the traffic Katy?' ... and she said 'oh part-timer are we?' when I left once at half four. (1.3.98)

However Katy had also noted that this had merely resulted in what has been called a ‘presentee’ culture which did not necessarily mean that any more work was actually being done – just that it was now more visible.

Sometimes people just stay at school for the sake of staying at school, if you now what I mean. I mean I could quite easily leave at half three... and do everything that I do at school at home. But you don’t because you know it won’t be looked upon favourably. (ibid.)

A trade union representative in County described how casual workers in social services did not appear on the official work rota and it therefore became convenient for the unit manager to ‘forget’ how many hours they had worked in a week. She went on to say that casual workers accepted this situation firstly because they needed the money as they were unsure if they would get work in the following weeks but also because casual workers who refuse work are pushed to the bottom of the list. In City it was reported that one of the motivating forces behind setting up a monitored centralised pool of casual staff was the realisation that many casual workers worked hours that would contravene the working hours directive <sup>6</sup>.

The extra hours worked by temporary workers were also considered to represent a considerable cost saving for managers as casual workers are often paid on the lowest rate and are rarely paid over-time premia. It also accounted for some of the overlap between part-time and casual work as part-time workers often

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<sup>6</sup> The Working Time Directive specifies minimum daily and weekly rest periods; rest breaks; annual paid holidays; a limit of 48 hours per week on the average time which employees can be required to work unless otherwise agreed; and restrictions on hours worked at night.



supplement their income with casual work at a number of establishments. In a number of instances it was pointed out that part-time qualified social workers were working additional hours as casual care assistants for less than half their qualified rate. Another aspect of temporary work in social services is the expectation that workers will take the shifts and the duties that permanent workers resist. This often involves moving between establishments more often than their permanent counterparts. As a temporary care assistant in City stated:

Temporary workers are shoved here, there and everywhere – unless your face fits. Sometimes I feel like the Martini girl – you know – anytime, anywhere, anything. All I need is a tray and a pair of skates! (11.5.98)

Similarly in schools a number of school managers expressed how they considered the extra effort required of temporary teachers to be one of the main benefits of issuing temporary contracts:

...it concentrates their minds, to demonstrate their competence – no question about that (deputy head teacher, City, interview 5.5.98)

Overall there is extensive evidence that temporary work is associated with intensified work patterns and procedures.

### *Absence Control and Temporary Work*

Absence control has become a major issue in public sector industrial relations (IDS 1998). An LGMB report (1997) notes that although sickness absence rates have been falling in local government, they are still higher than in the private

sector. The report also notes that rates tend to be higher for women.<sup>7</sup> The suggestion that sickness absence rates are an employment issue in the public sector raises interesting questions as to the relationship between managerial policy on sickness absence and temporary employment.

A survey of 200 branches including local government conducted by Unison (1997) found that two thirds of employers had recently changed their sickness procedures. The report found that the new practices are often linked to disciplinary procedures and sickness records are used when selecting for redundancy. The report argues that as such sickness policies are clearly instruments of control and are often inconsistent and arbitrary. The empirical evidence from this research supports that view and indicates the added lever provided by the insecurity of temporary employment.

Absence control was clearly an issue for both City and County. In City the implementation of what were described by the unions as ‘draconian’ sickness procedures almost brought them to the point of industrial action. In County ‘counselling’ workers after a period of sickness had been added to the procedures. A Labour councillor described this by saying:

Absenteeism has been a problem but now we take a strong line – partly a bit of pressure on people, partly a bit of understanding. (23.7.96)

Paradoxically the councillor went on to say that much of the absence was stress related due to long hours and hard work.

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<sup>7</sup> However this finding needs to be qualified as only 14 of the 143 authorities studied provided a gender breakdown.



A teacher in City had been employed on a series of temporary contracts for a total of twelve years. When asked about sickness she said she had not taken one day's sick leave in all of that time.

Because I am part-time [and temporary] I tend to think that I dare not have a day off...it would be 'well part-time, short-term contract – time off? We can do without that'. So really I never take time off. NEVER! (9.7.98)

Temporary workers, particularly if they are regarded as casual, faced a number of dilemmas in relation to sickness absence. Casual workers face the twin pressures of being unable to turn down work if they are sick for fear of being removed from the casual list and the penalty that those who take sick leave during a period of employment are not paid sick pay. Similarly, for workers on temporary or fixed-term contracts, taking time off sick was considered to seriously damage the prospects of getting the contract renewed. Max, a residential social worker (RSW) in City, highlighted both of these dilemmas:

Basically you don't take time off sick if you are a casual because you know if you go sick you won't get paid... and temporary contract, you know that it is performance oriented really so if you go sick your contract might not be renewed again. (11.5.98)

Similarly, a temporary RSW in City described how she had been warned by her colleagues not to take sick leave if she wanted her contract to be renewed. The Unison branch secretary in County told of a case he had dealt with in which a secretary who had developed RSI whilst working on a temporary contract had not had her contract renewed. He added that if she had been a permanent

employee the authority would have had a duty to re-deploy her. Maternity leave also seems to be particularly sensitive for temporary workers. Union officials in both authorities felt that this was an issue that had to be monitored very carefully.

### *Grievance and Disciplinary Procedures and Temporary Work*

The fate of most temporary workers is ultimately sealed by their reluctance to complain either about the situation they face as temporary workers or any other problems they encounter at work. A care assistant in City voiced this:

I always feel as if I have to work twice as hard as the permanent staff – as though I always need to impress the managers. If there is any hint of dissent the contract is raised and things that I would otherwise question are let go. (11.5.98)

This issue had not gone unmissed by personnel managers in both County and City. In County there was a stark acceptance of this as the corporate personnel manager expressed:

Most of them want another contract. So there is the dilemma. There is the natural hesitancy to bang on the door and ask for this and that because people are nervous about how they will be seen. (10.7.97)

However a social services personnel manager in City who had taken charge of the casual pool was worried by the implications raised by the hesitancy temporary workers experienced when expressing legitimate concerns to their managers:



...we had a number of casuals on induction. It was interesting because when one or two of them were speaking there was an indication that something wasn't quite right where they were working, but they weren't very clear in what they were saying. And I attempted to tease out some of what the issues were. And what you pick up from a lot of casuals is that they feel reluctant to make any complaints because they say if they do they are taken off the casual list or that they might not be allowed to work back at that home again. And they feel they are going to be made to pay a price for making a complaint. But this hasn't been lost. What we are attempting to do is to work towards some way of giving the casuals the opportunities to make complaints but not feel vulnerable for doing it. This is where we are at the moment but we have got some way to go. (30.9.97)

The personnel officer went on to give examples of instances where casual workers had confronted unit managers and subsequently found they were being used less and less. In most cases he felt that unit managers take a 'personal grudge' against workers who complain and, in the case of temporary workers, managers have the power to stop allocating work. Union officials had also noted this tendency among management:

Because if you take a grievance out yeah, and the manager would say 'oh yeah you are taking a grievance out on me' and you don't get the phone call no more. It's like biting the hand that feeds you. (Unison steward, City, 11.6.97).

Another union representative also noted the pressure on temporary workers to avoid challenging management policies and practices:

If somebody is a casual employee and they are good and keep their nose clean they can have as much work as they want. As soon as they show any semblance of being able to think for themselves or want to challenge the employers, they find that they are not being offered the work and somebody else is. (Unison Joint Chief Steward, City 9.7.97)

Casual workers in City face an added barrier when wishing to raise a complaint in that they are formally excluded from the grievance and disciplinary procedures. The Unison branch secretary in City pointed out that workers have to be considered employees to take advantage of the procedures. He felt that casuals are not regarded as employees and therefore by-pass the procedures by being denied recourse to a disciplinary hearing. A regional official added to this by saying that even though workers on fixed-term and temporary contracts formally have access to the grievance and disciplinary procedures in reality they were 'unlikely to be employed by the time the matter is resolved' (23.5.97). A steward in City confirmed this and noted the discrepancies between how permanent and temporary workers were treated:

Because what happens when they get suspended, if you are a normal [permanent] worker and you get suspended, you get suspended without prejudice on full pay. But if you are casual worker they just don't use you. (11.6.97)

A personnel officer in City was keen to point out that although casual workers are formally denied access to the grievance and disciplinary procedures they can instigate a complaint concerning sexual or racial harassment. However when she was questioned more closely about how they would initiate this when they do not have access to other procedures she became vague. Finally she explained that the two were separate procedures and in a case of sexual or racial harassment a complaint should be made in the first instance to their immediate line manager or, if he or she was the cause of the complaint, to their line manager (Central Personnel Officer, City, 28.10.97). Interestingly a Unison shop steward in City related a case he had dealt with in which a temporary



worker had raised a sexual harassment complaint. He considered that after the allegation the managers involved 'closed ranks' and began victimizing the woman. Eventually her work was seen to be 'failing' and her contract was not renewed (11.6.97).

The Unison City branch service and conditions officer considered that double standards were applied in excluding casual workers from the grievance and disciplinary machinery. She argued that casuals were formally subjected to the disciplinary procedure when to do so was 'politically convenient'. She related a case in which a casual worker had been disciplined because a permanent worker had also been involved in the incident and in order to dismiss the permanent worker it was necessary to implement the disciplinary procedures. A personnel officer in City had also alluded to this position in saying that casual workers may not be excluded from all the stages of a disciplinary hearing, but may just be excluded from the final right of appeal to councillors. A personnel manager in City social services summed this up neatly by saying:

Managers are quick to put pen to paper – casuals aren't. (28.10.97)

The forgoing analysis had identified that the basis of contractual control is job insecurity. However, the insecure position of temporary workers is effectively heightened by the arbitrary, informal and personalised practices that have developed from decentralised managerial relations. The effect has been to emphasise the power imbalance between temporary workers and their managers thereby providing the essence of contractual control. This has materialised in

management practices which lean towards work intensification. absence control and exclusion from grievance and disciplinary procedures. Working from a heightened basis of power, local managers have secured contractual control by exploiting a number of the characteristics of temporary employment, which are described more fully in the following section.

### ***Securing Contractual Control***

Work intensification, absence control and lack of recourse to grievance and disciplinary procedures are all the outcomes of contractual control. There are a number of mechanisms adopted by managers that help to ensure these outcomes. The general extension of management prerogative underpinned by threats of job insecurity and budgetary crises has already been considered. However there were a number of additional formal and informal approaches adopted by managers that tighten the 'knot' in the contractual 'noose'.

Formal strategies usually revolved around legal devices that make the position of temporary employees even more precarious. In the case of workers employed on longer fixed-term and temporary contracts (in excess of one year) it was common to attach a waiver clause in which the employee has to waive all rights to claims of redundancy and unfair dismissal.<sup>8</sup> In County it was also policy to insert a notice period into all temporary and fixed-term contracts so the authority was not bound by the duration of even a temporary arrangement. However, the preference was for fairly short duration 'rolling' contracts usually

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<sup>8</sup> This has been amended by the 'Fairness at Work' legislation. Rights to unfair dismissal can no longer be waived.



between three and six months. This had the effect of keeping the tentative contractual arrangement sharply in focus. A preference for very short-term contracts has been a general trend in the growth of precarious employment (Rodgers 1989).

In City additional tactics included attempts to blur the employment status of casual workers. Although casuals were issued with a contract, which indicated that they had employee status, the words of the contract stated that they were under no obligation to accept work and the authority was under no obligation to provide work. Mutuality of obligation has been one of the deciding legal factors the courts have used in finding against casual workers on the grounds of their lack of employee status (*O’Kelly v Trusthouse Forte* [1984, Q.B. 90]). However, as has already been noted, this is an area of employment law that is far from clear and there have been a number of conflicting rulings particularly concerning the use of the waiver clause.

Informal strategies employed by managers to enforce their position in relation to temporary workers revolved around resisting any attempts to dilute their power in the workplace. This was most clearly evident in City in reaction to the centralisation of the casual pool. Prior to a middle management decision to monitor the use of casual workers in social services more closely at a department level, unit managers had maintained their own informal supply of casual staff. When questioned about the reaction of unit managers to the centralised system, a departmental personnel manager stated:

Quite a lot of them are livid. They don't like the idea that it is centralised because it has taken a lot of their power away to contact casuals and to call who they want when they want. (27.4.98)

Similarly in schools a number of school managers expressed a preference for the use of informal supply teachers rather than agency teachers largely because of the increased control this offered.

I would never use an agency teacher. I know my own people around and about... I have got a little stack of teachers who are dying to come in. (Head teacher, County, 29.6.98)

As identified in the previous section, the coercion and manipulation of temporary workers rested to a large degree on the arbitrary use of managerial power that ensured a system of favourites. This in turn was dependent on devolved powers of recruitment and work allocation. This was most clearly expressed by the Unison branch secretary in City:

I mean if it is a casual job you can employ who you want and if there is a few extra hours this week you can give it to the ones you like and not the ones you don't like. Decentralisation means that local managers can make these types of decisions without fear of reprisals from the City Council. (23.5.97)

The powerful position of managers in relation to temporary workers was further enhanced by emphasising the weak position and perceived low status of the latter. In County this was best illustrated in relation to LGR. The allocation of jobs leading up to the vesting date followed a strict timetable. In relation to temporary workers appointed in the two-year period leading up to the creation of the unitary council the County personnel officer stated:



The people appointed know that they haven't got much [of a] place in the queue for a permanent job...they are right at the end of the queue and they know that. (12.11.97)

The existence of a hierarchy had not gone unnoticed by a Unison shop steward in social services who added some further dimensions stating:

Relief [temporary] staff are treated like second-class citizens. They are classed in with the cooks and the cleaners as opposed to the RSWs [residential social workers] who are the same as them. Because they seem to be at the beck and call of managers the other staff treat them like domestics. (19.5.97)

A similar hierarchy existed in schools:

What we tend to do is, we tend to have a look at colleagues for a year. I mean we do this with secretarial staff too. We quite often put [newly qualified] teachers and secretarial staff on a one year contract to have a look at them and see if we are happy with them and if they are happy with us. (Deputy head teacher, City, 5.5.98)

The perceived inferiority of temporary work was emphasised by its association with cooks, cleaners, domestics and secretarial staff who were considered to be vulnerable to the whims of management. In City, despite the creation of a centralised casual pool and recognition of the powerless position of casual workers, temporary care staff took the brunt of sanctions when unit managers began to resist the dilution of their powers. This in turn determined the reactions of the permanent staff who, as a result, drew a distinction between themselves and temporary staff. This raises interesting questions about the class and gender identity associated with temporary work and the divisions it has created between workers. In relation to this point Ironside and Seifert

(1995:12) have noted how ‘...skillfull employers and governments can use divisions to further divide and weaken the teachers as a whole.’

Parallels can also be drawn with the confusion and blurring of distinctions between temporary and part-time work. Temporary workers were frequently referred to as ‘part-timers’ by both social services and school managers. This reflects both the perceived gendered nature of temporary work and the prejudiced belief that temporary workers and part-timers are united in their lack of status and commitment. A deputy head teacher revealed confusion between temporary and part-time contracts. When asked which type of temporary contracts were used in the school he replied:

Just a normal fixed-term temporary contract, sometimes for 0.6 of a week or 0.8. So they may not be more than two days a week. (City, 5.5.98)

In another school in County the confusion between the two types of contract resulted in the head teacher arranging an interview for this research with a ‘temporary’ teacher who was in fact employed on a permanent part-time contract. School governors also held this confused perception. Those interviewed talked about temporary and part-time work interchangeably and considered the opposite of temporary work to be full-time work.

A hierarchy also existed between temporary workers, with the added dimension of clear material difference. Personnel managers in both social services departments were fond of pointing out that even the executive officers were



employed on temporary contracts. However even a cursory examination<sup>9</sup> of their terms and conditions revealed substantial differences in form. The highest-ranking officers in local government are often given five-year fixed-term contracts. They receive a substantial enhancement to 'buy out' their job security and neither a waiver clause nor a notice period is included in the contract. The significance of the latter omission meant that, should such an official be required to leave, the remaining period of the contract would also have to be remunerated; a 'golden handshake' would be in order. Holiday and pension arrangements were individually negotiated as were other aspects of the 'package'.

These privileges steadily diminished with descending rank. Officers of PO (Principal Officer) 10 grade and above received an enhancement for accepting a fixed-term contract of usually three years. Although there was no waiver clause attached, the notice period usual for that grade was included. Holiday and pension arrangements were those fixed for that particular grade. Officers below PO 10 employed on fixed-term contracts were not paid an enhancement and the duration of the contract varied between three years and one month, with the required notice period. Salary was paid on the spinal point commensurate with the duties involved and again holiday and pension arrangements were those fixed for that particular grade. Temporary workers who were classed as casual, although some had worked continually for the authority for extensive periods (fifteen years in one case), did not receive holiday or sick pay, were not entitled to a notice period and were not entitled to join the pension scheme. They were

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<sup>9</sup> Only a cursory examination was possible as the precise terms and conditions of senior officials are closely guarded

usually paid on the lowest manual rate for that particular job. did not receive increments and are not included in the Single Status Agreement.

Rodgers (1989) has also noted a tendency to 'bi-modality in atypical work' and points out the gendered features of the duality:

...in any atypical category a small but significant percentage will be in relatively skilled, well paid work, even if the majority is precarious – and the characteristics of the better off group will be different: more often male, older, better educated. (p. 9)

This was certainly the case in City and County as all the directors and assistant directors of social services and education were white males.

In teaching a contractual hierarchy was less clearly defined, as senior teaching posts were not normally filled on fixed-term or temporary contracts. However, as previously stated, it was common to temporarily fill senior teaching posts on a seconded or 'acting up' basis. Entirely temporary and fixed-term contracts were only usually found within the newly qualified teaching grades, part-time teachers and instructors. Teachers and instructors employed on temporary contracts were entitled to join the occupational pension scheme and receive sick pay and holiday pay. Agency and supply staff did not receive these benefits.

Holiday pay for temporary teachers was determined by a complex formula based on pro rata days of service. Trade union officials and temporary teachers expressed some concern that contracts were being concluded in a way that deprived teachers of their full holiday entitlement. Research data confirmed



this and revealed it seemed to be particularly true for temporary teachers. all women, who were covering maternity leave. The bulk of the research in schools was carried out shortly before the summer break. In two of the schools researched, temporary teachers were covering for maternity leave and unusually seemed to be concluding their contracts a few weeks short of the end of term. When this was examined in greater detail it was clear that the maternity leave of the previous job holder was coming to an end and, in order to receive holiday pay for the long summer break, would have to return before the end of term. However, if the temporary teacher worked past a certain date, they too would be entitled to holiday pay for that period. Therefore, in order to avoid paying holiday pay to both teachers, the contract of the temporary teacher was shortened.

Finally, there was some evidence to suggest that temporary workers were discouraged from joining a union. In both authorities the main way in which new entrants were recruited by the union was via a list provided on a regular basis by the employer. However there was doubt as to whether temporary workers were included on the list. In both City and County the general feeling was that casual workers and temporary contracts of short duration were unlikely to be included. There was also some evidence of direct discouragement from local managers. The Unison branch secretary in City had received reports of casual workers being told 'you have no rights anyway so why bother joining the union' (23.5.97). Similarly a temporary RSW in City told how she had been warned not to involve the union by her line manager when she said she was considering raising a complaint. However when trade union officials were

questioned about the threat of union exclusion via the use of temporary workers there was a mixed response. Whilst the lay officers and representatives did perceive a direct threat, regional officials were more reticent:

Temps and casuals are not well organised because local managers have not regarded casuals as employees and have tended to discourage them from joining the union. They want casuals to keep a low profile so that the unions don't get wind of how they are being used. (Unison branch secretary, City, 23.5.97)

I don't think it is a deliberate form of union exclusion...Reduction in unionism is probably seen as a bonus rather than the driving force. (Unison Regional Officer, County, 19.7.96)

However both full-time officers and lay officials were united in their belief that, even if temporary workers do join a union, they are unlikely to become activists.

To some extent it was what we were talking about before in terms of people in insecure employment being less likely to join a union. Stewards in those circumstances are less likely to come forward. And where you have got a manager who is using them as a mechanism to get more work out of the workforce they are not going to have much truck with somebody who sticks their head above the parapet as a steward. And so you are less likely to get people in those circumstances coming forward and certainly temporary workers themselves are less likely to come forward. (ibid.)

Teachers, including temporary teachers, were more likely to be union members as recruitment begins in teacher training institutions, before NQTs embark on their school careers. However, as chapter eight discusses in more detail, school-based representation was traditionally weak and was marginalised even further with the onset of LMS. When head teachers were questioned about the involvement of trade union representatives in decisions concerning the



appointment of temporary teachers, it was clear that in none of the eight schools included in the research did this take place.

*Q:* Do you have trade union reps based at the school and do they become involved in discussions about contract issues?

*A:* Yes there are trade union reps but they do not become involved. My professional association is the Secondary Heads Association and I might take advice from them...

*Q:* So the other unions don't get involved as representatives of other teachers?

*A:* No, no. There is no mechanism really. (Deputy Head teacher, City, 5.5.98)

Similarly a school governor, when asked about trade union representation in personnel committee meetings, replied 'Certain governors, even when the unions are mentioned, turn pale!' (City, 9.7.98). When questioned about this in more detail the governor explained that many of the other governors were local business people who were not sympathetic to the trade union movement. She further stated that they had little understanding or empathy with public sector traditions of consultation and negotiation and could see no reason why the running of schools was any different to running a small business.

### ***Summary***

The devolved decision-making in respect of recruitment and selection emerged as an important factor in the relationship between employers and temporary workers, providing empirical evidence for a number of the theoretical themes concerning contractual control and NPM raised in chapters one and three. Decentralised managerial relations have allowed arbitrary, informal and

personalised relations to dominate the employment of temporary workers. One result has been that formal policies, particularly EO policies, have been bypassed with the likelihood that temporary work would predominate amongst disadvantaged groups. The clearest illustration of this was the confusion by managers between part-time and temporary work, providing one explanation why temporary jobs were more likely to be filled by women.

Decentralised managerial prerogative over the hiring and firing of temporary workers has also allowed job insecurity to be used to bring the power imbalance in the employment relationship to the fore and to assert managerial control. The assertion of managerial control was materialised in work intensification, absence control and exclusion from grievance and disciplinary procedures for temporary workers. Furthermore the weak legal position of temporary workers has allowed local managers to exploit a number of mechanisms that secure control. As such there is considerable empirical evidence to support the proposition of contractual control put forward in chapter one.

Heightened managerial control based on intensified job insecurity and discouragement from collective representation does not bode well for temporary workers. The following chapter examines the implications of contractual control for temporary workers by exploring their perspectives. In doing so, chapter seven also seeks to address the managerial bias of previous analyses identified in chapter one.



## 7. Temporary Workers

The 'things that really matter' have not changed much over the years. People still want a steady job, decent pay, a healthy environment, personal freedom and somebody to rely on if the going gets a bit tough. In short, they want security. But security is the one thing that the modern system cannot deliver. Indeed, it seems almost proud of the fact that it cannot offer security. (Elliott and Atkinson 1998:247)

The previous chapter identified that the management of temporary work produces a specific and palpable form of employment relations, which is facilitated by contractual control. Much of the experience and the words of temporary workers have been used to highlight these issues in earlier chapters. The aim of this chapter is to focus on the experiences of temporary workers and assess the impact of contractual control upon their lives. As previous analysis has identified, many of the problems faced by temporary workers revolved, in some form or other, around their differentiated contractual status and the insecurity this engendered. The status of temporary workers is linked to demographic features such as age, gender, ethnicity and level (and in the case of NQTs, length) of professional qualification. For example, in teaching, temporary contractual status was clearly linked to NQTs, part-time teachers and instructors who did not hold the required teaching qualifications. For social services workers, temporary status was linked primarily to the lack of a social work qualification and part-time work. In both teaching and social services lack of qualification and training had a clear relationship to issues of ethnicity whilst part-time and temporary work was linked to gender.

These features meant that facets of temporary work gave rise to differentiated experiences for the groups it affected. Therefore the relationships between

temporary work, part-time work and ethnicity are examined separately before moving on to study the material and psychological impact of insecurity, which provided a commonality of experience for temporary workers. Training issues also featured extensively in the concerns of the temporary workers interviewed and are therefore examined in some detail. The chapter concludes with an analysis of how temporary work affects the relationship between workers.

### *The Experience of Temporary Work*

The experience of temporary work reflected the features of such work outlined in the previous chapter. It was insecure, intense and seemingly arbitrary. The effects of these conditions on the experience of groups of temporary workers are now examined.

#### *Part-Time Temporary Workers*

The joint relationship between temporary and part-time work and its perceived lower status was starkly emphasised by Sandra, a teacher in County who introduced herself at the beginning of our interview as a part-time, temporary teacher - 'the lowest of the low'. Pamela, an RSW who had worked on a series of part-time temporary and casual contracts for City for a total period of six years, expanded upon the differential status between temporary and permanent workers when asked if she thought they were given the same opportunities for promotion:

I don't think so. I don't think people look at you in the same way. If you are working on a full-time contract they seem to think that you have



made this commitment and that you have been working in the same place for x amount of years. And they take up my records and they say 'you have been over there, you have been over here'... I have heard the manager say this in passing 'Oh Pamela has been with us a long time now, but she has never really made that full commitment'. And I think that's a bloody cheek. If I have been working two years here and two years there, what is it! (11.5.98)

Pamela also felt that people who were willing to work long hours and didn't specifically require part-time work were more likely to be offered permanent work. This was confirmed by Max, a colleague of Pamela's who had started work as a temporary worker at their establishment and had now secured a permanent position. Max stressed that he had been prepared to work the same hours and on the same basis (involving night shifts or 'sleep-ins') as the permanent members of staff. Pamela by comparison was constrained by childcare commitments to work limited hours.

Fiona, a teaching instructor in City, had held a temporary contract for five years. Her job was advertised each year because she had been told the school really wanted a full-time fully qualified teacher to teach her class (dance) and another curriculum subject. So far they had been unable to attract such a teacher. Although Fiona's contract was renewed on a termly basis, she felt she had managed to keep her job for so long because it was part-time. Her fear was that if the hours of the dance class were increased she would lose her job:

...because somebody would come for a permanent post full-time. Whereas the chances are that while I am part-time another qualified teacher wouldn't want to do just 0.5 and that is what I am. So that is why I have stayed longer because of the actual timetable I teach. (9.7.98)

Ironically Fiona was now seeking full-time work but because of her lack of a recognised school teacher qualification (she was a qualified dance instructor and held qualifications to teach adults) she would not be considered for the same post if it were full-time. Fiona felt that she was trapped in the position of instructor after taking time out to have children. She said she had been encouraged to return to college to take the necessary teaching qualifications but felt that she had not been encouraged early enough and was now too old. She felt this more acutely because she taught dance, which she perceived as having an age limited tenure.

I need the income but what else will I do? Would I get another school to do at my age what I am doing? Or should I maybe look at going to college? But over 40 it is not easy to get a job. (9.7.98)

A similar fate had befallen Sandra, a special needs teacher who had worked on a temporary part-time basis for eight years after leaving teaching full-time to have children. Whilst her children were young, Sandra had taken a series of casual and temporary teaching contracts. However she was now seeking full-time permanent employment in teaching but was finding it difficult to secure a post. The main reason she felt was that, as an older experienced teacher, she was at the top of her pay scale and therefore 'expensive'.

My mistake was not trying to get into a permanent position five or ten years ago. At the time it didn't seem so crucial. I didn't realise how difficult it was going to get. (1.7.98).

The close links between temporary and part-time work were evident when Mr. Dep. a part-time, temporary instructor in Bengali, asked if it was commonly known who was and who wasn't on a temporary contract.



Everybody knows I am a temporary teacher because I am a part-time teacher as well (9.6.98)

Part-time and temporary work are related by the belief that both facilitate the competing duties of women's paid work and their unpaid domestic commitments. These links are therefore essentially gendered. Underlying these observations are the assumptions that divided responsibility leads to a lack of commitment towards their paid work with the corollary that both part-time and temporary work are considered to be of less value. The devaluation of part-time and temporary work is personified in the perceived low status of the workers who undertake it in comparison to their full-time, permanent counter-parts. The perceived low status of temporary work is carried beyond simply gendered associations by incorporating other prejudiced and hierarchical assumptions.

### *Newly Qualified Teachers*

The experience of 'low status' was especially acute amongst NQTs. Five NQTs were interviewed during the research (Karen, City; Katy, City; Ray, County; Samantha, County; Marie, County). All five had qualified at the same time and had been originally employed on temporary contracts of varying duration at the outset of their careers. They were all keen to secure permanent posts and at the time of the research, Karen, an NQT in City, had just received her first permanent contract - eighteen months after qualifying and taking up her first post. In the twelve months following the interviews only one other, Ray an NQT in County, had been offered a permanent contract. The NQTs interviewed

also gave similar responses to part-time teachers when asked the question if it was commonly known which teachers in a school were on temporary contracts:

I mean people knew I was on a temporary contract because I was a new teacher in the school...I just accepted that is what happens as an NQT.  
(Samantha, County, 7.7.98)

Similar comments were made by three other NQTs (Katy, Ray and Karen).

Whilst all the NQTs had recognised the link between temporary work and their newly qualified status and to some extent had accepted this, there were different perspectives on the issue which were possibly linked to their experiences.

Karen's view was that the link was related to levels of experience:

I think it is difficult to distinguish between the issue of temporary contracts and the issue of experience. I think if we all started on permanent contracts but were NQTs we would still be treated the same.  
(interview, 1.3.98)

Katy on the other hand had qualified at the same time as Karen but was facing the prospect of her latest contract not being renewed. Her perspective was more cynical:

If they think you are good enough at the interview to have that job then why not make it permanent? It is just a power thing, especially at our school (interview, 1.3.98)

Samantha and Ray were confident that their currently temporary contracts would be made permanent shortly. They thought it was acceptable to use probationary periods for NQTs as a way of determining quality before a commitment was made. Samantha expressed this clearly when stating:



If you employ an NQT who isn't very good then if they have got a permanent contract then there is no sort of option anymore. And I think that most NQTs are very good at their jobs but I am sure there are one or two who slip through the net who perhaps don't do a very good job. And I think it gives the employer and employee a chance to get used to each other for a year. (interview, 7.7.98)

From the informal conversation that ensued following a group interview with Katy, Karen and Ray it was clear that the teachers were very committed to teaching and worked very hard. It was also clear that they have a number of concerns about the way things are done in their schools, but that they feel unable to challenge or even suggest alternatives because of their temporary status. This was most clearly put by Katy who said it was a shame that teachers didn't get a chance to put all the good practice they learn at college to use – largely because of overwork and imposition of teaching practice from their head teachers.

### *Temporary work and ethnicity*

The links between temporary work and ethnicity were subtler and less obvious, but nonetheless present. The institutional financial mechanisms, particularly 'Section 11' grants which provide insecure sources of funding for language integration instructors have been detailed in earlier analysis. One such language instructor was Mr. Dep who was an instructor in Bengali working on a twelve-month temporary contract in a secondary school in City. This was Mr. Dep's first paid work since arriving in the UK from Bangladesh two years ago. Mr. Dep's contract was coming to an end and he was clearly very anxious about his future. He did not seem comfortable with the suggestion that his temporary

contractual status was anyway related to his minority ethnic status. He considered that the school had given him a valuable opportunity and was 'very grateful' for the chance to have received work as a language instructor rather than in the catering jobs he considered the norm for people arriving from Bangladesh.

There are so many Bengali people from Bangladesh who are living in this country. Most of them are doing restaurant jobs. And if you want to work for [a] restaurant you don't need to get any skill to get this job. You can get this job straight away and you can stay long by doing this work. But I didn't like to do restaurant work and my lack of communication skill, not only mine but other people from back home. lack of communication skill is why they couldn't get any other job other than restaurant jobs. And you can find most of the people working in restaurants. There isn't anything else because they didn't get any job skill from back home. When this job came up that is why it was very important to me. (9.6.98)

Mr. Dep's experiences highlight the devaluation of the language skills possessed by minority ethnic workers in the UK and their segregation into stereotyped jobs as a result. In reality Mr. Dep's competency in the Bengali language was a scarce and valuable skill in the school in which he worked. However this was not reflected in his terms and conditions of work or in his own feelings of worth.

Pamela, an RSW of Afro-Caribbean origin, illuminated some worrying paradoxes in equal opportunities policy and practice. Pamela's temporary contract was coming to an end but she had been informed that to be placed on a permanent contract for the same job she would have to go through the formal interview procedures required under equal opportunities. As identified in the earlier analysis, this was not a requirement for temporary contracts as they were



often used to cover the interim period between the lengthy appointment process and were often used to by-pass a city-wide recruitment freeze. Pamela was rather apprehensive about going through this procedure for a number of reasons. Firstly, she considered that in her experience, under equal opportunities procedures, advertised jobs were rarely given to incumbent jobholders, as this appeared to be favouring 'insiders'. Secondly, Pamela considered that the introduction of written tests into interview procedures, again under equal opportunities, disadvantaged black workers.

Because now sometime they give written tests or whatever and black workers put information down differently on paper. And the way I see white workers coming in and the way they write stuff down on paper is the way that you know they want it to be written, right. But the standard of education is totally different and, with this and the patois, you can see the difference in the way that it is written. And that works against you straight away. Yeah, I can see how they want you to do it, but probably your schooling or whatever they never taught you. (11.5.98)

Again language skills, in this case Afro-Caribbean patois, were undervalued. The majority of the children in the unit in which Pamela worked were Afro-Caribbean and used patois, which most white workers had difficulty in understanding. However, rather than being viewed as a skill, Pamela's proficiency in patois was viewed by her as a hindrance. As a black woman and a single parent, Pamela's experiences seem particularly poignant when considering equal opportunities philosophy and the people it is designed to protect. Pamela should be the model beneficiary of EO policy; instead as a temporary worker, she found herself its victim. In this instance it is clear that, in relation to the way temporary and permanent contracts were allocated, the

letter of the procedures were out of touch, if not in direct contravention, with the spirit of the policies.

The above analysis identifies that the low status of temporary work is differentially experienced according to the demographic features of the workers it affects. However many of the outcomes of the vulnerability and insecurity produced by temporary employment were found to be common across these groups. An exploration of these issues is contained in the following analysis.

### ***The Impact and Outcomes of Temporary Work***

After speaking to temporary workers it became apparent that their feelings of insecurity had a number of elements. These ranged from the concrete and practical, such as the financial implications of their situation and an inability to plan for the future, through to the psychological states provoked by this sense of insecurity.

#### ***Financial insecurity***

All of the temporary workers interviewed said they would prefer a permanent contract and in the majority of cases the need for financial security was given as the main reason. Two of the teaching staff related how their career preferences had been subordinated to the need for financial security. Mr. Dep said that, although he would like to stay in his current school because he felt he had built up good relationships with his pupils, his first priority had to be to secure a permanent contract and financial security. Karen related how the need for financial security had driven her last career choice. She had been offered



another temporary contract at a school that she considered would have been a wise career move, but had also been offered a permanent position at a school where she knew teaching conditions were much harder. However Karen wanted to buy a house and needed a mortgage – something she knew would be difficult when employed on a temporary contract. Karen opted for the difficult school and the permanent contract.

Marie, an NQT in County, had managed to get a mortgage whilst working as an agency teacher as the agency had arranged it for her. However, she considered that she had been given little choice and she felt the mortgage was probably not on the most advantageous terms. She also considered that, having secured the mortgage, the repayments were a constant source of worry and had kept her locked into agency and temporary work<sup>10</sup>. Marie also related how during the long summer break she had been forced to take work in a shoe shop because she had not received sufficient teaching work to secure a holiday payment.

For most of the teachers working on temporary contracts a mortgage was out of the question. Even shorter-term borrowing had proved daunting and financial arrangements, which would seem uncomplicated for most permanent workers, were considered to be a coup for them. As Katy noted:

I have been very lucky with the bank. I was in the position where my car was past it – it had had it. But I just went into the bank, I was doing supply then, and I said ‘you have got two choices. You can either have £285 a week coming in or you can have £40 coming in.’ and they gave

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<sup>10</sup> The provision of financial services by employment agencies raises serious issues concerning conflicts of interest. Marie’s experience highlights some of these dangers for temporary workers. The NUT has noted similar concerns and is investigating related complaints by some of their members.

me the money to get a new car. But I was just lucky. (Katy, NQT, City 1.3.98).

Even Samantha, at 22 the youngest of the NQTs interviewed, who was quite happy to be free of financial restrictions, expressed some concern over financial issues:

I am renting at the moment and I don't want to buy because I don't know where I am going to be in five years time. But I have managed to get a car loan from the bank as a post-graduate. But I do know people who have struggled to get a loan from the bank because they have not had a permanent contract. But if I'd have had any difficulty then I wouldn't have been able to get a car and that would have been a real problem. (County, 7.7.98)

For Mr. Dep even a car loan was out of the question:

The amount of money that I am getting makes it difficult to fulfil my requirements. After you fulfil your requirements, then you can start thinking about luxuries...I can't think about holidays. My wife needs a car for work and every morning we have to worry about if it will start or if it is going to be stuck in the middle of the road. Every time I worry about it. If my job was permanent then I would be able to buy a better car than that. (City, 9.6.98)

Fiona, a part-time dance instructor in City, raised an important issue about the longer-term financial implications raised by the vagaries of temporary employment. Fiona had taken out a pension scheme during her earlier periods of temporary employment with a previous LEA, but in the constant switching of contracts the paperwork for the pension had been mislaid and it had now lapsed. Fiona also pointed out how temporary workers are thwarted even when they are attempting to be financially prudent:



Somehow everything just got lost so I never bothered chasing it again. Simply again, because I didn't fit the masses, I have fallen by the wayside. (City, 9.7.98)

Pamela, an RSW in City and a lone parent, took a positive and pragmatic view of the financial restrictions created by her temporary contractual status. She claimed that the uncertainty of her financial situation prevented her from entering into credit arrangements:

I don't put any trust in the contract ...it makes you more careful. (City, 11.5.98)

However, even Pamela considered that 'mortgages are different'. She said she had taken a permanent job (not in social services) to enable her to get a mortgage and that her current temporary work prevented her from moving because she thought she would probably not get another mortgage. This was despite her good repayment record during her temporary work.

Interestingly Fiona and Sally, whose part-time temporary work had originally been the second wage in a dual income family, were now facing changed situations as both of their partners had been made redundant. Fiona expressed this concern when saying:

I was not the main breadwinner in the household so part-time suited. But my circumstances have changed. My kids have gone to university and that is a major expense for us. My husband's circumstances have changed. Whereas before, I didn't have to work, now I am looking at an income albeit part-time I am looking towards it because that income is used now. (Fiona, City 9.7.98)

Thus, there are a variety of ways in which income insecurity becomes an issue, particularly in relation to housing and transport. Financial arrangements, which would be seen as standard by most of their permanent colleagues, were complicated by uncertainty for the temporary workers interviewed. Teaching and social work are usually considered to be pensioned positions, thereby securing the future retirement of workers in these fields. However, as Fiona's experience indicates, the future of temporary workers, even in traditionally pensioned occupations, is far from certain. Insecurity about the short-term also featured extensively in the concerns of temporary workers and is considered in greater detail below.

### *Insecure futures*

A subject that frequently arose during conversations with temporary workers was their difficulty in seeing beyond the horizons of what were very often short-term contracts and a resultant inability to plan for the future. As Max, an RSW in City stated:

If you have a family you can't plan long term. You can't plan a holiday, you can't plan what is going to happen six months down the road. You can't plan whether you are going to have a job tomorrow. It is just a nightmare. (11.5.98)

Katy, although an NQT, had entered teaching as a mature student. She had given up many of the things that workers normally take for granted to return to higher education. Now qualified, her temporary status meant she was finding it difficult even to recoup the trappings of working life she had once taken for granted:



I can't do anything. I am in a 'no win' situation. Now I can't get a mortgage, I can't really do much because I know that I could be out of work at the beginning of September. If the worst came to the worst, I could get supply. I still wouldn't be able to get a mortgage but I could pay rent. But it does put you in a very weak position. (1.3.98)

Similarly Pamela considered that even taking her eight-year-old son on holiday was an extravagant venture:

It is a little bit of a risk, but we still go. (11.5.98)

One of Fiona's main concerns was the planning that was necessitated by her work. As a dance instructor part of her job was to organise 'productions' for Christmas and Easter events at school. She felt this was difficult when her contract was renewed on a three-monthly basis and worried about the impact of this on her career.

I think should I start this. Will I be able to see it through... So it is the case that I do what I can whilst I am here. I can't foresee next year. It does really limit you and also your career prospects within the school. Regardless of how capable and efficient you can be at something, you just know that you may not be here tomorrow. So you hold back from working parties and things. (9.7.98)

Fiona and some of the other temporary workers thought that much of the uncertainty could be avoided if they were kept informed of their contractual situation and had more warning about either the renewal or the termination of their contracts. Fiona stated that although she had been at her school for five years her contract had been renewed on a termly basis and, though the offer of a permanent contract would have been her preference, a twelve month contract

would have at least allowed her to plan her work more confidently. Fiona also felt that decisions about her contract were either taken at the last minute or not relayed to her until it would be difficult for her to get another post:

If you are left in limbo, if you are waiting to find out - I have at times had to go and say 'look am I coming back in September. Do you want me back in September.' When in actual fact I should have been told early enough so that I am then able to look out for a new post. (9.7.98)

Pamela was in a similar situation in that her contract was renewed on a three monthly basis. However she had not worried about her contract until it was about to reach twenty-four months - the point at which temporary workers began to qualify for employment rights. She had noticed a distinct difference in the way the impending renewal date was being treated:

What they are supposed to do is tell you after three months, but they don't tell you anything. You just keep working and they might say 'oh your contract needs reviewing' but they don't do anything and you just keep working. But this time they are not saying to me 'your contract needs renewing' they are saying 'your contract is ending'. So I know that something must have been said...but they prefer to keep you in the dark. (11.5.98)

In contrast Samantha had commented that her satisfaction with her contract had stemmed largely from the way it had been handled and the fact that she had been kept informed and been given prompt information that might affect her situation.

I know that my job is safe until this time next year...as long as you are kept informed I don't think there is any problem with a temporary contract as long as you don't have huge financial commitments...because I have been kept informed, I haven't had a problem with it. (7.7.98)



As analysis in the previous chapter has identified, the lot of the temporary worker is often sealed by their inability to complain. Their dependence on often nothing more than the goodwill of their managers for the continuation of their contract, means that ‘rocking the boat’ is often not an option:

It [the renewal of his contract] is entirely dependent on the authorities - if they want to keep me in the job. If they want to kick me out then they can. I have no say. I feel powerless. They are really good people so it is all right. If they were bad people they can kick me out at any time. If I wanted to argue about anything, for example if I need more materials but the school authorities are not providing them. If they don't then I couldn't do my job properly so it could be a problem between me and the authorities. They could sack me even though it wasn't anything that was my fault. Now they are good people and they are providing me with the materials I want. But if they don't, I can't do anything. (Mr. Dep, instructor, City 9.6.98)

As previously stated, Mr. Dep considered himself very fortunate to have found a job which allowed him to use his language skills. He was very grateful for what he considered to be the kind treatment he received from the managers of the school in which he worked and was therefore reluctant to say anything against them. However it was clear that he was aware of his vulnerable position and the necessity to keep on the good side of his employers. Karen's view of the situation was less opaque:

You don't question it [the reason the contract is temporary rather than permanent] because you want a job. You know there aren't enough jobs for everybody so you take the job and hope that it is made permanent. (Karen, NQT, City, 1.3.98)

This view quite clearly explains how the limited number of permanent jobs enhances the ‘carrot’ role of the temporary contract as an inducement to remain

compliant. Ray also expressed these sentiments and noted how the vulnerability of temporary teachers compares with the more powerful position of their permanent counterparts.

They [temporary teachers] have got a lot to lose, haven't they? I mean permanent teachers don't particularly want to address the head but they have got nothing to lose. They have got a permanent contract...But at the end of the day you are thinking 'I want to stay here and I don't want another temporary contract. So you don't rock the boat do you. (Ray, NQT, City, 1.3.98)

Katy, who felt badly used by her head teacher, had finally considered complaining when a personal comment was made about her appearance. The head teacher felt that Katy's appearance was not smart enough and had remarked, rather unprofessionally, that she looked more like a 'dinner lady' than a teacher. Katy was furious and discussed the issue with her mentor. However Katy's mentor had advised her that 'it might not be a good idea' to confront the head teacher about it and eventually Katy decided to let the incident pass:

When I calmed down enough, I thought it was probably best if I didn't complain. Especially in the position that I am in. You have to be so careful what you say. (1.3.98)

When discussing this incident the NQT group felt that Katy's actions had been wise. They considered that Katy's feelings of resentment about her contract had not gone unmissed by her head teacher. As such the remarks were possibly designed to provoke a response from Katy, which would provide the head teacher with grounds to refuse to renew her contract.



## *Psychological impact*

The combination of insecurity and the lack of control over events understandably took a psychological toll on most of the temporary workers interviewed. Two workers said they had become depressed after worrying about their contracts and during particular periods of uncertainty their ability to do their job had been substantially reduced. One of these workers, Mr. Dep. was recently married and he considered that the vulnerability of his position had put considerable strain on his marriage:

I have been married for a year and you know married life is a 50:50 partnership. You have to share everything 50:50 – financial, social life whatever. So now from this point of view, financial things, I am not able to play my 50% role. This is difficult in a new marriage. If I would like to buy a gift for my wife, I have to budget and think very carefully. (9.6.98)

A number of workers related how because they felt ill informed, they were constantly looking out for signs that might affects the renewal of their contract.

If there are any jobs coming up or if there are any changes in the department that I work in, then I am obviously the person that it really affects. Because I think if my timetable changes, if there is more time needed, then obviously I am a part-time person also, therefore I tend to feel that it indirectly affects me if there is a major change. (Fiona, City 9.7.98)

In a number of cases the temporary workers were optimistic, but this often led to even greater feelings of insecurity, passivity and fatalism when their contracts were not renewed. One interviewee saw her raised hopes as her own problem.

It does affect you but it is only yourself getting your hopes up. There is no one else to blame. (Marie, County 1.7.98)

Another saw her temporary state as ongoing and again her own individual problem:

I did hope that I would be taken on full-time...That's our situation. It's not anybody's fault. (Sandra, County 1.7.98)

Fiona saw insecurity in fatalistic terms:

I have got to be prepared at anytime to say 'well this is it'...no I feel no security in this school. (Fiona, City 9.7.98)

The most striking aspect of these comments is the self-blame that accompanies them. The failure to get a contract renewed was often experienced as rejection and a number of workers expressed the impact this had made on their confidence levels:

You have always got it hanging over your head. What am I going to tell my next employer – that I didn't get my contract renewed. What does that sound like? It sounds like you are no good at your job. (Katy, NQT. City 1.3.98)

Max noted the cumulative impact on his confidence:

...and it has a knock on effect because you can see your own managers covering their backs and using you, then your confidence has gone. (Max, RSW, City 11.5.98)

Karen had considered the effects of temporary work in depth, and considered its impact was related to traits of character and individual confidence levels:



It depends on the type of character you are and how strong you are. Because If I hadn't got a contract and they had said 'you weren't up to it' I would have just sat there and thought 'oh you are right'. Because if you are a strong character and you believe in yourself you might fight back. But if you aren't quite as strong or confident you would just believe what they say to you. (Karen, NQT, City 1.3.98)

Pamela had little faith in her ability to secure a permanent position and was additionally worried about the effect this would have on her confidence:

If I have been doing the job for two years I don't see why I have to go and sit in an interview. Because if I was on a temporary contract and they didn't feel that I was good enough, why didn't they break the contract after three months or whatever? So now I am in a position where I have done two years and they want me to sit through an interview and, with all these things, they may not give it to you at that point. And then you think how do you move after that. (11.5.98.)

One paradoxical finding of this research is that temporary teachers often had their confidence boosted after going through a successful OFSTED inspection. A number of teachers had expressed how this had given them the confidence to challenge the implicit and sometimes explicit assumption that they were not worthy of permanent status and were in many respects still 'on approval'.

### ***Training***

The above analysis has identified a number of ways in which the nature of temporary work had affected not only the personal aspects of the lives of the workers involved, but also their work performance. One of the issues that concerned temporary workers considerably was the lack of or inequality in training provision. This is particularly interesting because when managers were asked about access to training provision for temporary workers, the

overwhelming response was positive. However all except one of the workers interviewed considered their training to have been insufficient and a number identified the substandard nature of what had been described as training.

The NQTs were divided about training. Two said that they had been given the statutorily required non-contact time for NQTs to allow some 'self-motivated' training. Another, Samantha, felt that she, as a NQT, had been given priority for training both in the provision of non-contact hours and also for external courses. However, Mr Dep who, up until this issue was raised had been very positive about his school managers, described his disappointment with the training which had been supplied:

We have staff training. We meet at half term or full term and just talk about the normal things, not about what is happening in the classroom or anything like that. Just general – you couldn't discuss it in a training sense. It is a meeting, you can't say it is a training session. We meet and just share about very basic problems, which is helpful, everything is helpful, but it isn't enough to develop myself as a teacher. (9.6.98)

Katy identified a similar situation in her school and also added that cost was the influencing factor behind poor training provision:

We are supposed to have training as NQTs but because there are six of us out of twelve staff that work there, what she [head teacher] did is that we had a two and a half hour staff meeting after school that was classed as NQT training, for the simple reason that she didn't want to have to pay for supply and our wages. She just wasn't going to do it and that is how she got around it. So we had two and a half hours after school. (1.3.98).

The issue of costs and how this was now a prime concern for unit managers in social services and school managers in education were raised by a number of



the workers interviewed. A few also raised the issue of how this had particularly influenced the reluctance of managers to provide training for what was seen as a transient and 'common' resource. Sandra had not had any training in her eight years of temporary work even though, paradoxically, her temporary work had been largely at the same school.

I didn't do any courses because it wasn't looked upon as an investment because I was only temporary (Sandra, 1.7.98)

Similarly, in relation to social services in City, Max noted the elements of managerial control related to the issue of training:

I suppose managers look at it as well you are a casual member of staff and you don't have an input into one particular unit so therefore money wise they don't want to have the expense of training casual members of staff when they know that that resource is going to be all over [City]... You will find that the type of training that casuals get is very basic like instruction in restraint and basic first aid courses... There is somebody up there, some 'fat controller' looking down and thinking 'why should we spend x amount of pounds on training casuals when they don't stay in one particular place. It saves money and everybody has got the idea that they have to save, save, save. (11.5.98)

Pamela, who also worked for City social services, noted the same issues of arbitrary control and the inequality of training provision. As a result, Pamela felt that she had not even been provided with the basic form of training for her work:

...I think they say you have the same rights as other workers but you find that when they have got training or whatever because they say when the training comes up 'well you are only here for three months' and you don't seem to get the priority of the training like the permanent staff. And it is up to the managers whether you can go on this training. I have

never been on training since I have been here. Not even first aid. I had to go and do first aid myself. (11.5.98)

Two of the workers noted organisational problems in relation to training for temporary workers. The limited time horizons for planning experienced by temporary workers have already been noted and Marie felt that temporary staff missed out on many of the training courses because they had to be booked quite far in advance. Marie added that even if the courses were offered to temporary workers it might be impractical for them to commit themselves when they had very little confidence in what the future may hold.

Max noted that the nature of one form of training in social services, termed supervision, militated against genuine input by temporary workers. Supervision is a form of training that requires workers to discuss with their line manager any difficulties they have experienced in their work with a view to initiating some joint problem solving exercises. In practice, supervision sessions take on an almost confessional context. Max felt that the vulnerable position of temporary staff prevented them from adequately identifying any shortcomings for fear this may lead to the non-renewal of their contract:

Ok, everyone makes mistakes but most minor problems and most minor mistakes that you make, you can discuss it in supervision. But when you are on a temporary contract you are not really given that opportunity. (11.5.98)

Two of the temporary workers also expressed the view that the lack of training had impacted upon their work. Mr. Dep complained that his classes were so



short and fragmented that he wasn't given the opportunity to build up his skills through experience. Pamela also noted a lack of training and linked it to the way in which temporary workers were prevented from progressing:

Without training we [temporary workers] will always be in this position. And then you get them [managers] saying 'such and such should have followed this and that procedure'. But my argument is that if we are not getting the training – they want us to function in certain ways, but if our minds are not opened to certain things, whatever, then we are not going to do it. And that means the kids are not getting it are they. Its alright for the managers knowing all the stuff and coming out of the office and saying well you should have done this and that when nobody is giving us the training. So when the managers move out and do their thing in the office, they are still leaving us. And we can do it if we are given the skills to cope with the situation...but only certain people get the training. (11.5.98)

Overall, the opportunity for training and related staff development was limited for temporary workers, which impacted on their ability to shift from temporary to permanent status. Temporary workers also raised major concerns about the quality of the service they were providing as a result of insufficient training.

### ***Relationships between Workers***

Chapter six revealed how managers had fostered divisions between temporary and permanent workers. Competition between temporary, especially newly qualified teachers, was also identified as an issue. These questions are now examined from the perspective of the workers themselves.

In social services the divisions between temporary and permanent workers seemed to manifest itself largely in the way duties were allocated. Max thought this was particularly noticeable when he had worked on a casual contract and considered this was related to the continual 'new kid on the block' status of casual staff:

I mean take for instance if you are a casual worker and you go to a building for the first time. It's a new, different group dynamic. Different kids, different atmosphere, different feel, different ethos. Because you don't know the place you have to seek somebody to go round with or you are going to have to link up with somebody for them to show you the ropes. Now some full-time staff look at it as a power thing and they look down at temporary staff and they get them to do the menial jobs and keep them suppressed. Whereas if I work anywhere in the city I want to find out the group dynamic and get on with the job and I don't see why people have to look down on me just because I am a casual member of staff. I have my part to play within the staff group and I have my part to play with the care of the young people. (11.5.98)

Max also related how this had serious implications for certain aspects of his job:

Some of the kids will know that you are on a temporary contract because members of staff have let it be known so that you become a target. The kids know that you are on a temporary contract so they will make allegations very, very easily. And then because they have made allegations and social services like to deal with it quickly, you will find that they will suspend you at the drop of a hat which doesn't do you any good because once you are suspended it's on your record whether it is proven true or not. So you have got that for the rest of your life. (ibid.)

Following a number of highly publicised cases of child abuse, residential childcare managers and staff were aware of the extremely sensitive nature of these issues. This is an issue that also has some resonance with the exclusion of temporary workers from grievance and disciplinary procedures identified in the



previous chapter. Max's comments raise the possibility that temporary contracts provide ease of dismissal with the minimum of investigation should allegations be made.

The teachers also noted clear divisions in day-to-day interactions between permanent staff and supply and agency teachers:

In the staff room you were told not to sit in that chair and things like that. It was a bit pathetic really. (Marie, NQT, County 1.7.98)

Marie said that she disliked supply work because she had never had a chance to feel 'part of the team' and had very little contact with the permanent members of staff. In a very similar way to Max, Marie particularly disliked the 'nerve wracking' experience of not knowing what the situation she was about to enter would be. She related this to a constant reliving of the horrible first day of a new job 'when you don't know anything or anybody' (1.7.98).

Resentment between temporary and permanent workers was also raised when temporary teachers were covering for maternity leave. This was partly related to the hope on the temporary teacher's behalf that the worker on maternity leave would choose not to return and therefore open the possibility of a permanent position. However it was also clear in relation to teaching staff that the allocation of holiday pay for the long summer break was a source of friction. Both Marie and Sandra were temporary teachers covering for maternity leave and both were facing a summer without holiday pay because the teachers they were replacing were returning from maternity leave early to ensure they

continued to receive pay over the summer. This was not surprisingly the source of much indignation. First for Sandra:

So she got her holiday money and I didn't, although I was coming back in September to do another temporary contract. But I got nothing for the holidays. (Sandra, County, 1.7.98)

And also for Marie:

It's not fair really – especially when you know they are coming back early (Marie, County, 1.7.98)

Strained relationships between permanent and temporary staff did not always occur and there were indications that some permanent workers were supportive of temporary staff and sympathetic to their situation. In a residential children's home in City the permanent member of staff who greeted me on arrival to interview Pamela, a temporary RSW, told me that she thought it was about time Pamela's contract was sorted out and that she considered the way that Pamela had been treated by the council was disgraceful. This seemed particularly impressive when I later found out that she thought I was an official from the personnel department! In County a newly recruited Unison shop steward said that she had taken up the post because temporary workers in her department had a number of questions about LGR and the future of their jobs. She said she was persuaded to become a shop steward because she considered that temporary workers obviously needed someone in a less vulnerable position to raise issues on their behalf. Similarly Karen, a NQT who had secured a permanent contract, arranged a number of interviews with temporary teachers for this research because she considered it was an issue that needed examination.



Competition between temporary workers seemed to be a particular issue for NQTs. All the NQTs interviewed expressed this view and considered head teachers had particularly fostered it as a method of gaining extra work and to keep temporary teachers feeling insecure. Ray was a NQT in County and, because he taught reception children, had fallen foul of the multiple intake procedures detailed in chapter five:

The problem with my job is that at the end of the academic year there is always going to be one extra teacher because of the way they stagger the reception classes...and I don't know how they are going to resolve that. (1.3.98)

Ray explained how this inevitably led to a great deal of competition between the teachers involved. However a forthcoming OFSTED inspection had again paradoxically provided Ray with a glimmer of hope. He explained how, to avoid OFSTED, three teachers from his school had left to take up positions in other schools. This exodus had created a number of vacant positions in the school, one of which he hoped to secure.<sup>11</sup> The possibility of permanent jobs had also reduced the need for the temporary teachers to compete.

Katy, on the other hand, described how her head teacher had replaced six out of twelve teachers in her school with temporary NQTs. Katy explained that the head had made it clear that only four of the six NQTs would be kept on:

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<sup>11</sup> Ray had indeed secured a permanent position when I followed up his case twelve months after our meeting. At that time he was the only worker I interviewed who had succeeded in securing a permanent position.

She [head teacher] has made us feel very insecure about our jobs. We were told just before Christmas that it would be a good idea to apply to the pool again because she didn't know if she could keep us on, and that some of us might have to go. Which obviously leads to competition between the teachers... my classroom has got to look better than [that of other temporary teachers]. My books have to look better than theirs. I have got to be in before them and go home after them. (1.3.98)

However one development was that the temporary teachers in Katy's school had now begun to talk amongst themselves about their situation and possible ways in which they could resist the pressure to compete. Katy felt the discussions had been tentative, but it was clear that anger was now at least building against the head teacher rather than being directed at other teachers.

### *Summary*

The above analysis has identified that temporary work in public services is characterised by financial and psychological insecurity, lack of training, under-utilised skills, damaged confidence and discrimination. This stands in stark contrast to Robinson's vision of the 'typical temporary worker' as 'much more likely to be a well-paid professional, employed on a fixed-term contract within the public sector' (1999:89). Instead of emanating the rosy glow of glossy LGMB brochures, which portray flexibility as symbolising the 'Time of Our Lives' (1999), this analysis reflects what Rosenberg and Lapidus call the 'dark side of labour flexibility' (1999:62). However, the concern of temporary workers for the quality of the service they provide and their commitment to their jobs, despite family responsibilities, is not lacking as predicted by Hakim (1991). Furthermore, the women interviewed were not content with the job insecurity they faced as a result of their temporary status and did not resemble



the ‘grateful slaves’ portrayed by Hakim (ibid.) but their vulnerability did deter them from voicing their discontent to their employers.

Temporary workers clearly have a lot to be agitated about and they were vocal in their dissent when provided a ‘safe’ environment to unload their concerns. However what is missing from the above analysis are any indications of concerted resistance. This is not an oversight – none were evident. This and the preceding chapter highlight that individually temporary workers are extremely vulnerable. The corollary is that they more than most workers need the collective support of their trade unions. Their un-organised discontent also offers opportunities for trade union renewal (Fairbrother 1991; 1994a; 1994b; 1996). The following chapter therefore assesses trade union representation of temporary workers, beginning with TUC policy initiatives followed by the national and local initiatives of Unison, NUT and NASUWT and ending with the perceptions of trade unionism from temporary workers themselves.

## **8. Trade Union Policy and Practice on Temporary Work**

The empirical focus of this thesis means that trade union responses to temporary work were examined largely at the level of the branch and region of Unison in social services and at the level of the division/association for teachers in the NASUWT and NUT. However trade unions are hierarchical organisations and to place these unions in the wider national context it is necessary to examine trade union policy and practice at this level. The analysis begins with an examination of TUC policy towards temporary workers which gives a flavour of the general position promoted by the trade union movement. Following this an analysis is made of national policies of Unison, NASUWT and the NUT before the chapter turns to local trade union organisation. An examination of how national and local policies are articulated provides the context for the following chapter in which the representation of temporary workers in the case study authorities is explored.

### ***TUC Policy***

In their campaign document “Job and Go!”(TUC 1998), the TUC declared a concern for the growing number of temporary workers. The report highlights that many temporary workers, in addition to suffering the job insecurity inherent in their employment situation, are often denied basic employment protection. The TUC considered the problems faced by temporary workers and their unions were essentially of a legal nature and their solution was therefore to lobby the Government for employment law reform:



This report shows how many workers lack employment protection. It goes on to look at existing law, how it applies and where the problems are. In conclusion, it suggests areas where the law could be changed so that all workers in the UK are afforded equal employment protection (ibid:2)

This position indicates a somewhat superficial understanding of the nature of temporary work and the issues that underpin it. The partial nature of legal arguments concerning temporary workers was identified in chapter one.

However the largest flaw in the TUC approach was their failure to recognise the unequal distribution of temporary work either by industrial sector or by the demographic characteristics of the workers it is most likely to affect.

There is little indication in TUC publications of the gendered, racial or age related nature of temporary work. The report 'Job and Go' (TUC 1998) does not contain any reference to the unequal demographic distribution of temporary work. A later report (TUC 1999), which focuses on agency workers, does recognise an unequal demographic distribution. However this point is not incorporated into the action plan or recommendations of the report. The omission is not the result of exclusion of these groups from TUC policy; the TUC have taken particular pains to address the exclusion of women trade unionists since producing its 'Charter for Equality for Women within Trade Unions' in 1979 and more recent campaigns have been aimed at minority ethnic groups and young people (EOC 1998:5). However the TUC position on temporary workers illustrates what Howell (1996) has referred to as the paradigmatic approach by the British labour movement towards seeking to recruit and organise the growing female workforce. Howell explains this thus:

...for the British labor movement, working women have become the paradigmatic trade unionists because they predominate in the expanding areas of employment, not because they bring explicitly gendered questions to trade union practice. (1996:512)

The result has been that the TUC has preferred to treat the two issues separately, seeing temporary work as essentially poor work but gender, race and age neutral for policy purposes.

Furthermore the TUC has not treated the issue of temporary work as an issue that particularly affects public sector workers. All but one of the case studies included in the TUC (1998) report are in the private sector and, although one exception recognises casualisation in education, the case study used to illustrate this point is further education (FE) colleges. This is significant because public sector restructuring has removed FE colleges from public ownership into the 'non-profit making private sector'.

Chapter two identified that the largest single group of temporary workers is found in public administration, education and health. Therefore the preferred strategy of the TUC to seek legislative reform overlooks two main junctures. Firstly, as chapter three argues, the Government, as employer, cannot be viewed as a 'disinterested' or 'neutral' legislator. Secondly, deficiencies in employment legislation do not explain the difference between the public and private sectors, as the legislation is the same for both sets of workers. Therefore, as chapter three and six identify, temporary work has particular attractions for public employers. Taken further, these points raise the contention that



legislation designed to restructure public services and strengthen management authority has been used to facilitate rather than stem the growth in temporary employment. For these reasons simply lobbying the government for legislative reform would seem a rhetorical and problematic approach to the representation of temporary workers.

One explanation for their reticence to raise these issues could lie in their tentative relationship with the current Labour government and a wider agenda of social partnership that discourages any direct criticism of the state either as legislator or employer. The implications of this point are discussed further in the following chapter. Although, like the TUC, Unison, NUT and NASUWT are vocal in their rejection of temporary contracts and their inherent dilution of employment rights, unlike the TUC, they directly encounter employer policy and practice. For the public sector trade unions this means that avoiding confronting the state as both employer and legislator is not an option. In addition although they are organised in hierarchical ways, all three unions strive to be democratic organisations and therefore face intra-union pressures.

### *National Context*

This section examines the national responses of the relevant trade unions and draws out the different traditions of unionism involved and the specificity of the sectors they operate in.

#### *Unison*

Following the merger of NALGO, NUPE and COHSE in 1993, Unison, with over 1.3 million members, became the largest public sector trade union.

Although union density remained high in comparison to private sector unions, it fell considerably in local government after 1979 from 78% to 46% (Waddington and Kerr 1999). Unison covers a wide variety of workers within the public sector and, since the onset of privatisation of the utilities and CCT, many are now in the private sector. As a result, service group executives (SGEs), whose delegates represent members from various ‘industries’, increasingly deal with union business. Therefore, whilst there is no over-arching national policy on the use of temporary contracts, this is an issue for SGEs.

In the local government section the issue was the subject of a national survey in 1994 and made its way onto the national conference SGE agenda in 1996 and in 1998. However the progress towards a coherent policy or plan of action was minimal. The results of the survey were not disseminated because they were considered “not competent [reliable] enough to publish” (Deputy Head of Local Government –Unison 19.1.98). An inspection of the questionnaire used for the 1994 survey confirms that it was drafted with a poor insight into the issues and practices which surround the use of temporary workers. A lack of definitions and clarity meant that it would have been difficult for workplace representatives (to whom it was distributed) to answer many of the questions.

Further research into casualisation and temporary contracts was “shelved” in preference to issues pertaining to the Single Status Agreement (SSA). This point is reinforced by the fate of the motions raised at the national conference. The 1998 motion was raised because of “the lack of progress in implementing the 1996 Service Group Conference decision for a major campaign against the



casualisation in local government” (Motion 46 (iii)) (Unison 1998). The motion again called for a survey to determine the extent of casualisation and the implementation of negotiating guidelines for branches. Unfortunately the conference ran out of time at motion 32 and therefore motion 46 fell.

The ambivalent stance of Unison and the public sector trade unions generally towards the use of temporary workers was perhaps best illustrated in a joint trade union/employer conference celebrating the finalisation of the Single Status Agreement (SSA). The SSA, which took effect from 1<sup>st</sup> April 1997, was concluded between local government employers (Local Government Association, Convention of Scottish Local Authorities, Association of Local Authorities in Northern Ireland) and Unison, GMB and T&GWU. The SSA in its entirety is a complex document but its main aim was:

...the implementation of the national employers and the trade unions a) to introduce a new national agreement in place of the APT&C handbook (purple book) and the manual handbook (regionally variable colours) and b) to merge the existing negotiating machinery for APT&C and manual workers. (Unison undated:1)

The inaugural conference, entitled “Single Status and Social Partnership – A New Framework for Flexibility and Security in Employment” had as its prevailing theme that “flexibility can be a friend” (Jack Dromey, T&GWU conference speaker “Single Status and Social Partnership” 19<sup>th</sup> January 1998) and that social partnership between public employers and trade unions could ensure this possibility. It was contended that the SSA proclaimed local government as the ‘pioneers of social partnership’ who would be carefully watched by the other public sector unions. However it was interesting to note

that the united front of social partnership began to dissolve when the issue of numerical flexibility was raised. The SSA incorporated temporary but not casual workers and it was apparent that one of the many stumbling blocks in the agreement was the different perceptions between employers and unions as to what constituted a casual worker. Again, as in the attempts of Unison to research the position of temporary workers, it was clear that a lack of insight into the nature of and the blurred boundaries between temporary and casual work hindered the union position in the debate.

### *NASUWT and NUT*

The issue of temporary contracts amongst teachers was raised at past national conferences of both the NASUWT and the NUT. In both unions motions on temporary contracts were supported and passed into national union policy.

However the two unions have adopted quite different approaches. An NASUWT motion raised at the 1998 conference mirrors the TUC position by calling for legislative reform and the introduction of regulations for agencies providing supply teachers. The NUT have advanced a more proactive approach which has included regular surveys in 1983, 1990, 1992, and most recently in 1995 to assess the extent and implications of the use of fixed-term and temporary contracts amongst teachers.

The findings of these surveys were used to formulate a national union policy and to issue guidelines to prevent the abuse of non-permanent contracts. This document identified a number of strategies aimed at the workplace. The first



involved clarifying the legal position of teachers employed on temporary contracts and ensuring that head teachers and governors are fully aware of employment rights. The second approach was to point out the equality issues surrounding the use of temporary contracts and draw attention to the likelihood of ‘unlawful indirect discrimination’. The last two strategies were aimed at outlawing the use of the waiver clause and the informal use of temporary contracts as probationary periods for NQTs. The document concluded by proposing measures at the workplace that would allow trade union representatives to monitor and question plans to use temporary contracts and to terminate existing contracts.

The document was issued in 1995 and as yet has not been adopted by either County or City. However temporary teachers gained continued support in a conditions of service resolution passed at the 1998 national conference which called for a ‘teacher’s national contract’. The first of an eleven-point proposal demanded:

...all teachers shall be employed on permanent contracts except where they are covering for the absence of permanent post-holders or where the school or service is being reorganised and the union is formally involved in the process. Fixed term contracts will not be used as a form of probation. (Documentary records)

It is interesting to note from this statement that the NUT was willing to exchange an acceptance of temporary contracts for a seat at the bargaining table. However, from the rest of the document, it is clear that the NUT has gained some appreciation of the pressures that have resulted in the increased use of temporary contracts. The resolution called for the organisation of a

“National Contract Week in the autumn term 1998 to draw maximum attention to our campaign”.<sup>12</sup> Furthermore the NUT has pursued the links between time limited specific grants and an increased use in fixed-term contracts. A national survey conducted in 1996 examined the use of such contracts for teachers employed under ‘less assured sources of funding’. The conclusions were:

In recent years there have been significant changes to the systems by which funding is allocated to LEAs. Section 11 funding, in particular, has become a less assured source of funding for many LEAs. This uncertainty, together with the time limited nature of the funding...has in the Union’s view led to a clear increase in the use of fixed term contracts for teachers employed on work funded in this way.  
(Documentary records)

However the union did not highlight the potentially discriminatory use of temporary contracts issued under section 11 funding discussed in chapter three.

### ***Local Context***

The paucity of policy at a national level concerning temporary workers and the effects of decentralisation have meant that action at the regional and branch level in Unison has been fragmented and variable. Similarly, although the teaching unions have been more proactive in central policy making, LMS severely limited the extent to which these have been effective locally.

Therefore local responses have been driven largely by the circumstances prevailing in the authority/LEA serviced by the branch/association and the traditions of organising they have adopted. The following sections provide the

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<sup>12</sup> The document also links the recruitment and retention problems in teaching to the use of non-permanent contracts. In relation to this issue it is interesting to note that Frank Dobson, Secretary of State for Health, has linked the shortage of nurses to the improper use of temporary contracts.



general context for Unison, NASUWT and NUT in each of the authorities before moving on in chapter nine to show how it has been relevant to the specific representation of temporary workers.

### *Unison*

Both City and County were served by the same regional office, which covered six metropolitan authorities and four county councils. The regional office was divided into four 'specialisms' of which local government was the largest followed by health service, the utilities and higher education. The local government section covered about 80,000 members.

### *City*

In 1998 City was covered by a team of three regional officers and one secretary amongst whom the work is divided according to departments within the authority. Unison was the largest trade union branch in City with a formal membership of 21,000. However it was considered that the actual membership stood at around 18,000 with about 1/3 in social services and 1/3 in education. This represented a density of approximately 69% of the eligible workforce. The branch covered workers who worked directly for the local authority, workers employed by the one outside contractor, a number of voluntary agencies and a number of workers at the local international airport. The ratio of steward coverage was approximately 1:60, although this was uneven with some workplaces better represented than others. The steward network largely reflected departmental structures with the two 'lead' stewards for social services

who covered adult and children's services respectively. However the dispersion of workforces in large and small work sites meant it was difficult to recruit stewards, particularly in smaller sites. One outcome was a variation in involvement, as indicated by one convenor in social services:

some just pin notices up, others attend meetings and take on full duties (13.5.97).

In principle, stewards and senior stewards undertake day-to-day negotiations. However in practice very little negotiation took place at a workplace level. Representation at this level was usually confined to individual representation on grievance and disciplinary issues and often these were passed to branch officials fairly early on in the proceedings. The branch committee comprised around 70 people when all positions were filled and these 'lead' officers made the final decisions concerning branch matters. Only two officers were usually present at city-wide negotiations and, in theory, decisions and information were relayed to the branch, although in practice communication within the branch proved more complicated.

The Unison branch in City was formed in 1996 following the national merger. Prior to the merger there was one NALGO branch, one COHSE branch and five NUPE branches in City. There had been a history of tension between the NALGO and NUPE branches resulting in the formation of one of the NUPE branches in the 1980s as a 'break away' from the main NALGO branch. Underlying this history were distinct perspectives reflected in different traditions of public sector trade unionism (Terry 1996). In the election for the



new branch executive, twenty posts were up for election and seventeen were contested. The merger was not a smooth process and had resulted in a great deal of political wrangling and vying for positions between former branch executive officers.

Candidates standing for election to branch positions reflected three main camps. 'The right' consisted mainly of the old NUPE officials. 'The broad left', seen as radical and mainly consisted of the old NALGO officers and a few radical NUPE officials. The third party described themselves as a kind of 'middle of the road party' which was disenchanted by the policies of both the 'right' and the 'broad left'. The inaugural meeting of the new Unison branch was bitter and divided, which resulted in the national and regional officials taking control of the branch. Following the elections, the branch executive was divided between members of each of the factions but the leader of 'the right' won the most powerful position of branch secretary.

The prevailing view of the merger was that it had resulted in a 'massive ideological clash' within the new branch executive that centred mainly around different views on how the branch and particularly negotiations should be conducted. A branch executive member from the 'broad left' complained:

the right don't consult the membership and prefer to do their own wheeling and dealing... We were asking our members to resist rather than haggle at the council door which is how I think old NALGO tends to see this particular branch secretary and how his former branch operates. So given the balance of power with 'the right' at the moment I would say there is a fairly cosy relationship with the City council. (children's services lead steward, Unison, City 11.6.97)

Other complaints from the broad left were that information was withheld, resulting in a severe break down in communications. It was claimed that eight months after the merger only one newsletter had been issued. This had previously been a regular form of communication in the NALGO branch. The 'broad left' felt the lack of communication was compounded by the manoeuvres of the new branch secretary to replace the 'rule-book officers' (negotiating committee) with ex-NUPE officials. This was further enforced by the new branch secretary also gaining the position of secretary to the joint trade union forum – a powerful position in city-wide negotiations.

The implications of these discussions within the branch had marked consequences for the development of policies on temporary work. It was clear that the secretary did not pass on information from CANS meetings to other branch officials (observation). Jackie, the branch service and conditions officer and the only senior female branch official, complained that the new branch secretary had 'unilaterally' removed her from the negotiations concerning casual and temporary workers. Her removal, she felt, was provoked not only because she was from the former NALGO branch but also because the branch secretary 'has a particular problem with capable women' (4.8.97). In this vein, the 'broad left' were further concerned that the NUPE branches had not given a high profile to equalities issues and this was being transferred to the new Unison branch. Jackie felt that, although the union nationally was improving on equality issues, the branch had been more innovative in this area prior to the merger. She gave the example that in the previous NALGO branch there had



been a women's and black members officer.<sup>13</sup> This position had been put forward for the new rules and constitution but had not been incorporated. She felt the final insult had been to elect a 'middle aged white man' as the equalities officer and a black woman as his assistant.

Members of the 'broad left' considered that the merger had caused a 'major distraction from doing the job and serving the members' and that 'the branch has just been paralysed since [the merger]' (lead steward – children's services 13.5.97). It was argued that regional and national full-time officials had taken the side of 'the right' by forcing a disputed constitution on the branch. They felt that ex-NALGO officers had been stereotyped as 'young left-wing radicals' (ibid.) and a number of broad left activists had been 'Rule I'd' (investigated for bringing the union into disrepute). As a result it was felt that steward recruitment had been discouraged and existing stewards were attending meetings less frequently. This was argued by ex-NALGO officials to be particularly damaging as their branch had been typified by frequent and relatively well attended stewards' meetings. Furthermore the lead steward for adult's services, an ex-NALGO official, considered that the service ethos fostered by Unison was making it more difficult to recruit stewards stating:

The union advertises itself as a service, not something that you have to participate in and do something for yourself. (adult's services lead steward Unison, City 13.5.97)

The perspective of the new branch secretary was somewhat different. He felt that the NALGO branch had typified adversarial relationships with the City

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<sup>13</sup> There has also been a black members officer in a former NUPE branch

council and with other trade union branches. He argued that since the merger the prevailing relationship was one of ‘reasonableness characteristic of NUPE negotiations’ (23.5.97). However it was clear that the continued and vocal opposition of the ‘broad left’ was beginning to take its toll:

It’s [the merger] been very traumatic. It’s been very traumatic for me because there is a lot of resentment to the way I work for the reasons I have just outlined to you. (Unison branch secretary, City 23.5.97)

This pressure continued and in the 1998 branch elections the branch secretary did not stand for re-election. Jackie, the ex- NALGO service and conditions officer (white, female), was elected as the new branch secretary.

The circumstances surrounding the merger had affected the relationship with the new branch and regional office. As stated, members of the ‘broad left’ considered that regional officers had taken the part of the ‘right’ by forcing a disputed rule-book on the new branch. To some extent the senior regional officer, a former NUPE official, supported this:

[City] is a very large branch. It has a membership on paper of about 20,000 in reality nearer 18,000. And it means it is very difficult to keep tabs on everything that is going on. So our relationship with the individual lay-officials varies enormously. It would do in a branch that size...The [City] branches, there were previously seven of them, were forcibly merged against their will in 1996. And effectively I did that merger [pauses] and that was not an easy situation for anybody. They had to merge by virtue of national rules, which they themselves had voted for at national conference. So it was fine in theory but not in practice. There is a lot of difference between branches. Some of it is personality-based but most of it is ideological-based. (Unison senior regional officer, City, 6.1.98)



However it is interesting to note that the same official was keen to point out that regional officials had not allowed the political differences, which had disrupted the merger to such a great extent, to bias the service that was provided from the regional office:

Our relationship from regional officer to lay-official or activist does not depend upon which particular grouping those people are in as to whether we have a good relationship with them or not. And that is the truth. All three of us have good working relationships with people within the so-called broad left, with the people in the so-called right and with the people in the centre. (ibid.)

In practice the situation was more complex. Observation at negotiations meetings at which the regional officer was present confirmed his concern not to become too closely associated with branch officials connected with the 'right'. He did not sit with these officials during the meetings and preferred to chat with officials from the other trade unions during interludes. The latter was in stark contrast to the 'right' Unison branch officials who always sat next to each other and ensconced themselves in council chambers for secretive interlude discussions.

### *County*

The Unison branch in County was formed in July 1996 following the relatively straightforward merger of one NALGO branch (2500 members) and two NUPE branches (1500 members). However rather than reflecting harmonious internal relations, any lack of friction was largely the result of specific features of the branch which led to a rather passive form of trade unionism. The branch had two full-time officials one of whom was a Unison branch organiser (a full-time

officer employed by Unison and assigned permanently to one branch). The other was a branch lay-official on full-time secondment for the duration of LGR. There were fifteen other branch officer positions but six were unfilled, one of which was the post of equality officer. It was clear equalities issues were given a low profile within the branch and there was limited awareness of race and gender issues.

In 1998 there was a total membership of approximately 4,000 – a density of approximately 45.7% of the total eligible workforce, low by local government standards. Prior to the merger the branches had worked together well in campaigns against budget cuts and this had smoothed the path of the merger. However there was a history of considerable internal upheaval in the previous NALGO branch. This stemmed primarily from the “defection” of a previous branch secretary to the T&GWU followed by a substantial number of members.

There were 104 shop stewards in the branch but activism was considered to be extremely variable with members often contacting the branch officers directly for information and assistance. One result was that much of the branch official’s time was taken up by individual casework. Another was that the branch relied heavily on the support of regional officials. This had been initiated by the presence of a branch organiser and continued in his absence on long-term sick leave, by regional officials. The result was that the branch as a membership-led organisation had effectively become moribund and, as chapter four highlighted, industrial relations in County had become almost entirely related to smoothing the path of LGR.



## *The Teaching Unions*

There has long been a great deal of competition and rivalry between the main teaching unions both nationally and locally. At a local level this is exacerbated by facility time in both County and City being allocated on a pro rata membership basis. Therefore actual local membership numbers are a closely guarded secret with quoted numbers often being greatly inflated. In both authorities it was noted by both NUT and NASUWT officials that the combined official membership of each of the unions greatly exceeded the number of teachers employed by each authority and the rivalry between the unions surfaced regularly in the interviews conducted with trade union officials at every level.

### *NUT*

In the NUT every association was a constituent of the national union with associations usually linked to the LEA. Some smaller associations combined to form divisions and the NUT in City, because of size, was an association division. Ideally, as long as somebody was willing to stand, each school had a representative. Whilst most schools in City did have a representative, the association secretary felt that the quality of representation varied greatly between schools. He also felt that it had become difficult to recruit representatives because of the added workload teachers faced. In addition, the advent of LMS has considerably personalised the employment relationship at

the level of the school. The combined effects of these pressures on work place activism were described by one trade union official:

Some teachers end up doing four night meetings a week. Absolutely ridiculous but they end up being cajoled or bullied into doing them...there is a sort of fear element now in which many head teachers use bullying and intimidatory tactics and people just don't want to feel that they are in the firing line... (NUT association secretary, City 5.3.98)

Decision-making in the NUT association in City was carried out via an association executive at monthly meetings. However the main form of communication to members was considered to be an association newsletter issued quarterly. The executive committee consisted of nine officer positions with the association secretary seconded on a full-time basis. The gender profile of the executive committee was two-thirds women to one-third men, reflecting the national membership profile. The association secretary was the only black executive officer with one other black activist. Although this is a statistical over-representation of black members in the local association, the secretary felt that the black membership was not very active stating 'it is still only two active black members' (5.3.98).

Full-time officers were involved in association business usually only in a supportive role and, although members could approach regional office directly, they were often referred back to the association. Only when individual cases reached the stage of dismissal or when industrial tribunal proceedings looked likely were regional officials involved. The relationship between NUT regional office and City association was relatively good. However there was an element of dissatisfaction with the national union:



I think we have got a pretty good regional office... I am not happy with the support we get nationally but happy with the support from regional office. The only trouble is of course is that a lot of their decisions are driven nationally. So they are tied in many ways. I am particularly thinking when we are looking for the union to take some form of action or when we perhaps need to ballot members. We have got a structure for doing that, which quite often gets blocked or bogged down at national level. (NUT association secretary, City 5.3.98)

Regional officials confirmed the tight control of the national union over regional offices:

Because we are under the control of the national union, the priorities of the regional office are determined nationally because he who pays has the control. (NUT regional secretary 10.2.98)

There was also a strong suggestion that regional officials preferred to keep negotiations at the level of the LEA and out of individual schools:

There is inherent prejudice built in, either within the trade union movement because it is no different to the rest of the population generally. And there is inherent prejudice on the staff side, which is why you can't leave it to local bargaining, then they will let those fixed-term contracts go in a sacrificial way. So you can't rely on the staff *in situ* to look after the wider concerns of temporary staff. Which is why you have to continue negotiations with the LEA and cling to the LEA as employer and not let this devolution go on as it has done. Otherwise it will be the survival of the fittest when it comes to potential redundancy or whatever. Sometimes we find that we do have to say to our representatives that your job isn't to negotiate on behalf of the school. That's the division's responsibility. So for redundancy issues we like to send someone from outside who can be more objective. So we don't get much hassle with governors because we have really got to take the fight to the local authority because they will then have a wider application on other schools. (NUT regional secretary, 10.2.98)

This is an interesting position when considering the weakened status of the LEA under LMS. It highlights the reluctance of the regional union (and therefore the



national union) to engage with the decentralised bargaining necessitated by LMS and the employer's powers it bestows on head teachers and governors of individual schools. Underlying this position is a faith in the ability of the LEA to exert pressure on schools, which stands in stark contrast to the less than assured stance of LEA officials. It also reveals a lack of confidence in local activists, which is justified by alluding to the plight of temporary teachers. This stance would seem somewhat problematic as chapters five and six indicate that decisions concerning temporary workers are made entirely at the level of the school with the LEA reduced to only an advisory capacity. It would also seem to stand in contradiction with the national policy that focuses action at the level of the school and may explain the limited impact this policy has achieved.

The NUT division in County was made up of two associations that roughly coincided with the areas covered by the County authority and the new unitary authority following LGR. The division was therefore undergoing re-organisation itself in anticipation of the creation of the new LEA in the unitary authority. The divisional secretary felt that the re-organisation provided the opportunity to sort out what had become a complex and *ad hoc* alliance of schools:

So we have used local government reorganisation to completely revamp it. So as far as we are concerned we have amalgamated into one NEW County association which we set about subdividing again but without having separate branches. So if you like we will have people responsible for various areas but not whole branch meetings as such... Its not a national thing. It is really a response to the way things have gone in County and as a result of LGR which seemed to make it the right time to look how you were organised and sort it. (NUT divisional secretary, County, 22.2.98)



After LGR each association became a separate division reflecting the division of the LEAs. The split was mediated for sometime before the vesting date with the association linked to the new authority acting as a 'shadow division'.

However, up until the vesting date, the divisional secretary continued to negotiate for both associations. Following LGR she planned to continue negotiating for County whilst new officers would be elected for the division covering the new unitary authority.

The 'core' executive officer positions in the division consisted of the secretary, treasurer, assistant treasurer, president, president elect, ex-president, membership secretary, equal opportunities officer, and health and safety officer. In addition to these posts there were a number of officers drawn from the membership and a number of locally relevant positions were created on an annual basis. The divisional secretary stated that the executive were flexible in their duties:

Because what usually happens is that you never have enough people to cover events at the time. So you are always needing people who are on stand-by. (22.2.98)

The executive held regular meetings of elected members and aimed to have one division meeting each month but usually managed to have about ten meetings per year. These were supplemented with whatever additional sub-committee meetings are required. Union business was communicated to the membership via an unspecified amount of general meetings and the annual general meeting to which all members were invited.

As previously stated, membership figures between the teaching unions were a particularly sensitive issue with neither the NUT nor NASUWT officials willing to reveal exact figures. The secretary of the NUT was particularly evasive:

Oh I am not going to disclose those [laughs]...It is a very sensitive area because what immediately happens is there then starts to be the arguments over how much time everybody should have (22.2.98)

Even when pressed on the issue she would not reveal which of the unions had the larger overall membership but preferred to state that the NUT had the most members in primary schools whilst the NASUWT had more in secondary schools.

However, despite high membership figures, the recruitment of school representatives was problematic:

...there are also a lot of people who don't want to admit to being the union rep...a lot of teachers in schools won't touch the idea of being the rep or even admit to being the correspondence person who opens the post. (22.2.98)

When questioned as to the reason for this reluctance the divisional secretary felt that it was largely in response to the increased workload teachers now faced, but this was reinforced by a number of issues, such as employment law. She felt that the increasingly complex area of employment law and the greater use of contractual arrangements that were being made by head teachers discouraged people taking up the post of school representative:



The other thing is there is an implied responsibility and most people feel that if they were a rep they would have to know all sorts of things that they don't know. (22.2.98.)

Further, NUT officials felt that there was growing evidence that bullying by senior teachers was becoming a problem in many schools and that teachers in these situations were unlikely to take on union duties:

What you generally find is that some of the schools have got very good reps, they have been reps for years and that's fine. But what is difficult is getting the schools who haven't got reps to have reps. And sometimes you don't appear to have anybody in a school and when you get in there they are there and they are doing the reps job but trying to keep a low profile. (ibid.)

Consequently there seemed to be a particularly high level of (invited) intervention by regional officials in the NUT in County, with the secretary perceiving the role of divisional officers as almost supplementary:

...in the NUT we work very closely with our regional office...Because sometimes its just essentially being an ear for somebody to let fly at rather than going and doing themselves an injustice. When they really aren't thinking logically and they want somebody to just thrash things out with who is outside of their school situation. ...So a lot of it is a sort of counselling role. So you are not going along with any particular trade union argument or anything to do with employment law ...Which I think you will find is a different set up to the NASUWT because they are set up differently. (22.2.98)

This was supported during an interview with the regional secretary who, although covering both County and City, referred many more times to events in County and appeared to have a closer involvement with the division in County.

Paradoxically the division seemed to exhibit more independence from the national union:

I mean headquarters suggested to me that I should negotiate with the LEA to ensure that all part-time teachers were paid the whole five 'baker days' [personal development days]. Now bearing in mind as I said earlier, the agreement that we have always run in County is that if you are a half time teacher you do half the Baker days. And bearing in mind some people may not be available on those days, because if they are a part-time teacher they may be a part-time something else we didn't pursue that one in County. It was almost, well it seems like a good idea but... (ibid.)

It is possible to reconcile these seemingly contradictory positions if they are viewed as a function of the somewhat narrow view of trade unionism held by the divisional secretary:

You have got your contact number on your membership card and it is a bit like the AA that is all you need. I suppose it's a bit like that for all the unions – we are just a bit like the fourth emergency service. As for being proactive and forming policy and trying to change things, they [members] feel they have enough to do and they feel they have paid their subscription for somebody to do it. (22.2.98.)

In this perspective the role of the regional union was seen to complement the individualistic view of trade unionism by extending casework and offering legal services, whilst the more abstract collective position of the national union was regarded as somewhat irrelevant.

The divisional secretary portrayed the relationship between the NUT associations and the other teaching unions as being co-operative. Like the local government unions in County, the teaching unions had been drawn together in an effort to fight the budget cuts that had faced the education department.



However it was clear there were considerable differences between the unions. Differences separating the NUT and NASUWT were seen as largely between their 'philosophies' although the divisional secretary was loathe to expand upon them. The differences between the NUT and the head teacher's unions (NAHT and SHA) were more explicit:

What I feel essentially happens in County is that to a large extent we actually work together. But that only works so far because you also have head teacher unions as well as teacher unions. And there are always points because head teachers are more in the role of employers than employees that you may get large differences with them (22.2.98)

### *NASUWT*

The local structures within the NASUWT mirrored those of the NUT with the association being coterminous with the LEA. The NASUWT claimed that, with five thousand members, it was the largest teaching union in City. The association consisted of a group of lay-local officers and a local executive. The local officers were a secretary and a deputy secretary both of whom had full time release for union duties. The other executive officers comprised a president, vice president, past president, treasurer and other officers identified on an annual basis to take up specific duties. Three of the executive officers including the general secretary and assistant general secretary were women but there were no black officers. The local executive also consisted of up to twenty member officers elected from amongst members in the city. The executive met on a six-weekly cycle and there was a standing agenda of referral of local business and treasurer's report. The association secretary was also a national executive member. Communication and decision making within the association

was achieved by general meetings at least once a term and an annual general meeting supplemented by meetings held for specific groups of members as and when those were necessary. These meetings were open to all members with dates and invitations to attend circulated to all schools.

The association strove to recruit a school representative in each school with NASUWT members and coverage was considered to be good. The assistant general secretary was more positive about the quality of school representatives than the NUT association secretary but she did mention difficulties in recruiting activists in the changed climate following LMS:

In some schools, those schools where you know you are going to have difficulties, where there are issues to do with bullying, then it is difficult to sometimes get reps, but we try and encourage it by going in meetings with the members, letting them put an officer's name to a face and giving them whatever help and advice they need. (NASUWT association assistant general secretary, City 27.4.98)

The assistant general secretary of the association felt that, in City, the involvement of full-time regional officers occurred only on a very limited basis with the majority of casework and consultation meetings with the LEA dealt with by association officials. However in certain circumstances the specialist knowledge of full-time officials was sought and on these occasions she felt the support given both at a regional and national level was 'excellent'. This support usually took the form of asking for a second opinion on contractual issues but other legal aspects such as industrial tribunal cases and industrial injury claims were usually taken over by regional officials.



Before LGR there were two local NASUWT associations in County that essentially covered each of the main areas to be divided by LGR. However, unlike the NUT, it was planned that a third association would be created for the new unitary authority and County would retain the two existing associations to cover the north and south of the county. Also, unlike the NUT, the two associations already had separate committees. The officers of the committees comprised a secretary, treasurer, president, who was the chair and then approximately six other committee members who took on duties depending on the needs of the association.

There was also a federation that was an amalgamation of the two associations. This was a small federation by national comparison but reflected the fact that there was a third association in the past, which would now be recreated following LGR. The federation function was essentially for negotiation purposes and it met two or three times a term. Each association had a negotiations secretary who reported back to the federation any negotiations that had taken place and took orders on these from the federation. There were regular general meetings to which members were invited, but the negotiating secretary considered that information was “passed down” to members via newsletters sent out twice a term.

Membership numbers were again a sensitive area because of the fear of loss of facility time and the federation secretary would not disclose any figures. The information he did disclose mirrored that given by the NUT official in that he felt that NASUWT membership was strong in secondary schools. He said that

many secondary schools in County had only NASUWT members but conceded that the union had few members in primary schools. He considered that this represented a gender split within primary and secondary schools, which reflected in union history stating:

I think it is probably historical. I mean we used to be the NAS - the National Association of School Masters and we merged with the National Union of Women Teachers. So as I say I think it is historical. But it has been a long time – since the 70s I would say that the two unions merged. (NASUWT divisional secretary, County, 10.2.98)

He further stated that although association general meeting in his association attracted as many women as men members, general meetings in the other association attracted very few women members despite the fact that there was a female association secretary. It was also clear that, locally at least, traditional notions of gender stereotyping pervaded the philosophy of the union:

We had a history of being more militant – the NASUWT. I think the NUT are recognised as being a bit militant in London, but generally we have been more militant than the NUT. And I think men tend, in the past – I think things have changed now – men have tended to be more militant than women. I mean I was talking the other day to a woman who has been made redundant in one of the schools and she said ‘it is only pin money’. And I think there is still a lot of women who do it for pin money in effect. And there isn’t that militancy there. My wife doesn’t do it for pin money she does it because we need the money! (ibid.)

The union’s policy was to have a school representative in place in every school that had NASUWT members and the divisional secretary felt that this had largely been achieved. However he considered that the effectiveness of individual school representatives varied and that there had been difficulty in recruiting activists, particularly committee members. Recruitment of members



generally was again similar to that of the NUT with the most concerted efforts being to attract NQTs. It was interesting that little attention was paid to teachers returning to teaching after a career break. although picking up new membership from existing teachers in other unions was valued:

I think most returners look back to which union they were in before they left. But we have picked up a lot of members. I try to be proactive. We picked up a lot of members recently in one of the districts because there was a big hooah in one of the schools where all 19 teachers were members of the NUT and they weren't happy with how the NUT handled the case. So they have started coming over to us (ibid.)

Regional officials played only a small role in the activities of the associations and federation:

He [regional secretary] doesn't play that much of an active roll. He comes along to our federation meetings and he will buy the drinks after! But he covers far too big an area and the NASUWT is run on a shoestring. At each conference they say we are the richest trade union in the country and I am sure that we are because they won't spend any money! So [the regional secretary] ends up running a huge area but consequently does very little in County (ibid.).

The federation secretary even handled certain industrial tribunal cases, which is unusual for lay-officers. However it was clear that the regional secretary and the divisional secretary had a close and friendly relationship. The regional officer confirmed these points adding that federation officials had a great amount of autonomy in the NASUWT generally but federation officials in County had proved particularly adept at dealing with union business without the intervention of the regional office.

## *Summary*

The two branches of Unison operated very differently. The merger of the Unison branch overshadowed trade union activity in City. However this at least resulted from active and passionate beliefs about trade unionism including race and gender issues. Regional officers did play a part in branch activities but this was contested and tentative. The difficulties of the branch merger resulted in further distanced relations with the regional and national trade union organisation. By comparison dependence on regional officer input had seriously weakened the Unison branch in County. The loss of the branch organiser left the branch in considerable disarray at a time when LGR was leading to substantial restructuring of employment policies. Equalities issues were not given a high profile in the branch and were not a consideration in negotiating LGR.

There appeared to be a number of differences of approach between NUT association/divisional officials in City and County. Despite being served by the same regional office, the association secretary in City appeared to be far more independent of full-time officers than his counterpart in County. There also seemed to be differences in perspectives between the two officials as to the *modus operandi* of the union. The association secretary in City viewed the union as an activist based organisation and gave equalities issues a high profile whereas the official in County had a far more service based orientation to trade unionism. One similarity between the two NUT officials was their view of the national organisation as distanced and somewhat irrelevant.



The NASUWT association officials in both City and County operated largely independently of both the regional and national union. However in both authorities the activism of the union rested with a small number of key individuals who operated, in effect, as full-time officers. It was clear that in County gendered stereotypes still pervaded the perspective of the leading officers of the association, which impacted upon his view of women as activists and workers. One similarity between NASUWT officials and their counterparts in the NUT was the belief that union activism at the level of the school was discouraged by the bullying tactics of school managers.

These features had implications for the representation of temporary workers in the case study authorities. The lack of articulation between national and local policy and practice meant that, even where national policy on temporary workers had been formulated, no co-ordinated action took place. Poor communication was also a feature within branches and stemmed primarily from collaborative forms of negotiation, which excluded all but a few trade union activists. Women activists seemed to fair particularly badly under these arrangements. Where this style of negotiations occurred it was underpinned by a view of trade unionism as a vehicle for servicing a passive membership. One outcome was that bargaining agendas were not directly informed by membership interests and were limited, with the result that equalities issues were largely absent from negotiations. Another was that workplace activism was substituted with full-time lay officer led negotiations at the level of the council chamber or the LEA. The specific impact of these features on trade

union representation of temporary workers is examined in the following chapter.



## **9. Local Union Responses to Temporary Work**

The previous chapter outlined the general context in which Unison, NUT and the NASUWT operated in the two case study authorities. There were wide variations between the unions and even between branches of the same union towards equalities issues, national policy, activism and trade unionism generally. The following section examines how these factors directly influenced trade union responses to temporary work in the two case study authorities.

### ***Recruiting Temporary Workers***

Job freezes on permanent positions in City and County meant that union recruitment had reached a plateau. The agreements made in County in relation to LGR, which meant that temporary workers would be laid off first, posed something of a difficult situation in relation to their recruitment into the union. Firstly, the short-term nature of their employment meant that their union membership was also likely to be brief. Therefore there was little incentive for officers to make special arrangements to recruit new entrants over the period of LGR. Secondly, as discussed more fully in the following section, Unison branch officers in County were also aware that the agreement meant that they could not easily represent temporary workers on issues relating to the

termination of their contracts, which also added to the disincentive to recruit new members from their ranks.

Unison branch officials in City, by comparison, had begun to exploit the recruitment possibilities presented by the growing numbers of casual and temporary workers. In pressuring the City council to reassess the temporary contracts of workers in a number of departments, Unison had initially picked up substantial numbers of new members. However, the interest of the union in pursuing this method dwindled as local managers became more adept at avoiding issuing permanent contracts. Without this strategy Unison faced a number of difficulties in recruiting temporary workers. Firstly their main recruiting method, a list of new starters provided by the council, did not include temporary and casual staff. This, coupled with the general reluctance of temporary workers to come forward, meant recruitment was not the usual straightforward process:

Trying to identify who they are is difficult because temporary workers themselves are not keen on coming forward. They feel if they raise their heads above the parapet the local manager, with whom they have to have the best relationship in the world, will just turn off their money, will just say right we don't want you any more. And they have no rights. People are fearful and so they keep their heads down. (Unison Joint Chief Steward #1, City, 9.7.97)

In this case it was clear that the reliance of the union on the goodwill of the employer presented a significant barrier in the recruitment of temporary workers. Although the recruitment opportunity had been spotted by branch officials in City, the added work involved proved to be a potent disincentive.



There was also some feeling that temporary workers, particularly part-time temporary workers, would not consider the union to be relevant to them:

They may not see the relevance at all. If they are only in ten hours a week they think well what has the union got to do with them. What can it possibly offer them. It is the sort of thing that the full-timers who have been here for ten years join. (Unison Joint Chief Steward #1, City. 9.7.97)

It was also considered that this could be remedied by a visible union presence at the workplace. Membership rates amongst temporary and casual workers were noted to be far higher in workplaces where there was a steward present and were boosted when union action on their behalf was visible:

The benefit [of using temporary workers] to employers is obvious but there are benefits for the union as well because we can target these people and say 'look this is what we are doing for you. Don't you think you ought to join the union' Not all of them do but a good percentage do. (Unison branch secretary, City 23.5.97)

Difficulties in recruiting temporary workers into the union had the knock-on effect that temporary workers, even when they were recruited, were unlikely to become activists. The issue of their vulnerability was discussed in chapters five to seven. In relation to this it was noted that stewards were often recruited when a grievance arose in the workplace. As temporary workers rarely took out grievances, it was unlikely that this would motivate them to become stewards. In addition to this it was clear that an informal policy of seniority (length of service) operated in relation to electing representatives. One steward had said how he had waited until he was sure that he 'wasn't stepping on anybody's toes' (9.7.97) before he stood for election. As a result stewards tended to be

those workers with long service. Notwithstanding their vulnerability, temporary workers were therefore unlikely to be considered, or consider themselves, as stewards. They often have broken service and also considered themselves as having less status than their permanent counterparts. The result was:

Of the 25 stewards we have got, none of them are casual workers and this is probably illustrative of the way they are not prepared to come forward. (Unison steward, City 9.7.97)

Recruitment of temporary workers followed a different pattern for NASUWT and NUT. As previously identified, many temporary teachers were NQTs who were traditionally recruited into one of the teaching unions as student teachers before their contractual status was decided. The likelihood that many NQTs would initially be employed on temporary contracts and would probably require advice concerning their contractual status, was not used by either of the unions as a specific recruitment incentive.

As already identified, another source of temporary employment amongst teachers, women returning from child care breaks as supply and agency teachers, was not specifically targeted by either the NASUWT or the NUT as a recruitment possibility. The NASUWT particularly seemed to prefer to pick up extra membership from dissatisfied but already unionised teachers. The NUT did produce recruitment material for part-time teachers, which as chapter four identified, would also probably cover the majority of this category of temporary teachers. However there was no specific mention in this literature of temporary work or related contractual issues.



Overall, apart from a brief opportunistic attempt by Unison in City, there was no systematic attempt by any of the unions to recruit temporary workers as a specific category of potential membership. Furthermore the fact that stewards, traditionally the engine of workplace recruitment and the human face of the union, were unlikely to be temporary workers meant that the union did not project an especially familiar or welcoming image to temporary workers. However, particularly in the teaching unions, temporary workers were likely to be members of a union. This raises interesting questions about the representation of temporary workers once they became trade union members.

### ***Representing Temporary Workers***

There can be no doubt that public sector trade unions have faced unprecedented attacks from managers and employers at all levels. The workload this created was cited as the main reason for the low priority of, and halting support given to, temporary workers. Despite this there was evidence that they had become something of a ‘sacrificial lamb’. The general feeling of the trade unionists interviewed was that non-standard employment contracts were an evil that had to be endured:

The general thinking is that we don’t like FTCs. We prefer people to be in permanent employment – end of story. Any variation – FTCs, temporary contracts and so on – we don’t like and we try to avoid people going on to them. (Regional officer, Unison, County 19.7.96)

Underlying attempts to fight the cause of temporary workers, and expressed by all the union officials interviewed, was the view that the good of ‘permanent members’ was paramount. In local government, the management strategy of

avoiding redundancies by using temporary workers also preserved the trade unions from a potentially very damaging confrontation should the agreement be breached. In both City and County this was facilitated by the informal bargaining arrangements that had evolved. As one Unison branch official in City stated, the temporary worker issue had become sensitive because “we are up to our ears in backdoor deals because of CCT” (informal discussion, 15.6.97).<sup>14</sup>

In relation to these points, a member of the joint trade union forum (not a Unison official) in City stated that a number of his colleagues on the forum had “turned a blind eye to the use of casual and temporary workers to protect a small core of the workforce and union membership”. He considered that “lazy, complacent trade unionism had resulted in a lazy and complacent management” who were allowed to use temporary staff because it offered a short-term solution for both parties (informal discussion, UCATT official 10.12.97).

Although these tendencies were less pronounced in the teaching unions, LMS and the tighter control of school budgets meant that redundancies amongst teachers had occurred and forced the teaching unions into unfamiliar industrial relations territory. One result was that in both authorities the NUT and NASUWT officials said they had signed agreements, which resolved that redundancies should be sought amongst temporary staff before permanent staff. The NASUWT official for the County association was scathing of this approach but the other officials considered it to be the most reasonable course of action,

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<sup>14</sup> Foster and Scott (1998) have noted collusion between local authority managers and unions in attempts to resist contracting and the undermining effect this has on union credibility with its



feeling that the job security of permanent teachers should be protected above all else.

The most blatant and sanctioned example of the use of temporary workers to protect the 'core' workforce is provided in County in relation to LGR. The strategy of using large numbers of temporary workers to cushion the blow of LGR had been almost unquestioningly accepted by Unison:

... there is a practical reason for having FTCs on occasion...and LGR is one. Given the way the government is funding it, there aren't going to be many jobs at the end of the day. So to preserve existing members in permanent jobs we have agreed with the authority that people appointed now will be on FTCs. That expires when LGR takes over and that's a mechanism for preserving existing member's jobs (regional Unison officer, County 19.7.96)

This view was further reinforced by a branch official:

some of these 'as and when' [zero hours contracts] people are our members but we must obviously look after our permanent members first. (Unison branch officer, County 11.7.96)

This position had been undoubtedly facilitated by the entrenched collaborative relationship between regional and branch officials of the union and senior local government officers. It was only when it became clear that this was not limited to the duration of LGR and would not guarantee the protection of 'core' workers, particularly union activists, that the union in County began to show any concern. However, even at this point, branch officials stated that although

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membership when they have been implicated in reduced terms and conditions.

temporary workers were invited to join Unison, the union would be unable to represent them on issues pertaining to their contract.

The priority given to permanent members was also something that managers in County were aware of:

Q: Have you encountered any particular problems in relation to the use of temporary workers?

A: In terms of the unions I would say certainly during the local government re-organization process. The trade unions have been keen to exclude temporary staff in terms of the appointments process. You know their preference is to safeguard the permanent members of staff and temps just have to look after themselves I think as far as they are concerned. So I would say that as far as the trade union is concerned...the pecking order is permanent members of staff are more important to them than temporary members of staff. (personnel officer, social services, County 4.12.97)

This perspective gives rise to the possibility that the trade union marginalisation of temporary workers increased their appeal for managers.

In City the priority given to permanent workers rights was more subtle, but nonetheless evident. Certain Unison branch officers had been instrumental in pressuring the city council to review their use of temporary labour. This influence had resulted in the department by department review of the contracts of temporary workers and, to a lesser extent, the creation of a centralised pool of casual staff in social services. However, during the course of the research the issue of temporary workers was allowed to drop from the negotiating agenda when a dispute concerning pay dates and essential car user allowances was allowed to take precedence. The regional official had also noted this:



Yes it [the casual worker issue] literally dropped off the agenda at the meeting didn't it. I think that is right and I am really seriously concerned about this bloody pay date thing because everything is just piling up behind it. Single status, you know. I know we are going to have serious problems with the authority on single status and because we are not talking to them about anything because of this dispute we are just not dealing with it. (Unison regional officer, 6.1.98)

It was clear that his concern is not with the relegation of the casual worker issue, but with the stalling of negotiations on Single Status – another agreement which, as discussed in chapter eight, excludes casual workers. In later discussions with the regional officer it was apparent that the temporary worker initiative was considered to be a local matter and the business of the lay branch officers. The regional officer had little interest in the issue and had only been present at the CANS meeting because of the threat of industrial action over the pay date dispute that had knocked the temporary worker question from the agenda. Therefore issues regarding temporary workers were largely dealt with at the level of the branch without any guidance from the regional office.

At branch level the use of temporary workers was not subject to any collective agreements. Representation of temporary workers was individualised and usually involved an informal telephone call to the manager and personnel officers involved. The recent departmental review was the result of attempts by branch officers to address the issue on a more systematic and collective basis. However employer resistance to enter any new collective agreements meant even this had degenerated into identifying and approaching individual workers in a 'case by case' manner. As a result the review process was exceptionally lengthy and time consuming for both personnel managers and trade union

officials with the effect that it essentially became a war of attrition. The lack of a collective agreement also meant that representatives still encountered resistance and thinly veiled threats from departmental managers:

Sometimes a local manager will say 'well I can't afford to pay this person as a permanent and if you force me to do it then I can't pay them at all' and that's when it starts to get a bit difficult. (Unison branch secretary, City 23.5.97)

The failure of the union to proceed with negotiations at branch level often reflected a lack of detailed knowledge of the practices concerning the usage of temporary and casual staff by local managers. This was apparent in Unison, NUT and NASUWT and was exacerbated by the dominance of branch officials in negotiations, the corollary of which was poor workplace organisation and steward coverage. The outcome was that important information about the tactics used by local managers did not filter up. In observing consultation and negotiation meetings it was clear that the bargaining position of the unions was hampered by their limited knowledge of workplace practices. This prevented any effective challenge to the assertions of the employers. Ironically it also meant that the unions were unable to recognise and therefore capitalise on the disarray caused by conflicting management policies.

Conversely, in schools, the decisions to use temporary teachers were made at school level where little, if any, union consultation or negotiation took place. As identified earlier, the preferred tactics of the teaching unions were to avoid school-based negotiations and to maintain industrial relations at the level of the LEA. However, there was no evidence to suggest that the issue of temporary



contracts amongst teachers had featured to any great extent in LEA negotiations. This, coupled with the ambiguous position of both LEAs in respect of temporary staff and the limited input by governing bodies, meant that head teachers had something of a free hand in the use of temporary contracts.

Poor workplace organisation has been particularly noted in relation to local government by Kessler (1991) and is a traditional feature of public sector unions used to negotiating issues at centralised levels (Fairbrother 1996). However, certainly in City, this varied from department to department. In leisure and community services, steward organisation was more extensive and active than in social services. The stewards in this department had recognised that, at a branch level, the union had taken a rather instrumental view in taking up issues on behalf of casual and temporary workers:

I mean the union does fudge a bit with casuals. I mean when the union does get the permanent contracts it goes 'hurrah for the union'. But I don't think it is proactive enough really... You need some real militant action to get people on permanent contracts because you are asking a lot of employers. (Steward, leisure and community services, City, 9.7.97)

Leisure and community services were the first department in City to be assessed under the initiative to review temporary contracts. Unlike the second phase of the initiative in social services, stewards had been more involved in the process and there had been a far higher rate of converting temporary contracts into permanent. It was also clear that steward action and pressure had continued in this department after the formal review had been completed:

Because they are employees of the department, whatever their status, the department can't refuse to talk to us and so we have recently been successful in getting four workers who have been on casual contracts for 15 years established on permanent contracts. (Unison Joint Chief Steward #1, 9.7.97)

The way in which the stewards in this department had pressured the managers to concede permanent contracts to the workers involved had been to enlist the support of the permanent members of the staff in collective action. In this way a grievance concerning the use of temporary contracts, which would have been difficult for vulnerable workers alone to bring, had succeeded.

What I did is to go through the procedure. I got all the staff together and had a union meeting and said 'lets put a joint grievance in' because under the grievance procedure they have to meet with you...within five days of having this meeting and sending the letter off, they have said they can have permanent contracts. (Unison Joint Chief Steward #2, 11.6.97)

In schools, although there are higher numbers of workplace representatives (Ironside and Seifert 1995), their activity is variable and sometimes questionable. In two of the schools visited, both the NASUWT and NUT representatives were either the head teacher or the deputy head teacher.

Similarly in local government, many trade union activists, particularly in 'white collar' occupations, have come from managerial grades (Fitzgerald *et al.* 1996). Decentralisation and LMS therefore have serious implications for the structure of workplace unionism in public services. It brings to the forefront 'the very real class differences between manual and non-manual workers, between those in managerial positions and those in routine clerical and related administrative positions' (Fairbrother 1996:139). The effects of these changes on membership confidence in the union are detailed below. Clearly LMS and decentralisation



are beginning to render traditional union structures obsolete and the temporary worker issue provided a good example of this development.

One other worrying aspect of local trade union nescience towards temporary workers concerned equal opportunities issues and illustrated many of the general shortcomings on the issues discussed above. None of the trade union officials interviewed knew how many temporary employees worked in the local authority or LEA they covered let alone their gender, age or ethnicity, although this information could have been legitimately requested from employers. Similarly, whilst the teaching union officials were aware of the equalities issues involved, there was some resistance by senior Unison branch officials to this issue. The male officials often became reticent when this point was raised during interview:

Q: Do you think that temporary contracts have an adverse impact on women?

I really wouldn't like to say. I mean one would assume that they must be when you have got so many people on them in the county council and 75% of our workforce is female. So they must be unless they are purposely discriminating against men when they issue them. I must say that the more problems we have had with them have been men. But maybe that is just because they have kicked up about them. (Unison Branch official, County 11.7.96)

The irony of this lay official's response is not only in his obvious lack of understanding of the equality implications of temporary contracts, but in the way discrimination against *men* arises as a concern. Furthermore there had clearly been little attempt at considering why male temporary workers had been more willing to approach the union with problems than women.

Jackie, the terms and conditions officer in City. was the only full-time female official in both of the Unison branches and she was keen that the casual issue should be given a higher profile as an equal opportunities question. She had been instrumental in drawing up the report that had been originally submitted to the JNC. The report firstly asked the Council to abide by its own policy, to allow the use of casual and other temporary contracts under certain tightly defined circumstances. A second point was that, where possible, temporary and casual workers should be given the same terms and conditions as permanent workers. Thirdly the report demanded that temporary staff should be equality monitored and included in the City's EO policy. The report finally called for a two-year limit on temporary/casual status after which workers should be given a permanent contract.

The report was subsequently passed by the JNC and entered into negotiations with the council. However in the intervening period the branch had undergone the forced merger. Jackie's removal as a negotiating officer also removed her from the casual worker's forum with the result that equalities issue was not pursued at consultation and negotiation meetings when the question of temporary workers was eventually raised. Only one woman was present on the trade union side of the negotiating committee. She was a representative of the T&GWU but accompanied another T&GWU official and did not speak at any of the meetings. There were no black officers present. The Unison equalities officer (a white male) was present but did not raise any equalities issues, despite the bald assertion in the minutes of previous meetings that: "The majority of



casual and part-time employees tend to be either women and/or minority ethnic groups”. Indeed, this point was not expanded upon or incorporated into the discussions in any way. The only trade union official at the CANS meetings to raise an equalities issue with respect to the gendered nature of casual work was the JNC Chair – a Union of Construction and Allied Trades and Technicians (UCATT) official who did not represent any female members! The outcome at departmental level negotiations was the failure of the new officials involved in the reassessment of temporary contracts in City to challenge the gendered significance of the ten-hour per week criteria.

### ***Temporary Workers’ Experience of their Trade Unions***

With the exception of two teachers, all of the temporary workers interviewed were members of a trade union. The residential social workers (RSWs) were all members of Unison; two of the teachers were members of the NUT; three were members of the NASUWT and one was a member of the Association of Teachers and Lecturers (ATL). Of the two teachers who were not trade union members, one, Mr Dep, the new language instructor in City, had been approached by a union (he could not remember which) and was given the forms which he had not got around to completing. He had not been approached again by this or any other union representative. The other was Sandra, a teacher in County who had returned to temporary teaching work after leaving to have children. Her trade union membership had lapsed at that point and she had not considered it necessary, as a temporary teacher, to rejoin. Pamela, an RSW in City, was also worried that although she considered herself to be a member of Unison, her subscriptions may have lapsed. She explained that she had paid her

subscription by check-off but, because she had been given different payroll numbers for each of her temporary contracts, she feared it may have 'gone astray somewhere along the line' and may have lapsed.

The general feeling of the workers concerning their unions was one of inactivity, both from union representatives and from themselves as members. The majority of the workers said there were no workplace union meetings and, where there were meetings, they had not been encouraged to attend. Ray, an NQT in County, said that he had not been impressed by his workplace representative and thought her only trade union duty had seemed to be to put the union newsletter in each teacher's pigeon hole. The trade unions obviously had a low profile in the working lives of the people interviewed. Some of the NQTs interviewed were not sure of the acronym of their union (NASUWT) and Pamela did not know who her trade union representative was or the procedures for seeking help from the union if she needed it. The virtual indifference of temporary workers towards their unions stemmed from a feeling that they lacked relevance to the issues they felt were important. A revealing view of how NQTs view their union was obtained during an informal conversation following a group interview. Katy, an NQT in City, asked me whether the union would help her out on an injury claim for a non-work related injury that she had received. It seemed strange that she had not considered taking her complaints about her contract and the way that the head teacher had treated her to her union official. However, this became less surprising when it was revealed that her representative was the deputy head.



In the minority of the cases where the union representative was active and there were regular meetings held, contractual issues had not been on the agenda. Similarly none of the temporary workers knew what their trade union's position was on the issue of temporary and casual workers. Unsurprisingly the result was that temporary workers doubted that their union could improve their situation:

People have lost faith in the union. People just pay the fees but I don't think that people have got much faith in them. (Pamela, City 11.5.98)

When asked whom they would approach when faced with a problem at work, the union was not at the top of the list for temporary workers. Max, an RSW in City said that he would consult a solicitor if he had problems with his contract before he would approach his union. Marie, an NQT in County, said she would approach her 'mentor' first and then her head teacher. Similarly Fiona said she would approach her head teacher and considered this to be a matter of control rather than representation:

I think the head seems to have sole control over certainly myself and maybe even the qualified teachers that are part-time. (9.7.98)

This comment also supports and echoes the argument in chapters four to seven concerning relationships between temporary work, part-time work and increased levels of control.

Max had some serious concerns about his union:

Even though I am a member of Unison, I don't find them to be very independent to be honest. I find that Unison tends to be made up of staff working for social services [management]. So even though they are called Unison, I don't really think that they are independent away from social services. I think a lot of the key people in Unison are made up of the key personnel staff in social services. So I didn't really contact Unison at all about anything to do with my contract. I found I got a better response from the managers I was working with at the time...I don't really see that Unison has a role and can really do anything significant. Maybe I am disillusioned but I think that the best union set up for temporary staff would be somebody that was independent and didn't have any links with the City council or social services. At the moment I think that the City council, social services and Unison are just one big happy family which is not in the interests of the staff...I just don't see Unison as being in my best interests as a worker. (11.5.98)

These comments indicate how a temporary worker and union member perceived the collaborative styles of negotiations preferred by the Unison branch secretary in City.

Katy, one of the NQTs in City expressed similar feelings about the NUT. In this case the NUT was not the union she was a member of, but the union her head teacher was not only a member of but also the school representative for the union. Katy felt that she had been pressured to change her union by her head teacher and that one of the reasons she did not have a good relationship with her head was that she had resisted. Furthermore Katy considered that this was an additional way her head teacher attempted to exert control over members of staff and also used her position of school representative to withhold information. Katy also raised an interesting point when she said that she had been recruited for the NASUWT by the teaching agency for which she had originally worked. If this is a growing practice, it raises important issues about the recruitment strategies of the teaching unions and their previously hostile attitude towards teaching agencies.



The low profile of the unions coupled with a lack of confidence and some serious misgivings meant that all of the temporary workers interviewed had given little consideration to the prospect of becoming a trade union representative themselves. This was reinforced by some additional concerns relating to their temporary status. Marie said that she wouldn't consider becoming a trade union representative because she felt it was too difficult for temporary teachers. The difficulty arose both from the lack of stability in any one school and also from the vulnerability inherent in temporary work. These were views that were echoed by most of the temporary workers interviewed. Pamela said that she had been discouraged from becoming a representative after watching how a colleague who had been a trade union representative had been treated:

He really knew his stuff and they [management] really used to give him a hard time because he was informing workers of their rights. (11.5.98)

Pamela considered that it would be much easier for managers to give temporary workers a hard time if they attempted to become trade union representatives and so she had not thought it feasible for herself.

Similarly Samantha stated that she preferred to keep a low profile in the circumstances.

I just sort of go with the flow of things. I don't like getting involved with any controversial issues or anything like that and I think that as a union rep you would probably have to do that. (7.7.98)

Ray said he had been discouraged from being a trade union rep himself after witnessing how permanent members of staff at his school had shunned the job.

It keeps changing. Nobody ever admits to being a union rep anymore.  
(1.3.98)

Fiona felt that her part-time status as much as her temporary status militated against her becoming a trade union representative:

I think that to do that [become a trade union representative] you have to be in school five days a week. You have to have been there and know all the issues that are going on. I would never get full-time employment in school so I think that rules me out. (9.7.98)

Katy and Karen, NQTs in City, felt that the heavy workload of most teachers discouraged them from taking on union duties. They argued that this was a particular problem for temporary teachers because they took on additional work in an attempt to impress the head teacher and secure a permanent contract. Karen considered that one of the reasons that head teachers and deputy head teachers were often union representative was because they did not have the heavy teaching load of the classroom teachers, which meant they could undertake union duties more easily. When the issue of facility time was broached NQTs were sceptical feeling that, if they had difficulty getting classroom cover to undertake statutory training, they were unlikely to be given facility time for trade union duties. However towards the end of the conversation Katy did begin to consider that as 50% of the teachers in her school were temporary and NQTs they should have some representation and some input into running the school.



Despite the not too favourable view of their unions, temporary workers provided a number of examples of how they felt the union could improve their representation and make themselves more relevant to temporary workers:

The sort of things I would love to see Unison raising is that – temporary work contracts – why is it only three months? Things like if you have been doing a temporary contract for almost a year and a half – why shouldn't you have a full-time job? Things like why does the council take an hour off your pay packet when I don't know any casuals that can sit down and take an hour off the floor. (Max, City 11.5.98)

Max also went on to describe how the council had recently introduced a charter which informed young people in care of their rights. He felt that Unison could provide a similar charter for temporary workers that informed them of their rights.

Similarly Fiona had not been aware that, as she had completed five years continuous service at her current school, she almost certainly now had full employment rights regardless of her temporary status. Fiona felt this was something that she should have been informed of by her union and implicitly felt that her union had not given her the service that it provided for permanent teachers:

I mean you have just advised me of something that I didn't know about. Therefore I think people like me should be catered for. Things are changing now and whereas we have probably been a minority in schools...I mean I have been teaching for twelve years, so I have paid my dues for twelve years and I am here teaching like everybody else. I take the same responsibilities as every other teacher in the school so it would be nice if they did actually just advise us of ongoing or changes

that affect our employment and our lives – then that would be more helpful. (9.7.98)

The NQTs felt that the prevalence of temporary contracts amongst their ranks meant that the teaching unions should provide support and information on this issue when they were recruited during their teacher training. Samantha said she had been discouraged from joining either the NASUWT or NUT because they had simply advised student teachers not to take temporary contracts. She had considered this to be unrealistic and poor advice considering the likelihood of an NQT securing a permanent contract was very remote indeed. Ray felt that the union should monitor the use of temporary contracts in schools and approach their members towards the end of their contracts to ensure fair treatment. In this way he felt that schools who particularly misused temporary contracts could be identified and challenged. These are important points as it was clearly evident that temporary workers were ill informed about their rights. This was the case generally with regards to contract issues, but teachers also had the added difficulty of falling foul of complex formulae to determine holiday pay entitlement. None of the teachers interviewed understood that their holiday was subject to calculation by predetermined formulae and the NQTs particularly felt that their head teacher could arbitrarily award holiday pay.

### *Summary*

The case study data presented in this chapter has identified that local trade union initiatives concerning the representation of temporary workers have been largely absent. Where they did occur, in the Unison branch in City, they were



not informed by national policies because none existed. Where national policy had been formed, as in the NUT, conflicting strategies to restrict industrial relations to the level of the LEA meant that workplace structures were not in place to carry it forward. In both cases the result was that decentralised managerial decision-making in relation to temporary workers had largely gone unchallenged. This was fuelled by a number of factors.

Firstly, the organising traditions of individual branches clearly shaped their *modus operandi* and therefore responses to managerial use of temporary workers. Even if national policies had been in place, it is unlikely that the distinctive relationship between the Unison branch and employers in County would have facilitated anything other than the compromise that ensued.

Secondly, all the unions displayed varying levels of ambivalence towards temporary workers with an underlying belief that the representation of permanent workers must take precedence. Coupled with this was an unwillingness to acknowledge the EO issues that are raised by temporary work and to use this as a platform for resistance. Certainly, in the NASUWT branches, stereotyped beliefs concerning the earnings of women teachers were likely to have played a part in the lack of interest displayed towards the recruitment and representation of temporary teachers.

Unison branch action in City provided the only partial exception to these points. Steward activity in leisure and community services had sought to collectivise temporary and permanent workers with some success. However this was not generalisable and initiatives in the social services departments remained

individualised, avoided issues of equality and eventually fizzled out altogether when put under pressure both from management and internal union politics. Lastly, the marginalisation of temporary workers from representative machinery meant their fate remained in the hands of trade union officials whose jobs were permanent and therefore whose own security is considered to be enhanced by the presence of temporary workers. The irony of this situation was that exclusion from trade union representation was likely to make temporary workers even more vulnerable and therefore, as chapters five and six argue, increasingly attractive over permanent workers to employers seeking contractual control.

Temporary workers were clearly aware that their trade unions offered them a far from perfect solution to their problems. Some of the difficulties are elementary, practical barriers. For example temporary workers highlighted that union membership procedures, such as check-off, are not designed to accommodate intermittent employment patterns. Others are more deep seated, relating to collaborative forms of negotiations and the ambivalence trade unions demonstrate towards temporary workers. Poor, if not sometimes antagonistic, representation resulted in a low profile of trade unionism in the lives of temporary workers. Participation was therefore discouraged ensuring that a vicious circle was created. The workers interviewed confirmed that their vulnerable contractual position was a strong deterrent from trade union activism. The general feeling was that life was hard enough for temporary workers without putting oneself visibly and literally in the firing line. Therefore temporary workers are discouraged from trade unionism from within and



without – both by their employer's practices and by their trade union's responses.

Despite their seemingly negative experience of trade unionism, some positive indications can be drawn from the views of the people interviewed. Firstly temporary workers do join trade unions and, more importantly, they do perceive a possible role for trade unions in improving their working lives. Most of the temporary workers had strong views on what their union *should* be doing for them and had practical solutions as to how they could be represented. The problem was that the research interviews had been their first opportunity to voice their views, and as a number of the respondents noted, it was the first time anybody had shown any interest in their situation. This at least indicates that, should trade unions settle their ambivalence and decide to take up the challenge in a collective rather than an instrumental strategy, temporary workers can be organised.

## **10. Temporary Work: Towards Clearer Theory and Practice**

The theoretical and empirical data examined in this thesis indicates that the issue of job insecurity is of growing concern for academics and policy makers in a number of arenas. However, temporary work, an important component of job insecurity, continues to lie in the midst of a definitional, theoretical and methodological morass. It is included alongside a number of forms of work that are considered to be either atypical, non-standard, contingent or flexible depending on the preference of the author concerned. Definitional problems have resulted in these forms of work either being classed as an homogenous, residual category or simplistic divisions being drawn between different forms of non-standard work. This definitional focus has both preceded and been reinforced by a narrow research methodology which, in the main, has focussed on large-scale statistical data that demands definitions that can be measured accordingly. In addition, much quantitative research has been directed at employers' use of temporary labour. Where temporary workers views have been sought, they have been measured by survey questions that certainly simplify and possibly obscure their experience. This oversight particularly affects women whose labour market decisions are likely to be complicated by family commitments.

Underpinning and flowing from definitional vagaries and methodological narrowness has been theorising which has been partial and often at a high level of abstraction that cannot provide an in-depth knowledge of the genesis and



nature of temporary work. One cause of these limitations has been that theory in this area has straddled a number of disciplines, resulting in a literature that is diffuse and disjointed. However, previous research contains important data and concepts that should not be dismissed. Therefore a fresh, 'joined up' analysis of these literatures identifies signposts that point the way to an alternative research methodology and theoretical re-focusing that can provide a clearer basis to conceptualise the origins, nature and impact of temporary work.

The flexibility and labour market debates reviewed in chapter one provide the first pointers to the importance of the public sector for an understanding of temporary work in the UK. This was confirmed by a secondary analysis of the statistical data provided in chapter two. Temporary work is considered by many to be a very minor component of the British labour force. Standing at around 6% it is half the EU average. However the numbers in temporary work have been increasing year on year since figures started to be collected in 1984. The most significant finding of a secondary analysis of LFS data came from a public/private sector comparison of temporary work. When temporary work for each sector is displayed as a percentage for that sector, figures for the public sector are more than twice those for the private sector and, at 13%, are slightly higher than the EU average. It is in this respect that temporary work is gaining significance in the UK.

Further disaggregated statistical data from the public sector (LGMB 1998) highlights that local government offers a clear example as to the extent to which temporary work is a substantial feature of public employment. Therefore the

empirical focus of further research could usefully be narrowed to local government and more specifically to social services and education. This data also identifies the social groups (women; minority ethnic groups; disabled and young people) who are most likely to experience temporary work. However, whilst the statistical data can provide 'where' and 'who' indicators, it cannot with any accuracy answer the 'why' and 'how' questions. Researchers who have relied on statistical data alone to speculate on these issues have overlooked important causal links between these aspects of temporary work. A return to the theoretical literature is required for this task but as argued above, a number of strands that have previously remained disconnected need knitting together.

Debates concerning temporary work in the UK have largely been contained within the literature on flexibility. However the concentration on post-Fordism and flexible specialisation has meant that the theoretical focus has been almost exclusively on the private manufacturing sector. The incongruence of the public sector within this discourse has given rise to the paradox that, although it is seen as empirically important, it has not been incorporated within the theory in any systematic way. Although flexibility is portrayed as largely management driven, this has been viewed as either the result of competitive economic necessity (Atkinson 1984; 1985; Atkinson and Meager 1986) or as a way of enhancing Tayloristic management control at the micro-level (Pollert, 1988a; 1988b; Pollert, 1991) and as a way of transferring risks and costs from capital to labour at the macro-level (Hyman 1991). These lines of theorising again make it difficult to locate the public sector within the debate.



Furthermore the abstract nature of theorising concerning flexibility has focussed on the employers' perspective despite empirical data pointing to the importance of workers and their organisations. Quantitative and qualitative data indicate that temporary work does not affect all groups of workers equally. Theories which draw links between labour market segmentation and segregation have been utilised to explain this phenomena. They indicate that workers who are women and/or belong to a minority ethnic group are likely to be segregated into certain areas of employment – the primary site for both is the service sector, particularly public services. However when attempting to bring worker organisation into the equation it would seem counter-intuitive to associate high levels of temporary work with buoyant trade union membership – both of which are present in the public sector. Therefore, although labour market theories can flag up the relationship between the public sector and certain groups of workers, they cannot forge the links with temporary work or explain why public sector trade unions have seemingly been unable and/or unwilling to resist its growth. To address these issues it was necessary to examine two further broad areas of theory. The first required a deeper analysis of the specific nature of temporary work contained in chapter one whilst the second relevant body of theory, contained in chapter three, provided the public sector industrial relations context within which to locate this analysis.

A critical analysis of labour law provided some illumination by highlighting the employment contract as primarily an instrument of control. The concept of a contractual arrangement becomes the way in which unequal power relations between employers and workers are obscured and legitimised. Feminist

theorists have added to the debate by showing how this form of control has been particularly effective in the subordination of women workers. However, temporary employment is not a unified concept in labour law and the legal theorists have been unable to explain it other than to identify it as a degraded form of the permanent employment contract. In order to reach a fuller understanding of the employment contract as a method of control it is necessary to view it as one factor within the social relations of production and therefore to identify its place within the labour process. By taking this approach the employment contract is confirmed as the basis of control in the employment relationship. However its mask of legitimacy has proved to be a double-edged sword as workers and their organisations have sought to establish rights under the cover of contractual freedom. Some of this has been achieved via the courts but the open-ended nature of the permanent contract of employment has also been the basis for the struggle for control over the effort bargain in an attempt to achieve industrial citizenship (Burawoy 1979) in the workplace.

### ***Contractual Control***

The task facing employers has therefore been to re-establish a form of contractual control that resists giving workers legal rights and also weakens their position in the workplace struggle for control. It is argued that the temporary contract achieves both these aims. The law is such that the temporary worker has few, if any, employment rights. Temporary workers have to jump a number of vague hurdles to prove their status as employees before they can establish any claim to employment rights. Most of these, such as



establishing mutuality of obligation and continuity of employment, are so vague as to allow employers to evade them with relative ease. As a back up measure employers have, until recently, been able to rely on the waiver clause to deny temporary workers their rights.

At the workplace it is the open-ended nature of the employment contract that has given rise to the struggle for control. The temporary employment contract closes off this route by establishing the ease by which employers can offer and withdraw work and removes the indeterminacy that allows the struggle for control. Marginalising temporary labour from collective representation reinforces the power of the employer and is achieved by a number of routes. Firstly, the clear threat to a supply of work is likely to discourage temporary workers from making any stand against their employer. Secondly, employers are likely to use groups of workers, specifically women, minority ethnic workers and young people, who have traditionally been excluded from trade union representation and who are predisposed by their social status to poor working conditions. These issues raise important questions for trade unions generally and public sector unions, with high numbers of women and minority ethnic members, particularly.

What is still unclear from this analysis is why this form of control would appear to be particularly attractive to public employers. Again the focus of labour process theorist has been capitalist production and a struggle for control over surplus value, which limits its use in an analysis of the public sector. There are a number of clues in the theories as to the relevance of the state, but largely as

legislator rather than employer with very little to link the two. The state, as a majority employer of women and ethnic groups, offers some inkling as to the significance of temporary labour. However to establish a firm theoretical grounding for these lines of thought it was necessary in chapter three to examine more closely the role of the state as employer generally and local government more specifically.

### ***Temporary Labour and the State as Employer***

The starting point for the analysis of the state as employer was to re-examine the concept of the state as a model employer. The model in its basic sense was portrayed as the beacon to private sector employers as to what constituted good employment practice. The empirical evidence of low pay and discrimination cited in chapter three points to a very different reality. So much so that a number of theorists (see Carter and Fairbrother, 1999) have doubted the existence or continuance of the model. One problem is that the public sector workforce is unique in its heterogeneity and an alternative view may be that, if the model exists at all, it may only apply to the top strata of public sector workers, although deciding where the top strata begin may prove difficult. A radical change in the form of the model since the 1980s has also highlighted severe contradictions. An alternative argument put forward in chapter three is that the concept of the model employer has, since its inception, been misleading in that assumptions are made that the promotion of good employment practice was directly meant to indicate improved terms and conditions for workers. If the model is recast as one that essentially sought to promote the prevailing logic as



to how a capitalist state is to best secure the conditions under which capital can flourish, then apparently polar conceptions of the state as a model employer can be reconciled.

Further support for this line of argument is gained when considering that the voluntaristic nature of industrial relations in the UK has considerably reduced the options for the state to intervene. This has meant that its role as the largest single employer has taken on a greater importance in efforts to influence industrial relations. Therefore when the state view was that orderly, centralised collective bargaining would secure the optimum conditions for capital accumulation, the model employer reflected this. When, on the other hand, market principles, decentralisation and flexibility are thought to be the key to economic prosperity the model is transformed to encourage this view.

Although this transition can be explained concisely in theoretical terms, actually putting the changes in to practice has entailed a massive restructuring of state employment. Removing orderly collective bargaining as the lynchpin of the model has meant dismantling centralised public sector industrial relations and thereby marginalising public sector trade unions. Introducing market disciplines into what neo-liberal governments since 1979 have considered to be ineffective and over-resourced public services has required that state managers and local public employers reassess their employment practices towards a clearer striving for surplus labour, if not surplus value (Carter 1997).

In local government, pressures to do this have taken a number of forms. In direct opposition to the spirit of the Fair Wages Resolutions, abolished in 1983, legislation introducing CCT required that local authorities subject some public services to private sector competition. For those services that could not be easily contracted out, quasi-market principles such as the purchaser/provider split have been introduced. Underpinning these changes has been a barrage of legislation, the main aim of which has been to reduce the financial and political autonomy of local government and create greater reliance on centrally controlled funding. Many of these sources are not guaranteed and are often time-limited. Therefore a considerable degree of uncertainty has been introduced into the financial management of local authorities, which has been used to justify increasing numbers of temporary workers.

Education departments are most often the largest elements in local authority budgets and have come under particular scrutiny by central government. As the employment statistics in chapters two and four indicate, they are also the site of large numbers of temporary workers. Chapter three notes the barrage of legislation that has drastically altered industrial relations in schools. The most sweeping reforms were contained in the 1988 Education Reform Act which introduced LMS and removed the financial control of schools from LEAs. The funding of schools was made to mimic market principles by requiring the income of individual schools to vary according to pupil numbers. Coupled with parental choice, LMS means that school funding, including its allocation for wages and salaries, is subject to fluctuation and is now at the discretion of school managers. This has had the same effect as uncertainty in local



government funding more generally as funding volatility has been used to justify increasing numbers of temporary staff.

In addition to restructuring school finances ERA significantly altered the personnel management of schools. The Act removed primary responsibility for staffing matters from the LEAs and bestowed powers of appointment - including contractual control, suspension, discipline and dismissal on head teachers and governing bodies. In local government generally, similar trends are present in the decentralisation of budgets and the creation of individual workplaces as business units to facilitate the logic of internal markets.

Devolved personnel management has been less direct in local government but a number of initiatives have resulted in the creation of cost centres and the hiring and firing of temporary and casual workers has often been devolved to the individual unit manager.

These trends represent moves towards what has been termed New Public Management (NPM). However the concept is not clear and, as Cockburn (1977) highlights, imported management techniques have a history of being treated as a panacea when local government is put under pressure by the central state. Despite this, the thrust of these initiatives is to give state managers more control over state workers – only the level at which this occurs has varied.

Therefore, whilst central government pressures are likely to be blamed for the worsening of workers' terms and conditions, they have provided fertile ground for restructuring initiatives and political objectives at the local level.

One aspect of increasing the control of local managers has been to devolve contractual control. As identified in chapter one, contractual control is largely a device used for extracting surplus value or in the case of state workers surplus labour. The difficulty of identifying surplus value in the context of state employment, and the focus of labour process theorists on manufacturing, has prevented labour process theories of control from being convincingly applied. The clearer wage relationship established by state restructuring (Carter 1997; Carter and Fairbrother 1999) means that typologies of control developed originally to explain control mechanisms in early capitalism can now ironically be used to fit the public sector. For this to be fully achieved the position of workers must be insecure and vulnerable – precisely the conditions created by contractual control.

### ***From Theory to Research Agenda***

Drawing together various stands of literature relevant to a study of temporary work has enabled the development of a sharper research agenda in three ways. Firstly, an analysis of the literature has established the importance, both empirically and theoretically, of the public sector as a research site.

Disaggregated data has helped to refine the focus to local government, and further still to social services and education. Secondly, a critical review of the literature highlights the need to alter the perspective of previous debates from a solely management driven agenda to one which incorporates workers and their organisations into a comprehensive social relations of production approach. A detailed analysis and synthesis of theory provided a framework around which to develop the set of research questions contained at the end of chapter three.



Thirdly, and emanating from the first two points, a research method was established.

The full justification of the methods used for the study is contained in appendix one. A recurring theme highlighted by the literature review and analysis was the limited ability of large scale surveys to capture the kind of information required to meet a social relations of production approach. The case study design, by comparison, provided the context between the research sites and main actors (employers, workers and trade unions) that permitted the research questions to be fully explored. The following section summarises the main empirical contributions established by using this method and demonstrates the efficacy of qualitative methods in exploring the complex social relations engendered by the increased use of temporary work in the public sector.

### ***Temporary Work in Local Government***

The heterogeneous nature of local government suggests that pressures towards the use of temporary work are likely to be mediated through diverse circumstances. The analysis in chapter four confirmed this hypothesis by detailing how the general pressures of centrally imposed state restructuring had been experienced differently in the two case study authorities. The outcome in relation to temporary work meant that, although state restructuring had resulted in its greater use, this had been channeled through a number of local factors. One example was that, whilst restrictions on local government financing were cited as the major cause of the increases, the effects were uneven. Years of under-funding in County had clearly taken their toll, but this took a backseat to

LGR in the justification for increasing the casualised component of its workforce. By comparison, the less cash-strapped City frequently used the threat of budget cuts to defend increasing numbers of temporary workers.

What further emerged from the analysis was that in both authorities centrally imposed pressures masked local restructuring. This was motivated by a complex interplay of Party and internal power politics between elected members, executive officers and the trade unions. In City, the power and political stability of the elected members ensured that a pluralist tradition of industrial relations had been maintained and trade union presence was afforded considerable importance in policy development and implementation. However, these arrangements had begun to succumb to the influence of a new Director of Personnel who was seeking change. Extensive decentralisation of personnel functions had further reduced the power of elected officers. In conjunction with this, the division of accountability served to blur many of the issues surrounding the recruitment and conditions of temporary workers.

In County, by comparison, the retained corporate structure marginalised already insecure elected officers. The low key approach towards personnel issues at the level of the council chamber meant that staff restructuring under the aegis of LGR was driven through by executive officers with the minimum of formal trade union consultation. The lynchpin of restructuring was the extensive casualisation of a large swathe of council employees that had gone virtually unchallenged by the unions.



In education the imposition of LMS and the consequent weakening of the LEAs removed a great deal of the ability for local authorities to influence events. The result was that the experience in the education departments of both case study authorities was more evenly matched. Devolving personnel functions to individual school managers meant that, below the authority level, there was considerable scope for differentiation in the use of temporary labour. Statistical data prepared for the DfEE indicated that the overall trend has been towards the extensive use of temporary contracts, particularly amongst women part-time teachers.

In relation to this latter point, the different emphasis placed on EO in the two authorities also emerged as a possible mediating factor in the use of temporary employment. Equal opportunities policy was not a high priority in County and little, if any, consideration was given to the adverse impact of temporary employment on vulnerable groups of workers. In City, by comparison, a large ethnic community and a history of poor race relations meant that officials were sensitive to EO issues. However, although recognised as disproportionately affecting women and minority ethnic groups, temporary work had not been subjected to any comprehensive EO policy.

The different paths of City and County leading to the use of temporary workers were pursued in chapters five and six by identifying the mechanisms that promoted and restricted the use of temporary labour in each authority and the tensions and pressures which shaped these mechanisms. In City the strength of the elected officials, their political affiliation and close links with the trade

unions, meant that temporary workers were strategically viewed as helping to avoid breaking 'no compulsory redundancy' agreements. In addition to this, centralised attempts to control budget deficits by blanket recruitment and overtime bans coupled with decentralised budgets and staffing arrangements indirectly encouraged local managers to rely on hiring temporary workers.

Devolved power to local managers meant that the recruitment of temporary workers was informal and largely fell outside established EO procedures. Informality led to arbitrary decisions by local managers with the result that wide variations occurred between the terms and conditions of temporary workers, which led to accusations from temporary workers of favouritism and patronage. The very real threat of discrimination occurring under these circumstances coupled with sensitivity to EO issues, fears about the hidden costs of casualisation and pressure from the trade unions led council leaders in City to attempt to re-centralise control over temporary worker recruitment. The measures taken to ensure this proved highly unpopular with local managers who challenged threats to their autonomy by finding various ways to by-pass or obstruct centralised control and monitoring. The result was that attempts to reduce the numbers of temporary contracts were largely unsuccessful.

In County a balance of power which fell in the favour of non-elected officers in conjunction with the imperative of LGR meant that decisions concerning temporary workers were centralised. However, nominal decentralisation still ensured that local managers had a high level of discretion about the contractual details of temporary workers. The result, as in City, was that inequalities were



clearly apparent. However, unlike City, EO policy was not high on the agenda of either County officials or trade unions with the result that decisions concerning the use of temporary workers were largely uncontested.

The homogenising effect of LMS on LEAs meant that divergence between the case study education departments was minimal. LMS also meant that the focus of decision-making was almost entirely at the level of the individual school with the LEA relegated to a largely advisory capacity. There was evidence to suggest that LEAs in both City and County were concerned about the escalating use of temporary contracts amongst teachers. However there were no directly asserted EO concerns and the LEAs had very little power other than to raise concerns with individual schools. The research data also highlight the minor role played by school governors in decisions concerning temporary staff. These factors coupled with a weak trade union presence at the level of the school meant that head teachers wielded almost total control over decisions concerning temporary staff.

One interesting similarity between the local managers in social services departments and head teachers was the preference for informal arrangements concerning temporary workers. A number of the head teachers interviewed considered that the informal, personalised arrangements created by local 'pools' of temporary and casual teachers further increased their already considerable control over such staff. However the autonomy bestowed on head teachers by LMS was under-pinned by a number of pressures which greatly influenced decisions to use temporary contracts. A number of changes to the way in which

school budgets were calculated created extensive volatility and instability in the financial arrangements of schools. School funding was closely linked to pupil numbers and parental choice meant that, particularly in relation to infants, competition occurred between schools. The result was that pupil numbers cannot be estimated with any certainty and budget decisions, including staffing costs, were therefore short-term.

Pressure on school budgets also forced head teachers to bid for external funding. Such sources were time-limited, often short-term and would therefore only support the recruitment of an additional member of staff on a temporary basis. At least one of these sources, so-called Section 11 funding, was indirectly linked to the recruitment of teachers and instructors from minority ethnic groups. Another such source provided temporary funding to encourage the recruitment of disabled members of staff.

Budgetary factors constituted very real pressures for head teachers. The research data also suggest that the threat of financial uncertainty was mingled with a preference for the increased control that temporary contracts provide over staffing issues more generally. This was particularly apparent in the almost 100 per cent use of temporary contracts for NQTs and a high level of use amongst part-time teachers. This latter point, in conjunction with temporary workers used to cover for maternity leave, offered some explanation for the gender imbalance amongst temporary workers in both authorities.



A recurrent theme in the above analysis is the high level of control sought by local managers over temporary staff. The analysis proceeds by examining how this is manifested in the employment relationship in the form of contractual control. The research data indicate that the informal, personalised approach preferred by local managers reconstituted itself as favouritism and bullying in the workplace. The vulnerability created by the job security inherent in temporary work sharpened the definition between favouritism and bullying in what was often referred to as the carrot and stick approach. One result was that contractual control was aimed at securing a compliant workforce, which manifested itself as work intensification, absence control and formal and constructive exclusion from grievance and disciplinary procedures. Exclusion from procedural mechanisms was coupled with discouragement from trade union association ensuring that temporary workers were effectively isolated and marginalised thereby consolidating their vulnerability.

The research data highlighted a number of mechanisms adopted by local managers to secure contractual control. Some rested on formal legal principles that further reduced the job security of temporary workers such as the waiver clause or inserting a notice period into an already short-term arrangement. Others were aimed at the relationship between managers and temporary workers and involved highlighting the distance in status and power between them. Much of this latter approach was gendered, largely by its association with part-time work and cover for maternity leave. The research data therefore offers extensive evidence for the concept of contractual control. Furthermore it

illustrates the importance of gender relations and of decentralised management relations, a central feature of NPM, in securing this form of compliance.

### ***What About the Workers?***

One of the criticisms of the flexibility debate has been its narrow focus on employer's use of flexible labour (Allen and Henry 1997). The above analysis indicates that numerical flexibility has a huge impact on the lives of workers and has serious implications for trade union organisation. The aim of chapters seven to nine was to counter the bias in the existing literature by examining temporary work from the perspectives of these actors.

The literature reviewed in chapters two and three drew links between temporary work and the demographic characteristics of the workers it affects. The research data in chapter seven supports these arguments in finding that gender, ethnicity and length and level of professional qualification were identified as particularly related to experiences of temporary work. Whilst the low status assigned to temporary work was differentially experienced by these groups, the outcomes of the insecurity and vulnerability inherent in temporary employment contracts were common across the groups.

Financial insecurity and an inability to plan for the future, both on a personal and professional level, arose as a major issue for temporary workers. The vulnerability created by insecurity and fostered by the management of temporary workers is identified as a powerful deterrent from confronting



employers and managers. Similarly the powerlessness engendered by the inability to positively affect their circumstances had an adverse impact on the psychological well being of temporary workers. Depression, marital tensions and fatalism were key complaints voiced by the workers interviewed. It was also clear that the 'carrot and stick' approach to managing temporary workers was instrumental in raising hopes only to severely damage confidence when these were dashed following the non-renewal of a contract. One important outcome of reduced confidence levels was the self-blame and passivity this elicited from temporary workers.

Despite managerial assumptions to the contrary, temporary workers displayed a high level of commitment to their jobs. Most of the workers were therefore concerned about the lack of or inequality in their training provision. Some of the temporary workers interviewed related this to their perceived low status and highlighted it as a factor that ensured that they were unlikely to move out of temporary work. Others related a lack of training to practical issues, such as the difficulty temporary workers have in making the long-term plans often necessary to arrange training courses.

The analysis of temporary work from the workers' perspective is concluded by an exploration of the relationship between workers – both temporary and permanent. The research data provide support for the argument that contractual status may have joined a number of dimensions that have been used by managers to create divisions between workers. Status distinctions created between permanent and temporary workers provide one platform for such a

division whilst the competition encouraged between temporary workers hinders effective bonds of solidarity growing out of shared discontent. Despite the obvious constraints on collectivism, there were some glimmers of shared discontent amongst temporary workers and some sympathy from permanent workers. It is argued that this unrest may provide a platform for trade union organisation and the analysis in chapters eight and nine turns to the trade union representation of temporary workers in public services.

### ***Trade Union Representation of Temporary Workers***

Although the focus in chapters eight and nine is trade union organisation at the local level, the analysis begins by placing it within the national policy context beginning with the TUC. An analysis of TUC policy reflects some of the deficiencies previously identified in the academic coverage of temporary work. The TUC recognises the increased potential for the exploitation of temporary workers but policy has centred on the weak legal position of non-standard workers. Their prescription was therefore to lobby the government for legislative change. The partial nature of legal arguments concerning temporary workers was highlighted in chapter one. However the most serious flaw in the TUC approach was, as in much of the academic literature, a failure to confront the unequal distribution of temporary work with its concentration amongst public sector employees. By ignoring this point the TUC failed to recognise that the government as employer cannot be viewed as a ‘disinterested’ or ‘neutral’ legislator. Policy based on legislative reform is therefore likely to be problematic. Furthermore, a tentative relationship with the current Labour



government coupled with the wider TUC agenda of promoting social partnership may have prohibited any direct criticism of the state - even in its role as employer.

In addition to relations with the state, national unions have to contend with pressures from employers and their membership. They are also hierarchically organised institutions and therefore intra-union pressures influence their policymaking. These factors were particularly apparent in relation to policy concerning temporary workers. The three unions studied in the research, Unison, NUT and NASUWT, had recognised the increasing numbers of temporary workers amongst their actual and potential memberships and had attempted to address the issue in various ways and with varying amount of success at a policy level.

Unison had attempted to draw together a policy on temporary workers in local government via a series of motions at national conference and a national survey of branches to ascertain quantitative details. The success of the latter project had been hampered by a poor insight into the issues that surround temporary work. The main impediment was that policy on these issues had been overshadowed by the priority given to the Single Status Agreement (SSA). An important factor to note here is that the SSA was hailed as an exemplary act of social partnership. However, equally as important is the exclusion of casual workers from the agreement.

The teaching unions have taken quite different approaches. The NASUWT mirrored the TUC position by relying on lobbying for legislative reform. Furthermore they concentrated their efforts on reforms for agency teachers rather than pursuing a broad coverage of temporary work amongst teachers. The NUT in comparison has researched the area of temporary work amongst teachers extensively in a series of surveys. As a result they demonstrated a thorough understanding of most of the causes and issues surrounding the growth of contractual insecurity in schools. They identified the links between temporary contracts, NQTs and time-limited funding, and recognised the potential for discrimination in these areas. Unlike the rather arms length approach of the NASUWT, the strategy of the NUT has been to encourage a proactive engagement with these issues at the level of the school. However, even here, there is a suggestion that temporary work will not be contested quite so vigorously if the union is involved in the decision-making process about employment practice.

The uptake of national policy at a regional and branch level is uneven in most unions and is governed largely by distinct local circumstances. This was the case in both City and County and therefore the analysis of trade union action at a local level is prefaced with an outline of the relevant local contexts in which this took place. Unison activity in City was overshadowed by internal political divisions within the branch. These had been considerably exacerbated by the controversial merger of NALGO, NUPE and COHSE branches that had been imposed following the national merger. The ensuing power struggle for key positions within the branch had a profound impact on the functioning of Unison



within City. The outcomes had particular implications for the gender balance within the branch as the only female negotiating officer was excluded from the authority-wide negotiating machinery. This had a particular impact on negotiations concerning temporary workers as she had been the instigator of moves to pressure councillors on this issue. By comparison, the seemingly smooth Unison branch merger did not mean that all was well in County. Instead it was a symptom of the apathy that had been fostered by a reliance on full-time officials.

Trade unionism in education departments in City and County was typified by rivalry between, rather than within, unions. Close membership numbers between the NASUWT and the NUT meant both claimed to represent the largest number of teachers in the authority. One result was that membership details, including those concerning temporary teachers, were a closely guarded secret. A number of characteristics in the local organisation of both the unions highlighted important issues. Firstly, for similar reasons, both unions were experiencing difficulty in recruiting workplace activists. The increasingly heavy workload of teachers was cited as the main reason for a reluctance to take on additional responsibilities. Trade union officials also argued that LMS had personalised the employment relationship to such an extent that it had discouraged workplace activism. Linking these two points was the view that teacher's contractual arrangements were now so complex as to require specialised knowledge. Already overworked school based representatives would have difficulty in acquiring the skills necessary to effectively challenge the decisions of their head teachers, even if they felt confident enough to do so.

In the NUT the weakness of school based activism was reinforced by a regional and association structure which still sought to regulate industrial relations primarily at the level of the LEA. This raised particular problems for negotiations concerning temporary teachers as decisions concerning them were almost entirely the remit of head teachers with the LEA relegated to a purely advisory role. Underpinning the preference for more centralised negotiations was a view of the membership as either passive or self-serving and therefore requiring a greater reliance on full-time officer input. This stance stands in contradiction with national policy, which sought a proactive school based approach to tackling the issues relevant to temporary teachers. The dislocation between national and local perspectives may offer some explanation of the limited uptake of national policies.

Paradoxically, although national NASUWT policy on temporary teachers took an 'arms length' approach, local officials appeared to have a more positive outlook on school based activism and at the association level there was less reliance on full-time officers. The reality of the situation was that association officials effectively took on the role of full-time officers and very little union activity was based in schools.

These general characteristics of trade union organisation in the case study authorities had a number of implications for temporary workers. Some of the most evident have already been highlighted. Others were less obvious and require further explanation. For example, the recruitment of trade union



members in both social services departments was dependent upon the collaborative relationship between local trade unions and employers, based on traditions of consensual industrial relations. Temporary workers fell outside these traditions and were consequently more difficult to recruit. Furthermore, whilst there was some recognition that the growing numbers and vulnerability of temporary workers enhanced the need for trade union recruitment, their representation was viewed as largely problematic.

Trade union ambivalence towards temporary workers reflected the status divisions between temporary and permanent workers fostered by employers and manifested itself in the issues which were prioritised in the bargaining agenda. Temporary work was raised only when strategically convenient and contained little appreciation or focus on equality issues. Even when temporary work did find its way onto the agenda it was easily overshadowed by traditional bargaining priorities, to the extent that temporary workers were used as a bargaining tool by trade union officials to protect agreements that secured the jobs of permanent workers, including their own. This approach was again a feature of, and facilitated by, the collaborative relationship between branch officials and employers. Furthermore, there was some evidence that where workplace activists had represented temporary workers, more proactive and informed action had resulted in greater gains.

### *Temporary Workers' Views of Trade Unions*

The limited representation they received from their trade unions had not gone unnoticed by the temporary workers who were interviewed. Their comments

highlighted a number of shortcomings of trade union functioning. Some were directly related to trade union procedures, such as check-off, designed around permanent employment. Others were more deep-seated failings of trade union democracy.

Firstly, the collaborative relationship between trade union officials and employers in social services had led to some doubt as to the independence of the trade union. This was also an issue in schools as the trade union representatives at the majority of the schools included in the research were also school managers. There was some evidence that, where this occurred, the trade union position was abused and clear conflict of interests prevailed. Secondly, temporary workers were aware of low trade union participation at the level of the workplace generally and were particularly aware that here and at higher levels contractual issues were not on the union agenda. A vicious circle of discouraged participation ensued, as temporary workers did not perceive their unions as relevant to their concerns.

Not surprisingly there was little consideration amongst temporary workers of becoming active within their unions. This was not determined solely by their poor view of trade union effectiveness but also their own vulnerable employment position. Temporary workers were therefore isolated from trade unionism from within and without – by both trade unions and employers.



Despite the seemingly bleak prospects for an effective trade unionism for temporary workers, the workers themselves were not completely apathetic. Most of the temporary workers were still members of a union. Furthermore, most felt that there was a role for the union in improving their working conditions and enthusiastically offered practical ideas concerning how they would like to be represented. Whilst their reluctance to become visibly active within their unions meant that this represented a somewhat 'backseat approach', it did offer the seeds of a collective solution to their dilemma. However, the problem, as they noted themselves, was that nobody had ever bothered to ask them what they thought.

### ***Conclusions***

A recurring theme of this thesis has been that context is crucial to an understanding of temporary labour. Previous theorising in this area has failed to progress beyond high levels of abstraction largely because context has been ignored. A contextualised theoretical framework has required that temporary labour is located within a social relations of production analysis. This has been achieved by bringing together previously disparate bodies of theory to support the argument that legal and other conceptual aspects of temporary employment contracts sharpen the inequality in the employment relationship and provide employers with an effective method of control over the labour process.

At the highest level of empirical analysis context becomes important by identifying the public sector as the site of the highest concentration of temporary workers. Although the relationship between temporary labour and the public sector is diminished by nationally aggregated statistical data, each level of disaggregated analysis highlights the prevalence of temporary work within key areas of the public services, namely local government and education. Furthermore, by locating temporary labour within these sites, it has been possible to dispel some of the misleading assumptions drawn from aggregated and decontextualised data. By tracing the course of temporary labour to local government and education it is concluded that workers who are most likely to be employed on a temporary basis are not the highly paid, highly trained professionals, assumed from such analyses. Temporary labour in these sites is disproportionately carried out by women, minority ethnic groups, young and disabled workers: the groups of workers traditionally associated with low pay and poor training opportunities. These findings bring the role of the state as a 'model employer' into question and highlight the contradictions of the state as legislator and employer.

### *Employer Policy*

It is only by fully contextualising temporary labour within the case study that the mechanisms behind these phenomena can be identified. This is achieved by locating the analysis at a number of different levels and from a number of perspectives. At the level of the state, radical restructuring of public service finance and delivery has been the spur to insecurity in public employment.



Tight central controls on public spending coupled with an increased emphasis on competition between public organisations for time-limited funding has created a climate of uncertainty. In conjunction with this have been pressures for public sector managers to conform to a model of employment relations which mirrors a small business mentality and hierarchical control (Edwards 1979). Numerical flexibility is one amongst a raft of human resource methods sought by public employers in their quest for 'value for money'. However the research presented here suggests that rather than representing a neutral indicator of organisational efficiency, numerical flexibility in its de-euphemistic form of casualisation is a method of control used for extracting surplus labour.

Nominally devolved budgets and decentralised managerial control over labour has been a key feature of this aspect of restructuring. They have been particularly pronounced in areas of local government which have not been amenable to formal privatisation, largely social services and education. Local management of schools is perhaps the clearest example because its basis in legislation has led to more uniform effects. Similar pressures in social services have been more open to political influences within individual authorities, again highlighting the importance of context in the analysis.

Despite the heterogeneous nature of local government generally and the two case study authorities specifically, a number of similar conclusions concerning the use of temporary labour can be drawn. Firstly, temporary labour was prevalent in the social services and education departments of both authorities. although clear statistical data was difficult to access in social services.

Furthermore, despite differences in EO policy in the two authorities, temporary labour particularly affected women, minority ethnic groups and young people. Therefore it was clear that in practice discrimination against these groups materialised in the poorer working conditions associated with temporary employment contracts regardless of the profile given to EO issues.

A key mechanism in this outcome has been decentralised managerial control, which has provided the informality and personalised relationships between managers and workers that has allowed favouritism and patronage to flourish. The informality of recruitment and dismissal procedures for temporary workers has allowed local managers to evade EO policy. Theories of control alone can not adequately explain these findings. Their focus on manufacturing has meant that, to a large extent they have been 'gender blind', and as a result they have interpreted power in a uni-dimensional way. Women's subordination in the workplace is also enforced by their subordination in the private sphere (Pateman 1988; Glucksmann 1990). In this respect the arrangements for temporary work such as the casual pool in City and the general link between temporary and part-time work indicate that managers specifically targeted women with domestic responsibilities. The research identifies that one of the determinants of contractual control is the perceived low status and powerlessness of temporary workers, which is achieved to some extent by defining it as 'women's work'.

One outcome has been that gendered perceptions of temporary work coupled with informality and vulnerability has meant that temporary contracts provide opportunities for sexual harassment. Harassment is contingent on the effects of



two forms of power: individual (or personal) power and institutional power (Herbert 1992). Decentralisation considerably increases the personal power of local managers whilst institutional power can be identified on two levels. Firstly, the nature of the temporary employment and the inadequacy of employment protection legislation provide institutional power at a structural level. Secondly, exclusion from grievance and disciplinary procedures furnish institutional power at the level of the organisation. As such, current practices of devolved control, particularly in relation to temporary labour, seriously impede claims of being an equal opportunities employer - a sensitive area generally but particularly for City.

It may be concluded that temporary labour does not figure in either the long or short EO agenda (Cockburn 1991) of either the state or state managers. Equal opportunities legislation and policy has been and still is a blunt instrument in combating discrimination but, by discovering the many ways in which it is dulled, research in this field can help to hone it. In relation to temporary labour this means understanding the nature of temporary employment contracts and identifying how, where and why they become an equalities issue. The multidimensional approach undertaken in the thesis has been developed with precisely this in mind.

The circumstances that have given rise to this dilemma may prove difficult to reverse as there is considerable evidence to suggest that local managers prefer the high levels of control provided by temporary contracts and have resisted centralised policies that have sought to limit their use. Therefore it is likely that

the use of temporary employment contracts will increase and may even become the norm for the majority of new appointments, particularly in teaching. Whilst these developments are viewed as relatively unproblematic by employers and managers, the perspectives of temporary workers are understandably less sanguine. They offer the vision of a large, growing body of public service workers who are poorly trained, are acutely aware of the status divide that separates them from permanent staff and are considerably disgruntled. Whilst the vulnerability and isolation of temporary workers is a substantial barrier to both individual and collective action, it should be borne in mind that retrograde steps to early capitalist models of hierarchical control also recreate the conditions that gave rise to collective consciousness and resistance.

### *Trade Union Responses*

Paradoxically another barrier to organising temporary labour appears to be the public sector trade unions themselves. Again, context becomes important because the policies and approaches of public sector trade unions to temporary labour are a product of their circumstances. Public sector trade unions have developed within an industrial relations framework which, under the aegis of the model employer, has sought to institutionalise collective bargaining at highly centralised levels. The data presented here in relation to temporary workers suggests that these traditions have influenced trade union structures to such a degree that the rapid transformation of the model has left them somewhat out of kilter and unable or unwilling to adjust to decentralised relations.

Beaumont (1981), using Prandy's (1965) analysis of administrative unionism,



described public sector trade unions as 'hothouse' flowers. dependent on the cultivation of the state for survival. Fairbrother (1994a; 1994b; 1996) has argued that state sector restructuring, specifically decentralisation, offers public sector unionism an opportunity to escape this dependency by reinvigorating workplace structures and activism in a process of renewal. The response to the challenges of renewal, particularly in local government, has been problematic and limited (Colling 1995; Gall, 1998). Trade union renewal is an uncertain and hazardous route, particularly for national trade union structures accustomed to the considerable control afforded by highly centralised operations.

These arguments are not mutually exclusive. The evidence presented in this thesis indicates that both national and local trade union structures have been unwilling to decentralise and have therefore been unable to contend with issues, particularly the growth in temporary labour, which have gained momentum following decentralisation of some management functions. But, where national union structures, specifically in the NUT, have focussed on events at the workplace, they have been more successful in identifying the mechanisms that result in increased temporary labour. Unfortunately a reluctance to move beyond traditional patterns based on negotiations with the LEA and not with individual school managers, now demanded by LMS, has meant that national policies have had little impact at the local level. Conversely whilst Unison has no national policies with regards to temporary workers. local responses have been understandably mixed. Most have relied on traditional collaborations with employers that have resulted in tacit acceptance of divisions between permanent

and temporary staff. On the few occasions where local trade unionism has acted outside of these traditions, gains have been made for temporary workers.

The change of government in 1997 added a certain amount of clarity to the responses of public sector trade unions. Social partnership, the possibility of harmonious relations between state, capital and organised labour, is now tentatively considered to be back on the agenda. Social partnership offers an alternative path of least resistance under the rubric of ‘new unionism’. Twenty years of being ‘out in the cold’ is leading public sector trade unions to seek shelter in the perceived warmth of social partnership. However the partnership on offer in the 1990s and beyond bears little comparison to any former ‘hothouse’ environment. As Kelly (1996:90) argues: ‘The proponents of social partnership have seriously underestimated employer hostility...’ and notes that the ‘new style agreements’ associated with social partnership often contain concessions to, amongst other things, ‘various forms of flexibility’ (ibid: 86). He further cites evidence which suggests that, where job security is offered to the core workforce, it is often gained by the use of temporary workers.

The evidence presented here supports these observations. The incoherence between national and local policies and the resulting low priority given to combating the misuse of temporary contracts represents ambivalence on behalf of national and local trade union organisation. This, in part, reflects a renewed interest in social partnership and the ensuing difficulty of reconciling the rhetoric of ‘flexibility and security of employment’ contained in the SSA when.



for a growing proportion of their membership, flexibility means anything but security of employment.

Ironically the SSA excludes casual workers, which brings in to doubt the very notion of a single status for local government workers. Therefore, paradoxically, the rhetoric resonates with the core/periphery terminology of Atkinson's model of the flexible firm discussed in chapter one. Furthermore trade union ambivalence to their temporary membership may be adding a new twist to a tired concept. One tentative conclusion stemming from this research is that a core/periphery model appears to be developing amongst trade union memberships. This may not be an entirely new suggestion. The discipline of industrial relations has often been accused of portraying the white, middle-aged, male worker as the 'core' of trade unionism with the inference that members that fall outside of these classifications are peripheral. Temporary workers are more likely to be black, young and women. Therefore temporary work is likely to fall into the periphery of trade union membership as well as the labour market model.

The model of the flexible firm does not provide a perfect fit as an analysis of what may be occurring within trade unions in response to temporary labour. Atkinson's contention was that the periphery could be easily shed when the economic climate required it. Trade unions never want to shed members, particularly in times of economic crisis. However data presented here suggests that, when times get hard, they do choose to lose some members rather than others. Again this is not an entirely new suggestion as the feminist debates

concerning LIFO have indicated. The sensitive question this raises for trade unions seeking social partnership is: how far does 'new unionism' provide inroads for old prejudices? Temporary work is, as argued in this thesis, a form of work that disproportionately affects socially oppressed groups. Therefore trade unions that use temporary work to secure the jobs of permanent workers under the aegis of social partnership and new unionism are faced with the logical conclusion that these developments in trade union organisation exhibit many of the discriminatory elements evident in past practice.

In this respect trade union responses to temporary labour raise a number of issues in relation to trade union democracy. Debates surrounding trade union democracy usually revolve around the articulation between workplace participation and representation at higher levels. It is clear from the research presented here that temporary workers suffer deficits in both these arenas.

Participation is non-existent and representation is largely limited to the reactive and individualised response of tribunal representation in a tiny minority of cases. Temporary workers are in a weak and vulnerable position and as such need the support and activism of more secure union members and officers.

Therefore any impact on the (mis)use of temporary contracts requires proactive workplace involvement. However, if attempts to represent temporary workers are to move beyond the sporadic and instrumental examples detailed in this research, clarification of the ambivalent position of both national and local trade unions to the use of temporary labour needs to be established.



Furthermore the links between temporary work and gender, ethnicity and young workers require trade unions to re-engage with a number of demons that have dogged the issue of trade union democracy. The use of temporary workers to cushion the blow of re-organisation and redundancy of 'core' members is akin to LIFO and therefore contains the same discriminatory elements. Temporary contracts have the potential to be more detrimental than LIFO in that temporary labour may never gain the required status or tenure to be protected from unfair selection for redundancy. Temporary labour is part of the compromise that Kelly (1996) argues exists between organised labour, the employer and the state when the state is the employer. The gendered nature of temporary work thus also represents another manifestation of what Campbell (1989:20) described as the 'historic compromise between capital and labour that has cost women a fortune.'

Policy and practice that claims to use temporary workers to secure jobs should be recognised by public sector trade unions for what it is: divisive and discriminatory. Accepting this stance would be incompatible with agreements that use temporary workers to stave off redundancies and may require public sector trade unions to drastically rethink their agenda. Refocusing may be painful for trade unions, particularly as a committed approach would require the diversion of resources from more palatable and favoured projects. However a failure to engage with this issue is likely to have repercussions. Not only does this kind of bargaining lay bare the problematic progress that has been made towards equality and democracy in trade unions, the case study evidence suggests that it does not deliver what it promises. Permanent jobs are still lost

and the risk is that the rate may even be speeded up as employers recognise the increased power they can wield over vulnerable temporary workers.

Although public sector trade union membership density has remained high in comparison to the private sector, local government has experienced a significant drop in density since 1979 (Waddington and Kerr 1999). Waddington and Kerr (ibid:154) have noted the importance of the successful recruitment of part-time workers to the future health of Unison membership figures. They have also noted that the extent of satisfaction amongst women members, particularly part-time workers, is markedly lower than for men. They suggest 'that more women representatives are required in order to support the majority female membership of Unison' (ibid.160). The data contained in this thesis adds to these arguments in two ways. Firstly, the strong links between part-time and temporary work indicate that if Unison wishes to attract and retain the membership of part-time workers, it must also look more closely at the needs of temporary workers. Secondly, as Jackie's experience highlighted, the retention rather than the marginalisation of female activists would pave the way for a better representation of part-time and temporary workers.

Trade unions have a vital role to play in the support of temporary workers. The case study evidence identifies that, when workplace and national trade unionism can shake free from traditions of collaboration, real gains can be made for temporary workers. Male domination and outright marginalisation of women activists thwarted this at the branch level, as did a failure to recognise the equalities issues at national level. Trade unions have much to gain by



harnessing the vitality of women activists – some relevance to the growing numbers of temporary workers who are either actual or potential members provides just one example. The statutory recognition provisions in the Employment Relations Act 1999 mean that membership levels may be a crucial factor in public sector industrial relations in the near future. Securing the membership of temporary workers in some authorities, County for one, may make the difference between assured recognition or an uncertain future. However, by displaying ambivalence towards temporary workers, trade unions risk alienating the new generation of public sector workers and their potential members.

### ***Further Research Possibilities***

Reconceptualising flexibility has required the deconstruction of previously homogenised forms of non-standard work. The task of this thesis has been to examine one of these forms, temporary work, in depth. Future research could build on this method by adopting a similar approach using other forms of non-standard work as a focus both within and beyond the UK public sector. A logical progression would be an examination of agency labour. Although agency labour is a subset of temporary work, it has not been examined systematically in this thesis. During the course of the research there was evidence to indicate that temporary labour agencies that provide specialised public sector services were increasing their ‘market share’. Agencies providing temporary teachers are probably the best example of this development (NUT National Officer, 5.11.99). However, in certain regions, agencies specialising in providing social work and health care staff also have a high profile (TUC

1999). A study of agency work would also benefit from a comparative analysis with agency provision for the private sector where this form of labour is well established.

The dominance of managerial perspectives in past analyses has meant that the concerns of temporary workers and their unions have been neglected. Therefore an important contribution of this thesis has been to include their responses. Future research could usefully build upon these foundations by ensuring that that the views of *all* relevant parties are sought. The focus of the research in this thesis could be expanded by comparisons within and outside the public sector. For example severe skill shortages in nursing are likely to increase the bargaining power of agency and bank nurses. Increased labour market power could ensure that temporary employment provides flexibility that does match worker, as opposed to employer, requirements. As a result their experiences may be more positive than the temporary workers interviewed during the research detailed in this thesis.

Trade union responses have formed a major part of the focus in this thesis. This focus could be usefully extended using similar comparative analysis outlined above. For example, some trade unions in the private sector, such as the media and entertainment unions, have long traditions of organising non-standard workers. An examination of their policies and strategies could glean useful recommendations for the public sector unions who are, as this thesis has identified, struggling to adjust to a changed environment. Similarly trade unions in other countries have recognised the importance of organising



‘atypical’ workers (Engberg, 1993), which features greatly in a variant of trade union renewal that has become known as the organising model. An international comparative study could therefore add further dimensions to this aspect of the current research. The organising model has recently been endorsed in the UK by the TUC. However, there are a number of contradictions between the philosophies of the organising model and the quest for social partnership, which the TUC as yet have not addressed and that therefore require some analysis.

Finally, further research could be usefully undertaken in a more general international comparative context. Chapter two outlined the international trends in temporary work and in doing so identified some interesting lines of convergence and divergence. Different patterns of regulation and industrial relations structures along with varied approaches to social welfare influence the context in which decisions concerning temporary workers are made. Chapter two also identified the persistence and growth of temporary work in the UK economy generally and the public sector specifically. These trends highlight the importance of gaining a fuller understanding of the processes and mechanisms that lead to temporary employment whilst qualitative research is required to identify the human and organisational experiences that lie behind the numbers.

## 11. Appendices

### *Appendix 1 – Methods*

#### *Research Design*

In the most elementary sense, the design is the logical sequence that connects the empirical data to a study's initial research questions, and ultimately to its conclusions (Yin 1994:19)

The driving force behind methodological decisions in research design are the research questions that inform the research and how they can best be answered. The research questions for this thesis were developed after examining existing literature that indicated a number of limitations of research methods that have so far been used to study ‘non-standard’ work. Much of the literature reviewed in chapters one and two points to the dominance of quantitative research and the partial data this has produced. Chapter two gives numerous examples of how statistical data alone is ill-suited to a study of temporary work and Felstead and Jewson (1999) note how this has particularly affected attempts to theorise non-standard work. These limitations result largely from the inability to draw causal inferences from statistical data (Casey, *et al.* 1997).

The limited progress that has been made towards a comprehensive understanding of the issues surrounding non-standard work generally and



temporary work specifically, means that research in this area is still largely exploratory. This in itself contains a number of pit-falls for quantitative methods. As May (1993:86) argues 'By the very design of questionnaires, it has already been decided what are the important questions to ask'. Millward and Hawes continue this argument stating 'Structured surveys...using mainly closed questions, need prior knowledge which can only be acquired from other methods' (1995:71). The danger of conducting a survey before 'prior knowledge' of issues concerning temporary work has been obtained is well illustrated by the fate of the Unison survey (see chapter nine).

Furthermore, quantitative methods, particularly large-scale surveys, seem particularly insensitive to certain areas of research and theorising. Phizacklea and Wolkowitz (1995) noted the inability of quantitative methods to reveal the complex issues surrounding the choices women face when entering the labour market. Similarly Morris and Wood (1991) contend that surveys do not capture the processual changes that may be occurring in industrial relations, such as subtle changes in the balance of power between trade unions and employers. The focus of this research means that these limitations would be particularly unacceptable.

The main reason West (1996) gives for the limited usefulness of national statistical data is its inability to capture events at the level of the workplace and concludes by saying

The significance of [non-standard work] in the UK economy can only be fully grasped from workplace data and case study research which can chart the complex processes involved in decisions to restructure company employment programmes (1996:140).

Similarly Casey *et al.* (1997) have noted the benefits of the case study method as an antidote to the shortcomings of a purely quantitative approach. They contend that there is much about the 'how and why' of employment practice that cannot be addressed by the survey method. By comparison the case study approach allows the researcher to gain greater knowledge of the use of different practices that is 'essential for an understanding of the development of flexible practices in employing organisations and in the labour market' (p. 77).

Furthermore, Yin (1994:1) states:

In general, case studies are the preferred strategy when "how" or "why" questions are being posed, when the investigator has little control over events, and when the focus is on a contemporary phenomenon with some real-life context.

Robinson (1993) considers that case studies are the most usual and appropriate research strategy for undertaking exploratory work as they are flexible enough to:

- Seek to find out what is happening



- Seek new insights
- Allow questions to be asked and followed up
- Assess phenomena in a new light

These qualities are particularly well suited to address the research questions raised at the end of chapter three. They also provide an indication of the collection techniques that are best suited to capture relevant data. Three data collection techniques were utilised during the research: semi structured group and individual interviews, observation of meetings and documentary analysis. These formal methods were supplemented on occasion by data collected during informal contact, that is, telephone conversations and ‘chats’ in between conference proceedings, before and following formal interviews and in corridors prior to entering council meetings. These proved to be valuable sources of data and the ability to incorporate information that came to light in this way illustrates another of the strengths of the case study design. As Kitay and Callus (1998:108) note, ‘The art of a good case study is in being able to follow leads and pick up on interesting issues as they arise’.

However, by far the most extensive of the formal methods were individual interviews of which 59 were conducted. Two group interviews were carried out and one interview schedule was completed in writing and returned by post. In addition, six council meetings and one branch union meeting were attended purely in the capacity of a non-participant observer. Interviews and meetings lasted between half an hour and two hours, with the majority of interviews taking approximately one hour. Full CANS meetings usually took between two

and three hours. All of the formal interviews were tape-recorded and either full transcripts or detailed interview notes were completed using the recordings. Tape recording of the meetings would have been neither permissible nor feasible<sup>15</sup>. Therefore in-depth field notes were made immediately subsequent to the meeting (usually on the train home).

### *Research Sites, Access and Politics*

In a similar way to the research design, the choice of research sites was influenced by information gleaned whilst reviewing previous research and literature. This took place on a number of levels so that the primary choice of research focus, the public sector, was determined by establishing its predominance in the statistical data but neglect in the theoretical debates. Narrowing the choice to local government social services and education was again driven by the predominance of temporary work in these institutions highlighted in the statistical and case study data reviewed in chapter two.

The next level of decision concerning research sites was encountered in choosing the case study authorities. Although case studies by their nature are small samples that do not claim to be representative (Robson 1993; Yin 1994), the rationale for a particular choice of case must be clear. Case studies in local government add to the difficulty of generalisation since local authorities are highly heterogeneous organisations. The choice of case studies attempted to

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<sup>15</sup> The council chambers were large, cavernous rooms, which would require more sophisticated sound reproduction than would have been possible with a portable tape recorder. Furthermore the meetings often became animated and heated with many people talking at once.



reflect a number of the main dimensions along which authorities differ and are summarised in table A1 below.

**Table A1**  
**Comparison of City and County**

	Population Covered	Structure/ Geography	Political Control	No. of Employees	Union density (Unison)
City	1m ethnically diverse	City Council Urban	Labour Stable	52,000	69%
				12,000	46%
County	431k largely white	County Council Rural	Hung Lib/Lab Unstable		

Despite their heterogeneity, City and County had in common employment policies that affected the number and terms and conditions of temporary workers. Whilst this made for interesting and dynamic research data, it could indicate the atypicality of the research sites. However informal chats during conference proceedings with personnel and trade union officials covering a wide number and variety of local authorities indicated that these or similar policies were not uncommon elsewhere.

Initially access to the case study authorities was largely unproblematic. Access arrangements in County were made over the telephone with the corporate personnel director. After the initial interview he also introduced me to the personnel officer in the LEA. Procedures in City were more formal and I was requested to send a copy of my research proposal to the authority's research

officer. He made a minor alteration to the pseudonym to be used for the authority and requested copies of interview schedules to be used. However he was positive about the proposal referring to it as ‘a very timely piece of work’ (correspondence, 9.5.97). Access to City LEA was more problematic. At the time of the research the LEA was being inspected by OFSTED and was at the centre of a public debate between the chief education officer and Chris Woodhead, the director of OFSTED. As a result the LEA was highly sensitive to criticism and the LEA personnel officer refused a face-to-face interview but answered questions from the interview schedule in writing. This was not ideal as the schedule was not designed to be answered in this way. However the information provided was surprisingly detailed.

Table A2 summaries the range of formal interviews conducted within each case study. Interviews were conducted at central and departmental levels with personnel managers. Similarly regional and branch trade union officials were interviewed. Below this level it was intended that four local research sites in social services and four schools would be selected for each authority. In social services, because local units were divided between adult and children’s services, it was initially decided to select two units from each. In schools two primary and two secondary schools were selected from each authority.

However, initial research in County revealed that, due to LGR, decisions concerning temporary workers in social services were limited at the local level. As the main function of interviews with unit managers at this level was to ascertain how and why decisions were made, it was decided that interviews at this level would be largely unfruitful. To compensate for this, a larger number



of interviews were carried out at the ‘corporate’ level from whence such decisions emanated.

**Table A2**

**Range of Formal Interviews Conducted**

	County	City
Workers	6	6
Unison (branch)	3	5
Unison (region)	1	1
NUT (branch)	1	1
NASUWT (branch)	1	1
NUT (region)	1	same
NASUWT (region)	1	same
Joint Trade Union chair	0	1
Shop Stewards	1	4
Councillors	1	0
Central personnel	3	1
Social services personnel	1	1
LEA	1	0 (postal)
Unit managers	1	2
Head teachers	5	4
Governors	3	2
Totals	30	29

The choice of social service units in City was largely dictated by the departmental personnel officer. Interviews were conducted with the unit managers of two residential children's units and two residential units for adults. Whilst it was possible to speak to temporary staff in the two children's units, it proved impossible to arrange meetings with staff in the adult units. This resulted largely from the high number of night shifts worked by staff in these units and the more casual, 'on call' nature of their appointment. The decision not to interview unit managers in County also had the unforeseen effect of making it difficult to contact individual temporary workers. Contact with two temporary workers in social services was arranged via Unison in County. As most of the adult services in County had been 'externalised', temporary staff in this area were not contacted. None of the social services units visited in either City or County had active shop steward representation. However stewards from other units were contacted at branch meetings and at national conference and interviewed formally where possible and informally when not.

Research sites in schools were selected from the current education yearbook for each LEA. Using systematic probability sampling (Blaxter *et al.* 1996), the first and tenth primary/secondary school on the list was initially selected and a telephone call made to the head teacher. If the head teacher was unavailable (as was often the case) or an interview was declined, or where the school did not use temporary teaching staff (which was not often the case) the next school on the list was selected. One interesting point noted from the initial telephone conversation with head teachers was their discomfort with the terms 'temporary teacher/contract'. It was noted that after using these terms head teachers



sometimes became evasive and on two occasions interviews were declined.

After this initial response these terms were dropped from the introductory description of the research and replaced by the term 'flexibility'. The amendment produced a more positive response and no further interviews were declined.

In six of the schools, the initial interview was arranged with the head teacher as the person responsible for decisions concerning teacher's contractual issues. On two occasions (in large secondary schools) the head teacher referred me to their deputy head teacher as responsibility for teacher's contracts had been delegated to them. At one of the schools in County, staff contractual issues were not dealt with by a member of the teaching staff but by a school administrator. In another of the secondary schools in County, after an initial interview with the head teacher, I was referred to his secretary who held the details of teacher's contracts.

At the initial interview in each school further interviews were arranged with school governors where it was thought that they played an active role in decisions concerning teachers contracts. Three governors were interviewed: two in County (both in primary schools) and one in City (a large secondary school). Interviews with temporary teachers were arranged where possible but, as in social services, this proved more difficult. Firstly, because of the nature of their appointment, supply teachers were difficult to pin down. Therefore all of the teachers interviewed were currently working on temporary and fixed-term contracts. However, many of these teachers had also worked as supply and

agency teachers and so were also able to give account of work under these conditions. In three of the eight schools interviews were not conducted with temporary teachers because school managers were, in various ways, obstructive.

For example, the head teacher of one primary school in County became mildly aggressive when the suggestion of interviewing the NQT who was employed on a fixed-term contract in his school was made. Initially he refused permission for the interview but then demanded that, if the interview were to take place, he must be present. When I pointed out to him that I must extend the same rights of privacy to the teacher as I had to him, he relented but insisted that I produce references from both the LEA and the university. After I had sent both of these to him he agreed to let me speak to the teacher over the telephone to arrange an interview with her. Whilst speaking to the teacher it was clear that she too had been ‘bullied’ by her head teacher and was reluctant to arrange an interview at the school. I offered to interview her at her home but she said that she would prefer to wait until her contract at that school had ended and that she would contact me then. I did not hear from her again.

Because of the difficulty of gaining access to temporary teachers via the systematic sampling of schools outlined above, a form of snowball sampling was also utilised. A group of three temporary teachers employed in City (2) and County (1) were introduced via a personal contact. Whilst this group of teachers were not employed by the schools selected from the respective yearbooks, their experiences confirmed that the issues facing temporary teachers were widespread in the case study LEAs. Interviewing these teachers



as a group also proved to be a valuable research experience as data was gathered by virtue of observing their discussions with each other as much as via the questions posed by me. I also felt that, by bringing the teachers together and initiating this topic of discussion, they began to vocalise their concerns and exchange information. Interestingly the teachers began to question me as to their employment rights and how they could approach their union for help. In this way group interviews could be considered to constitute a form of participatory action research (Whyte 1998). Another group interview conducted with two temporary teachers at the same school in County illustrated some of the limitations of this method. I felt that the two teachers, because they were employed in the same school and were possibly in competition with each other (see chapter seven), were more guarded in their responses. These experiences indicate that context and the group dynamic are important factors when undertaking this form of interview.

It was also intended that temporary workers would be contacted via their unions. This was not undertaken for two reasons. The first was that the unions were reluctant to provide this contact initially on the grounds that trade unions had a duty of confidentiality in their dealings with members. I suggested that the way round this was for the unions to approach their temporary members with details of the research and, if the members were agreeable, these details could be passed to me. This was dismissed as too complex and time consuming for already busy branch officials. I also became aware that a number of temporary workers who had approached their union were now in dispute with the union over the way their grievance had been handled and this may explain

the reluctance of the unions to pass on their details. Secondly, although valuable data could have been gleaned from these contacts, I considered that they may represent a biased sample of temporary workers: a) because they had actually approached their union and therefore were likely to be unusually 'politicised' and b) by definition, they had experienced contractual difficulties.

By choosing to monitor the progress of particular initiatives within the two authorities, a form of longitudinal approach has been taken, which is perhaps inevitable in the case study method. This has involved interviewing and/or observing the same actors on a number of occasions at various stages of policy initiatives. The benefits to this approach are that a processual insight is gained which avoids the 'snapshot' situation of catching people on either a particularly good or bad day. It has also provided some interesting insights as to how the relationship between the parties and their attitudes changed as the initiatives progressed and produced unexpected outcomes. One example of this occurred in County when the difficulties of running the authority on high levels of fixed-term contract staff became apparent as did the antipathy that developed towards the new unitary authority (see chapter four).

Another benefit was that respondents became more forthcoming in subsequent interviews, possibly as something approaching a trust relationship was formed. Developing trust also meant that the people interviewed became involved and interested in the research. For example, after three interviews, the corporate personnel manager in County seemed much more able to voice his concerns about LGR and was less inclined to give 'the party line'. He enquired about



how I was finding the research, what I was hoping to do after the research when he had previously been very detached and defensive. In some ways the relationships that developed between myself and the people I interviewed allowed a more reciprocal exchange of information. In a similar way to the group interviews with teachers, there have been a number of occasions when I have been able to provide information to trade unionists when they have talked about an area of difficulty or wanted to know more. For example, when the Unison branch officer in County expressed concern at a problem he was facing with a temporary worker who was pregnant, I sent him details of industrial tribunal cases which had featured this situation and covered the main legal considerations.

The nature of the relationship between employers and trade unions meant that maintaining trust on both sides was sometimes difficult. This became particularly apparent in City when industrial action was looming. The industrial dispute/action concerning the change of pay date in City meant that both managers and trade union officials were 'edgy' and less responsive. The distrust that began to build up between the parties as a result of the dispute began to jeopardise my position as a researcher as I was increasingly expected to 'take sides'.

The political situation within the Unison branch at City following the merger also added to these difficulties. Not only could I not be seen to be taking sides with either employers or the union, but I also became aware that factions within the union were attempting to evaluate whether my sympathies lay with either

the 'left' or the 'right'. I was later advised by the JCC chair (who was not a member of Unison and therefore largely outside the conflict) that the Unison branch secretary, who was the leader of the 'right', had decided not only that I sided with the 'left' but that I was also a member of the Socialist Worker's Party (SWP).<sup>16</sup> The implications of these erroneous beliefs began to manifest themselves in access difficulties, as invitations to CANS meetings became restricted. Again the JCC chair informed me that the Unison branch secretary had used his close relationships with certain councillors to attempt to block my attendance. This did not work entirely because I was allowed restricted access to observe discussions that did not directly relate to the impending industrial action.

The growing distrust of me by the branch secretary was picked up by Unison branch officials on the left who, by virtue of this, decided I must be on their side. The result of this was that they attempted to use my attendance at CANS meetings to overcome the lack of information passed to them by the branch secretary by asking me to pass on details of the meetings. This placed me in a very difficult predicament for, having lost the trust of one half of the branch officers, by refusing to pass on information, I risked losing the trust of the other half. I felt I had become something of a pawn in the battle between the 'left' and the 'right' and I eventually decided to attend only those meetings at which the issue of temporary workers would be raised and to leave the meeting if any other issues were being discussed. I felt this course of action, although sacrificing valuable data gathering opportunities, offered a gesture of 'good-

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<sup>16</sup> The recent claims of 'witch hunts' against local government Unison activists in the SWP by the national union adds currency to this experience. See [www.labournet.uk.org](http://www.labournet.uk.org) for details



will' towards the 'right' and prevented the 'left' from questioning me on subjects other than my research.

### *Data Analysis*

Even at the stage of having completed only 20 interviews it became clear while doing a small piece of written work that my data was starting to overwhelm me and I felt that I was 'losing control' of it. I realised that I needed some method of organising my data that would facilitate retrieval of relevant information during the writing process. After consulting members of my department I decided to use *Ethnograph*, a computer software package designed to aid the analysis of qualitative research data. The programme can be used on full interview transcriptions, field notes, open-ended answers on surveys and documents. I used the programme on interview transcriptions and field notes. The essence of the programme is to group together related segments of qualitative data and code them. In this respect the programme design draws heavily on grounded theory (Glaser and Strauss 1967)

On first acquaintance with the package I considered that *Ethnograph* would be valuable only as a way of retrieving data and that actual analysis, which constitutes the coding process, would still be largely manual. However on reflection I realise that using *Ethnograph* has facilitated analysis in a number of ways. Firstly, having to prepare data for the coding process required me to handle data that I had not looked at since I had transcribed/made the field notes. I also had to become familiar enough with the data to form a coding framework

and whilst doing this I began to see links and possibilities that I had not previously noted. Secondly, reading the manual chapters (especially Appendix E.) (Seidel *et al.* 1995) which discuss the philosophy on which *Ethnograph* and qualitative data analysis are based, made me consider again the processes involved in collecting and analysing qualitative data.

*Ethnograph* basically provides a regime that disciplines the researcher into thinking about and handling data in a more concrete fashion. Using the programme organises the data in a way that makes it easier to form ideas, identify connections between these ideas and therefore formulate new ways of looking at the data. The words “regime” and “discipline” make the process sound very rigid, but I found that the programme was flexible enough to allow a great deal of personal input in how the programme could be applied to the data.

The authors importantly address the limitations of *Ethnograph* and indicate where sorting and coding stops and where ‘right brain’ begins (Seidel *et al.* 1995:E9). Reading this advice helped me to think about how I was going to approach data analysis. As Seidel *et al.* state, the risk of breaking data down into coded segments means that you might ‘end up finding the codes, but losing the phenomena’ (ibid.). As a result I decided that the first stage of the coding process should be to read the transcript/field note through in its entirety and make a note of the overall impressions of the interview when devising the coding map. It also made me think when identifying segments to code about how this would read when taken out of its context. This often led me to make



the segment larger so as to include important contextual information or to include a contextual note.

Another useful discussion in the programme manual was the emphasis placed on data analysis as an ‘iterative, recursive and holographic’ process (Seidel *et al.* 1995:E2). Whilst the main components of data analysis may be ‘noticing, collecting and thinking’ (ibid:E3) about data, the three processes overlap each other. So that whilst collecting data the researcher is also thinking about it and visa versa *i.e.* they are not discrete operations. However it could be argued that analysis begins *before* the data is collected in that the researcher is already armed with questions to which they are seeking answers (either literally or mentally). Analysis also takes place during the physical collection of the data when following up interesting answers to questions or paying attention to interesting behaviour. All this would seem to support the argument made by Seidel *et al.* that analysis does not simply flow from sorting and coding data.

Data drawn from documentary sources contributed only a small amount to the total collected and was not analysed using *Ethnograph*. Some sources such as local authority annual reports and LEA yearbooks provided mostly factual and numerical data. However the emphasis in even these sources provided interesting insights into more qualitative issues.<sup>17</sup> Other sources of documentary data such as council meeting minutes and conference reports were largely political and rhetorical in nature. Therefore as May contends, ‘the text must be approached in terms of the intentions of its author and the social

context in which it was produced' (1993:140). In this respect analysis consisted of a critical reading of such documents in relation to other aspects of the research data.

### *Ethical Issues*

The research was conducted with reference to the British Sociological Association Statement of Ethical Practice (1992). The following section details how the research met the recommendations of the code.

### *Professional Integrity and Reflexivity*

Firstly, the research was not subject to any restrictions on publication or dissemination of the research finding and the likelihood that the results would be published at some stage was made clear to all participants. Secondly, with regards to the possible consequences of the research, I am aware that ethical research should be as un-intrusive as possible. Therefore, whilst I did not wish to 'rock the boat', particularly for already vulnerable individuals, it was hoped that, by merely conducting the research, a signal will be sent to both employers and unions that temporary work is becoming a focus of attention and worth deliberation on their own behalf. However, I realise that past research has sometimes not been used in the way envisaged by the researchers. It is my intention that the research should be used to improve the conditions of temporary workers. The research has identified that temporary contracts are often used, not only to reduce employment terms and conditions, but also to

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<sup>17</sup> For an example of this see chapter 4, which identifies how the budget shortfall in City's yearbook was described as being met by 'efficiency gains' and the 'reduction' of 409 council



coerce employees to work harder and reduce absence. Whilst I may consider this to be morally objectionable. I realise that these aspects of temporary contracts may be attractive to some employers and that, by drawing attention to these findings, my research may be used in a prescriptive and damaging way. For that reason it is important that I also highlight the disadvantages to employers of using temporary contracts.

Thirdly, reflexivity is an important aspect of qualitative research (Whipp 1998) and I was aware that my personal politics placed limits on my detachment and involvement from the research. As stated above my intention was that the research should help to improve employment conditions of temporary workers and on occasion this led me to pass information to workers and trade unionist concerning their employment rights. Furthermore, after spotting one or two flaws in the arguments used by employers to justify what I considered to be the inappropriate use and poor treatment of temporary workers, I was tempted to make suggestions to the trade unions concerning negotiations. However, as an ethical issue, I realised that by doing so I would be misusing the trust given to me by some of my respondents to attend meetings as an observer only.

### *Relationships with research participants*

Because of the possible implications for industrial relations, it was made clear to all interviewees at the outset that both management and trade unions would be consulted. The industrial action in City, whilst not directly related to the research, illustrated how this impacted on my position as a researcher.

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employees.

Similarly, the political situation between branch officials in City placed me in a difficult predicament. My decision to withdraw from what was a volatile and potentially damaging dispute reflected my awareness of my responsibilities as a researcher not to provide any opportunities that could be used to further inflame the situation.

I was also keenly aware of the vulnerable position of employees working on temporary contracts and wanted to take every precaution not to exacerbate this. The tenuous position of temporary workers was brought sharply into focus after attempting to arrange an interview with a ‘bullied’ NQT in County. After this experience I considered that applying too much pressure to gatekeepers might have an adverse impact on the already powerless. Therefore the desire to gain an interview needed to be balanced against any possible backlash this might have for the temporary workers involved. Furthermore I attempted to make the interviews that I did manage to arrange with temporary workers as positive an experience as possible for them. In some respects this was achieved just by showing that someone was aware of and sympathetic to their situation. However, as indicated above, more practical assistance was given in the form of information where possible.

### *Anonymity and Confidentiality*

Offers of confidentiality were given to both individuals and local trade union organisations. Anonymity was also guaranteed to both case study authorities. Access arrangements in both authorities were granted only under these circumstances. Guarantees of anonymity were given to individuals in most



cases. However, where employers were the gatekeepers to temporary workers, this was not of course completely possible. It was not realistic to extend an offer of anonymity to national trade union organisations as the limited number of unions involved and their mass coverage rendered them easily identifiable.

Maintaining the guarantee of anonymity was not without consequences for the research. There have been a number of tribunal cases and trade union circumstances that have been directly relevant to the research subject, but which could not be directly referred to without jeopardising anonymity. Similarly there have been a number of articles published by the National Statistics Office that would have been useful, but again could not be referenced without compromising the anonymity of the case study concerned.

All individual and group interviews were audio recorded. Permission was obtained at the beginning of each interview and I guaranteed that no one other than myself would listen to the tapes. In addition to gaining permission, I placed the pause button within control of the interviewee and informed them that they could stop the tape at any time during the interview. I felt this began the interview by initiating the basis of trust between the interviewee and myself and also offered individuals some control over the proceedings. Furthermore, by using this method, I hoped that I could accrue the benefits of using tape recordings to analyse data more fully, but avoid participants withholding information that they would give informally but not on tape. I felt this was a successful strategy as none of the participants refused to be taped and the option to use the pause button was used on a number of occasions. The result was that I

managed to capture detailed information by using the tape recorder but also accessed information that participants were reluctant to commit to tape.



## ***Appendix 2 – Interview Schedules***

This appendix contains examples of the three main types of interview schedule used to collect data. However schedules were tailored to meet the individual circumstances of the interview with, for example, questions relating to LMS included in those used for school managers (head teachers and governors) and questions relating to LGR in schedules used for managers and trade union officials in County.

### ***Interview Schedule –Departmental Manager***

N.B. This is a guide only. It is intended that the interview will be semi-structured to allow interesting points to be expanded. It is expected that the interview will take no longer than one hour.

#### **1. Biographical Information**

- Name (optional)
- Sex
- Ethnicity
- Age
- Grade/Job title
- Length of time in job/FTC
- Employer/Place of work
- Union membership

#### **2. Statistical Information**

- How many workers in your department are on temporary contracts - %
- Which jobs
- Gender/Ethnicity breakdown
- Average tenure
- How does above compare to five/ten years ago

#### **3. Deciding to use Temporary Contracts**

- Who decides when a vacant position is to be filled by a temporary contract
- How is this decision made - what criteria are used
- Is the decision subject to any authority wide policy
- Is the decision subject to any trade union agreements/discussion
- Are temporary contracts used for internal job moves/promotion i.e. 'Acting Up'

#### **4. Terms and Conditions of Temporary Workers**

- What is the usual duration of an temporary contract - initial and roll over
- Are waiver clauses used
- Are temporary workers entitled to holiday pay, sick pay, pension rights to the same extent as other workers
- Are temporary workers given the same training and promotion opportunities as other workers
- What happens at the end of a temporary contract

## **5. Issues and Problems**

- Have you encountered any particular problems in relation to the use of temporary contracts - e.g. legal, disciplinary, grievance, union opposition
- What do you see as the main benefits of using temporary contracts
- What do you see as the main disadvantages of using temporary contracts
- Do you see their use increasing or declining
- Any other relevant points you feel have not been covered



N.B. This is a guide only. It is intended that the interview will be semi-structured to allow interesting points to be expanded. It is expected that the interview will take no longer than one hour.

**1. Biographical Details**

- Name (optional)
- Sex
- Ethnicity
- Age
- Grade/Job title
- Length of time in job/temp. contract - how many times renewed.
- Employer/Place of work
- Union

**2. Your Contract**

- How did you get your job
- What reason were you given for your contract being temporary rather than permanent
- Would you prefer a permanent position
- Do you think/hope that your temporary contract will lead to a permanent contract a) at the same unit b) in another unit/department

**3. Work Group**

- Do you think that certain groups of workers are more likely to be on temporary contracts e.g. part-time
- Is it widely known who is and who isn't on a temporary contract
- Do you feel you have the same status as workers on permanent contracts
- Are you treated any differently by your manager or permanent workers - give examples
- Do you receive the same opportunities for training/promotion
- Do you think working on a temporary contract affects your performance
- Is there much use of agency/supply staff – how do you think their situation differs from yours
- Have you ever considered raising any issues about your contract or any other aspect of your job – do you know how you would go about this –do you think it would be feasible

**3. Trade Union**

- How do you think the teaching unions differ a) generally b) in their approach to temporary workers
- If you are member of the union, how were you recruited
- Do you pay a reduced subscription
- What contact do you have with the union -workplace representative, workplace meetings, branch meetings – do you think this is adequate
- Do you think the union could improve communications between themselves and temporary workers e.g. by having a special section for them.

- Do you think the trade union would help you if you wanted to raise an issue about your contract.
- What issues, if any, would you like the union to take up on behalf of temporary workers
- Would you consider becoming a representative - why yes/no

#### 4. **Impact on Home Life**

- How secure do you feel your job is
- Do you feel that working on a temporary contract has effects on your home life e.g. ability to plan for large purchases, holidays etc.
- Do you worry about your contract not being renewed

5. Are there any other issues concerning your job which you think are important



## *Interview Schedule - Trade Union Branch Official -Unison*

N.B. This is a guide only. It is intended that the interview will be semi-structured to allow interesting points to be expanded. It is expected that the interview will take no longer than one hour.

### **1. Biographical Information**

- Name (optional)
- Sex
- Ethnicity
- Age
- Grade/Job Title
- Length of time in job
- Employer/Place of work
- Union Position(s)/length of time in position

### **2. Branch Structure**

- within the authority as a whole
- within the branch
- membership numbers
- steward/senior stewards/convenor numbers - representation
- communication and decision making within branch e.g. Executive, JSSC
- consultation/negotiation with managers
- involvement of full time officials
- any particular activity in respect of temporary workers

### **3. Recruitment**

- how are new members recruited
- how are shop stewards enlisted
- any problems in relation to temporary workers – any solutions

### **4. Temporary Contracts**

- What experience do you have of representing temporary workers – recent examples
- any particular department/jobs susceptible to the use of temporary contracts
- numbers involved
- any particular length of tenure
- terms and conditions of temporary workers – waiver clauses. holidays, sickness, pensions etc.
- any collective/informal agreements
- grievance/disciplinary
- less formal issues – give a recent example

## **5. Managers**

- who makes the decisions about which jobs will be filled by temporary workers
- any authority-wide policies
- what are the main stated reasons
- what are the main unstated reasons
- what, if any, discussions are you involved in with managers concerning temporary workers – any particular forum

## **6. Future Developments**

- How do you see managerial policy and practice moving in the future
- How do you see the trade union (branch/regional/national) responding
- Future research – referrals to temporary workers who are members



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