

## **Part 4**

### **Addressing the outsourcing challenge: statements from practitioners in trade unions**



# Goodbye TINA!

**Rudi Wagner**

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‘There is no alternative’ (abbreviated as TINA) was a slogan often used by British Prime Minister Margaret Thatcher. In economics, politics and political economy, it has come to mean that ‘there is no alternative’ to economic liberalism — that free markets, free trade and capitalist globalization are the best or only way for modern societies to develop.

Outsourcing is part of this game and this book challenges its nature. For instance, Anna Mori’s overview of outsourcing in local government constitutes extremely valuable input to the discussions on the roots of outsourcing and what it involves for the workers concerned.

‘Savings indeed may be lower than expected and declining over the long term’ was a key sentence and an everyday experience for me as a unionist.

One example from an Austrian hospital which wanted to outsource its cleaning department: a business consultant calculated cost savings of € 7,419.31 per year – I am sure the cost of the consultant was nearly the same.

A second example concerns the outsourcing of a hospital canteen. Now that a private provider is doing the cooking for patients and hospital workers, the canteen is empty because the quality of the meals has got so bad.

It would be very interesting to know the total expenditure on consultants and lawyers, spending their time on counselling outsourcing processes (for example). It would seem to be a very profitable business model – for the consultants and lawyers.

A few decades after Margaret Thatcher’s TINA, the opposite is true: TATA – There are thousands of alternatives.

Creating a toolbox for unionists and works councils, these are the priority tools:

1. TUPE - The Transfers of Undertakings Directive 2001/23/EC is a European Union directive protecting the employment contracts of people working in businesses transferred between owners. It replaced and updated the directive previously known as the Acquired Rights Directive 77/187/EC.
2. Fighting for social clauses in calls for tenders. Achieving better conditions in outsourcing contracts is a major field of action.
3. Making use of the OECD Guidelines. In most cases works councils are informed about planned outsourcing moves at the last moment. A comprehensive, non-binding code of conduct, the Guidelines state that companies should respect human and labour rights in the areas in which they operate. So just publicize breaches – companies don't like bad media coverage.

So let's say goodbye to TINA. And give TATA a very warm welcome – 'There are thousands of alternatives!'

# Outsourcing in the public sector: how do we respond and move forward?

**Clare Harrisson**

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UNISON is a UK-wide public services trade union. With over 1.2 million members we have extensive experience of organizing across the public sector and our membership also includes people working in the private or charitable sector to deliver public services.

Our experience with outsourcing directly relates to Anna Mori's chapter 'Low road convergence? Implications for labour following outsourcing in local government. A comparative perspective'. The article raises many important issues for trade unions and it is certainly true that we recognize many of the patterns described. We have seen how outsourcing is pushing down wages, in particular for those who do manual roles or roles viewed as being lower-skilled. These jobs are often performed by low paid-women. Outsourcing is designed to do this as often a contract's biggest cost factor is labour: the only way to deliver services at a cheaper cost is to pay people less or reduce staff numbers. In addition, this fragmentation of delivery by numerous different organizations across the private and charitable sector has made it increasingly difficult to bargain on behalf of these workers or to organize them. As mentioned in the article, the erosion of TUPE over time means that many transferred workers are seeing their terms and conditions downgraded, or more simply these protected ex-public sector employees are gradually being replaced by cheaper workers paid at the lowest rate. In many workplaces we are seeing the development of two- or even three-tier workforces. This is played out not just in terms of pay, but also a segregation of terms and conditions and other benefits such as pensions. Low-paid outsourced workers also find it more difficult to move up in an organization or seek new opportunities, trapping many in a cycle of low-paid work. This is of particular concern for women, as in the private sector it is much harder to hold employers to account on their equal pay obligations, i.e. further embedding the segregation of pay by gender.

The article makes some very interesting points on convergence; in particular the impact that depressed pay for outsourced/agency workers can have on core workers. This is something we have recognized for some time; however there is still some way to go in convincing core workers that it is in their interest to focus on organizing for better terms for periphery workers. And we are seeing this not only at a local level. Low wages for outsourced workers push down the 'market rate' for particular types of work, in turn making it harder to negotiate and win the argument for decent wages for directly employed (or core) staff. Work in public services is effectively being devalued by the downward pressure on wages throughout the sector and across different types of employer. The language of 'crisis' and 'austerity', coupled with market pressure has been a pay disaster for our members.

However the impact and response to outsourcing is complicated. The importance of tendering bodies in setting the terms, and particular the cost envelope, for contracts to be delivered cannot be underestimated. In reality, the profit organizations make from public sector contracts is often relatively marginal; especially when examined on a local level. A good example of this complexity can be seen in how unions need to approach campaigns such as for a living wage in the outsourced sector. These campaigns are unlikely to succeed without appropriate pressure on the tendering body to fund through the increase needed. It is also a very varied landscape in the type and make-up of the companies taking on these contracts. We work with organizations of such varying size, from huge multinationals with hundreds of thousands of employees to tiny organizations and individuals employed on personal care budgets. Size is just one of the factors that can have a huge impact not only on a company's approach to pay and negotiation, but also their capacity to deal effectively with HR issues. In fact this increasing diversification in the market has caused some concern amongst some of the larger outsourcing companies themselves who have called for a better code of conduct in the sector. Some worry that the proliferation of unregulated, small service providers is pushing down the bid level of contracts to a point where they are effectively undeliverable; undercutting 'more reputable' companies in the process. On a practical level this variety provides us as a union with a range of organizing and bargaining challenges, meaning our strategy for meeting these must take into account a number of different approaches and tactics.

It is also worth looking at how the issues and problems with outsourcing have changed over time, in particular the last five years of a Conservative-

led government. Although outsourcing has been a growing problem for a much longer period, the rate of change has accelerated over recent years. Not only has this government championed a pro-privatization agenda, passing numerous new pieces of legislation that further open up the public services to market competition (e.g. the Health and Social Care Act). They have also reduced the amount of money going to public sector bodies like local councils and the NHS. This has pushed many public bodies to see outsourcing as their only option, the only way they can start to cope with dramatically reduced budgets. However plenty of research has shown this model to be a bit of a false economy, with cost levels already pushed as far to the floor as they can go. Over this period we have also seen many of the protections previously in place to try and protect outsourced workers undermined and TUPE has also been chipped away at over the years.

So how do we move forward as a movement and respond to some of these challenges? We can for instance start putting pressure on tendering bodies during the procurement phase. We are often relatively well organized in many of these organizations, whether NHS trusts or local authorities. We can organize to put pressure on these bodies to, for example, be 'living wage employers', specifying (and costing) such in the tenders they write. We can push for TUPE-plus and challenge them to write procurement policies that take into account social value as well as baseline cost. However as a note on TUPE, we need to be careful that we don't over-rely on what is a legal protection only at the point of transfer. Although a vital tool in protecting outsourced workers, the examples in the article show that as time goes on it proves less and less of a shield to hide behind. For people employed by the private company after the point of transfer TUPE offers very little.

Pan-workplace solidarity is important but so is building up a sense of employer-based identity for our private sector members; getting the balance right is key if they are not to become marginalized either in the workplace or our union. However at the same time we need to equip them with the tools and capacity to bargain and organize in their own right. We also need to find a way to balance our local relationships with a more central approach that deals with some of these huge national companies within a holistic national strategy. These interplays between the small and the large, the local and the national (or international), and between contractor and tendering body will be central to our ability to protect these outsourced workers.



# Overcoming challenges in organizing contact centre workers

**Alan Tate**

UNI Global Union, UNI ICTS, Switzerland

UNI ICTS is the Information & Communication Technology Services sector of UNI Global Union and represents over 3 million ICTS workers worldwide.

We fight to ensure workers' rights globally, in particular the right to organize and the right to collective bargaining.

As a global organization, UNI is particularly concerned not just with outsourcing but also offshoring - relocating work to countries where even lower wages and more intense working conditions are possible. Offshoring or the threat of offshoring puts even more downward pressure on pay and conditions as workers in both outsourced and in-house contact centres are 'benchmarked' against workers in the offshored countries.

In February 2014 UNI held a Global Call Center Conference in Orlando, Florida, together with our US affiliate, the CWA. The conference drew close to 300 participants, half from CWA locals across the US and half from countries across the globe. The conference heard presentations from activists and union leaders from countries as diverse as Brazil, India, Belgium, Tunisia, Germany, Portugal, France and the US. The astounding thing was how similar the working conditions were in contact centres in each of these different situations, confirming the findings outlined in the papers that subcontracting has led – not just in Europe but worldwide – to increased downward pressure on pay and conditions and to further work intensification and precarity. The presentations and discussions in Orlando also clearly found that the one factor protecting the conditions of contact centre workers was the presence of strong unions and a strong tradition of collective bargaining.

UNI ICTS is working with our affiliates in Morocco, the Philippines, India and Latin America to organize workers in contact centres there to raise standards for all contact centre workers.

There are huge challenges in organising contact centre workers – the increased use of temporary agency workers and part-time and contingent workers, a huge turnover of staff and the fact that contact centres can be closed or moved relatively easily.

To face these challenges unions need to be very strategic about how we organize contact centres – how can we leverage our bargaining power and relationships with the clients – major telecom, finance, retail and other companies? How can we reach agreements with the key outsourcing companies on workers' rights? How can we develop innovative organising and bargaining strategies able to overcome the challenges we face? How can we campaign for improved legislation to protect and enhance decent work in contact centres? The papers presented in this volume help tackle these important questions.

## **Employee voice in the metal sector: trade unions play a key role**

**Fidel Gavilan**

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My comments come from the perspective of a practitioner involved in the metal sector, both in Belgium and on the international level. I have been working as an economist for the Belgian socialist metalworking union ABVV since 2002, supporting works council members in their annual analyses of business and financial information and on restructuring measures. I have also advised members of European works councils and is himself a member of a number of EWCs in his capacity as IndustriALL Europe Coordinator.

The article written by Ramioul and Van Hooteghem is particularly interesting even though no companies from the metalworking sector are concerned. Like Ramioul and Van Hooteghem we are also seeing workloads increasing in many companies after restructuring. In times of crisis workers are prepared to accept sacrifices - both financially and materially - in exchange for jobs. Any restructuring is not only difficult for those losing their jobs, but also for those who remain.

Benassi's article relates to agency workers in Germany, and their discrimination vis-à-vis the core workforce. This is a problem that we are also seeing in the UK. Agency workers are exerting downward pressure on the pay and working conditions of employees on open-ended and fixed-term contracts. The increasing precariousness of the German labour market has been putting heavy pressure on German workers, as evidenced by the fact that their real wages stagnated after 2001.

On the other hand, we should note that this discrimination - based on our experience in European works councils - (or should I weaken this somewhat, because in the meantime labour laws have come under pressure from the International Monetary Fund and the European Union and have been changed in several EU countries) - is no great problem in the other Western European countries, where agency work is strictly regulated and where agency workers enjoy the same conditions as the core workforce.

This does not detract from the text's special interest. Benassi describes how the German IG Metall colleagues are gradually improving the situation of agency workers first at a company level and then at sectoral level. She rightly points out that the European Union and the European Central Bank are spotlighting the German system as an example for the whole European Union. Yet the European Commission and the ECB are forgetting that total hours worked in Germany in the last decade have remained constant. Germany is creating jobs by replacing full-time jobs with part-time ones. And here's another case of EC and ECB forgetfulness: Germany is the EU country where poverty has risen most since 2000.

The article by Doerflinger and Pulignano upholds the - from a union perspective - strength of the Belgian social governance model. While negotiations are conducted in Germany by works councils, in Belgium this is the job of sector-level union delegations and officers. On the employee side, members from just the three recognized unions, the socialist ABVV, the Christian ACV and/or the liberal ACLVB, are responsible for social dialogue in Belgium. In Germany, anybody may be a candidate in the social elections, from pro-employer 'unions' to radical left-wing lists.

Doerflinger and Pulignano show that German works councils are prepared to make great sacrifices in an attempt to save jobs - sacrifices often undermining existing wages and working conditions. In Belgium, social dialogue between employers and unions takes place in a consensus-oriented manner. One discusses the consequences of this or that sacrifice. Can a company be rescued through such measures? Moreover, the existing (collective) agreements are filed with the Ministry of Employment, where a further check takes place. Union leaders also have a whole arsenal of instruments at their disposal in negotiations, something that is not always the case with German works councils. They can possibly push for legislative changes to allow collective agreements to be approved as in the case of VW Vorst. Last but not least, Belgian sectoral collective agreements are generally binding, in other words, they apply to a whole sector, making any (unfair) competition between companies in the same sector more difficult. This is not the case in Germany, where collective agreements are concluded between the sectoral union and the sectoral employer federation, with the result that only members of the federation are bound by the collective agreements. Moreover, opt-out clauses allow companies to circumvent the agreements.

The Doerflinger and Pulignano study needs to be read with reservations. The study looked at companies with trade union presence, i.e. DGB unions and three recognized Belgian unions. The result could well be completely different if smaller German companies without DGB unions were studied!