

# Outsourcing and Regulation in Language Services

Occupation, Profession, Professionals, Regulation

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June 2022

## History of Outsourcing

Government spent £284 billion in 2019 on buying goods and services from external suppliers

This was a third of all public expenditure

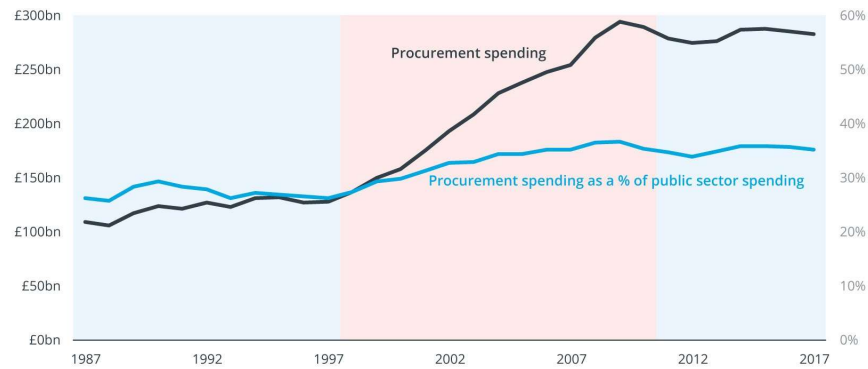
The money is spent on everything from goods such as stationery and medicine, through to the construction of schools and roads, the daily delivery of back-office functions such as information technology and human resources, and front-line services such as probation, social care and interpreting

The introduction of compulsory competitive tendering in the 1980s led to a significant expansion of private contracting, especially after 2003 and accelerated post financial crash of 2008

# History of Outsourcing

Public sector procurement spending, 1987–2017

IfG



Source: Institute for Government analysis of ONS Blue Book data. Figures are shown in June 2019 prices.

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# History of Outsourcing

Originally The term was *outside resourcing*, and the business activity emerged in the 1950s in US companies

Not called *outsourcing* until the 1970s; companies sought efficiency began hiring outside firms to manage *non-core*, less-than-essential processes

It was introduced by the UK's Conservative government in the early 1980s as a way to neuter strikes, downsize council and NHS workforces, and cut costs

It was seen as a means of rolling back the 'bureaucratic' state, and injecting into supposedly moribund services the competition that was needed to drive up quality and make them more responsive

## History of Outsourcing

- ▶ 1980: Compulsory competitive tendering (CCT) first introduced by the Local Government, Planning and Land Act 1980
- ▶ 1982: Health authorities instructed to introduce competitive tendering for support services
- ▶ 1988: The Local Government Act 1988 extends CCT to refuse collection and ground maintenance, libraries and arts centre management
- ▶ 1989: Local authorities tender sports and leisure management services
- ▶ 1992: The private finance initiative is introduced to finance and operate hospitals, schools, prisons and other public buildings
- ▶ 1992: The NHS internal market is introduced
- ▶ 1994: Guidance is issued on Transfer of Undertakings (Protection of Employment) regulations 1981 – TUPE
- ▶ 1996: Professional services provided by councils – such as legal, construction and property, and personnel, come under the auspices of CCT legislation
- ▶ 1997: Labour wins the general election. It replaces CCT with best value, which still requires councils to look at outsourcing services
- ▶ Labour embraced – and expanded – the private finance initiative
- ▶ 2000: Labour signs a concordat with the private health industry under which it agrees to send thousands of NHS patients to be treated in independent hospitals
- ▶ 2001: Labour explicitly states that private or voluntary sector providers should be brought in where public providers are failing to improve, or where they can add value to public services
- ▶ 2002: Private health companies are invited to compete for multimillion pound contracts
- ▶ 2003: Ministers announce that they will consider drafting in private management teams to run NHS trusts that perform consistently badly

## History of Outsourcing

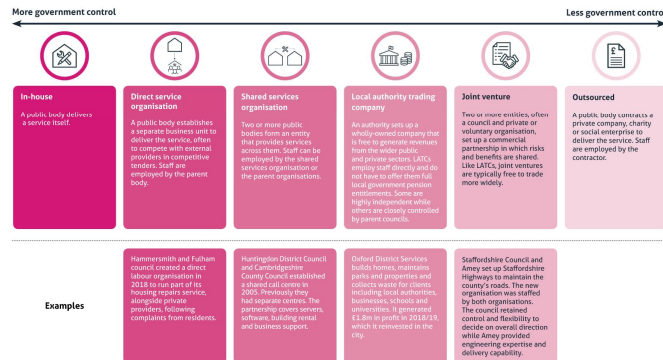
Too many outsourcing contracts to mention from 2003 onwards but of note, outsourcing grew exponentially after the global financial crisis which began in 2008, leading to the chaos in outsourcing of public sector foreign language service delivery in the MoJ after 2012, through the inability of ALS and then Capita to deliver, and the subsequent contracts with tbw and those companies chosen as sub-contractors such as Debonair

The Trade Union Congress criticised the Government saying it 'has tended to rush' into outsourcing approaches 'without evaluating whether they are appropriate or how to mitigate any risks if they are not appropriate'. There are examples in which decisions about whether and how to procure were made even before a formal business case process was concluded; many cases of being 'penny-wise but pound-foolish' decisions

# History of Outsourcing

Ways of delivering services

IfG



Source: Institute for Government analysis of DCMS, Alternative delivery models explained, GOV.UK, 28 March 2017; Arroy, Staffordshire Highways; ODS, *Annual report 18/19 - A doing good company*; Hammersmith and Fulham, 'H&F to return its housing repair service to council control', press release, 18 October 2018; Local Government Group, *Shared Services and Management: A guide for councils*, 2011.

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## Outsourcing Today

### The rationale for outsourcing

Applying market mechanisms and private sector expertise to the work of government can reduce costs, raise quality and achieve wider benefits such as greater innovation and improved efficiency

## Outsourcing Today

### The consensus is breaking up...

While few question whether government should purchase goods such as stationery or IT hardware from private providers, there is an increasingly vigorous public debate about the supply of more complex public services – including spoken language services

## Outsourcing Today

### The consensus is breaking up...

The outsourcing industry continues to be keen to encourage further outsourcing, but there are now many organisations suggesting government has driven down the pricing of contracts too far while others questioned the adequacy of the protection of employees and those delivering the service when they are self-employed who were actually carrying out work on behalf of public sector organisations and the government

# Outsourcing Today

There are questions about:

- What is to be checked is actually the right measurements
- The quality of government supervision of the list of checks
- Cost and supply focus without a focus on quality
- Definitions of quality and how this is measured
- Flow of information from private companies to the public sector
- Whether the public and the public services were adequately protected from a failure by a supplier
- Small suppliers of big contractors should carry as much risk as they do

# Outsourcing Today

## List of just some outsourcing scandals

- Army drafted in to provide security at the Olympics
- The fiasco over G4S and Serco charging the MoJ for tagging offenders who turned out to have left the country
- Failures in probation services
- G4S allowed a prison it ran to fall in to chaos
- Capita failed to send letters to 40,000 women about cervical cancer screening
- Circle's contract for Hinchingsbrooke Hospital failed
- Contract between Cornwall Council and BT prematurely ended after only two out of ten years because the company did not provide '...the service it had promised to the standard it had promised'
- The Department for Education (DfE) terminated its contract with Randstad, which had won the bid for the National Tutoring Programme (NTP) but failed to deliver
- School meals outsourced to Edenred; failed to meet demand
- Interserve went into administration owing more than £100m to creditors
- Collapse of Carillion
- Debonair

## Outsourcing Today

'As a Conservative MP observed when commenting on yet another failing contract " .... the projected savings are a wish list of hope over stupidity"...it seems even some of the most unlikely people like Jeremy Hunt have begun to question some of the fundamental thinking around outsourcing core public services in recent press statements. With the former suggesting that in times of austerity it is better to retain direct control over services as it gives you the flexibility to change and adapt that being locked into a long-term contract doesn't.

Maybe I am being too optimistic in hoping that more decision makers will start to ask some fundamental questions about who is best placed to deliver the very services the public depend on, with the minimum amount of risk. I certainly think that anyone who ignores the lengthening list of outsourced failures and doesn't build safeguards into their processes will do so at their peril.'

Paul O'Brien

Chief executive: Association for Public Service Excellence

## Outsourcing Today

Governments have repeatedly outsourced in pursuit of large savings, with little reason to think suppliers could deliver – think ALS

'Often poorly thought through, many of these government programmes are inefficient, counterproductive and lead to greater costs at the public expense. The decision to privatise court interpreting services, covering foreign language and deaf interpreting in England and Wales, which marked its first anniversary on 30 January 2013, is no exception'

Aisha Maniar

## Outsourcing Tomorrow

According to the House of Commons' Public Administration and Constitutional Affairs Committee, public trust in outsourcing has been seriously damaged

The future of outsourcing is no longer whether it will go or stay; it is the extent to which it will continue to change the nature of public services and which public services should be outsourced

If the Government wishes to continue with outsourcing for particular services it needs to rebuild trust in the process by which it makes decisions – at a time when trust generally in the government is at an all time low

## Outsourcing Tomorrow

The Government can only achieve this rebuilding of trust by being transparent about how and why it decides to purchase a good or service – at a time when transparency and ethical probity seems to be lacking in the UK's Executive branch

Authorities wanting to outsource should make a special effort to ensure that there is robust oversight and effective appeal mechanisms

The Government should publish its rationale for each decision to outsource, notify parliament and be accountable for the processes it went through to make the decision

*Outsourcing foreign spoken language services in the MoJ is due for review in late 2022/2023*



# Outsourcing Tomorrow

There will be constant maneuvering over issues of:

- Outsource or not
- Cost issues
- Supply problems
- Quality: what to be, and how to be, measured
- Experience levels required
- Accountability
- What information remains commercially sensitive if outsourced
- Whether regulation is necessary
- If so, independent or government-controlled regulation
- Engagement remuneration, terms, conditions and rights

# Outsourcing Tomorrow

- <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubadm/748/748.pdf>
- <https://www.instituteforgovernment.org.uk/sites/default/files/publications/government-outsourcing-reform-WEB.pdf>
- <https://www.instituteforgovernment.org.uk/summary-government-procurement-scale-nature-contracting-uk>
- <https://www.tuc.org.uk/sites/default/files/TUC%20and%20NEF%20Outsourcing%20Public%20Services.pdf>
- <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubadm/748/748.pdf>
- <https://www.gov.uk/government/news/updated-outsourcing-playbook>
- <https://www.apse.org.uk/apse/index.cfm/blog/is-outsourcing-failing-public-services/>
- <https://irr.org.uk/article/shambolic-and-unworkable-outsourcing-of-court-interpreting-services/>
- <https://www.linkedin.com/in/orlovsmike/recent-activity/posts/>
- <https://www.nrpsi.org.uk/news-posts/Explore-just-some-of-the-work-carried-out-by-NRPSI-when-lobbying-for-greater-professionalism-in-public-service-interpreting-click-here.html>

# Outsourcing Tomorrow

The government says the new Procurement Bill will create a simpler and more transparent system which makes it easier for SMEs to win contracts and for the government to disqualify poorly performing suppliers

## The Procurement Bill: an expert briefing

Wednesday 29 June 2022, 17:00 – 18:00

### Register to watch this event in person

<https://cp403.infusionsoft.app/app/form/procure-bill-29622-attend-1?cookieUUID=79767354-6458-46a2-83e7-708f026142fe>

### Register to watch this event online

<https://cp403.infusionsoft.app/app/form/procure-bill-29622-live-1?cookieUUID=675e7309-fbc5-4c41-80da-1a4e14564bc4>

Government's *Sourcing Playbook* states that 'encouraging the market to compete on price alone can create false economies & unhealthy markets and should be avoided'



National Register of  
Public Service Interpreters



National Register of  
Public Service Translators

## Regulation in Language Services

Occupation, Profession, Professionals, Regulation

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## Occupation or Profession

Regular activity performed to earn daily bread and butter – experienced or not

...but is there more to being a professional than earning money in a specific endeavour?

...does service–delivery need standards?

...is there a need for vocational qualifications as well as experience?

## Occupation or Profession

Does the occupation have:

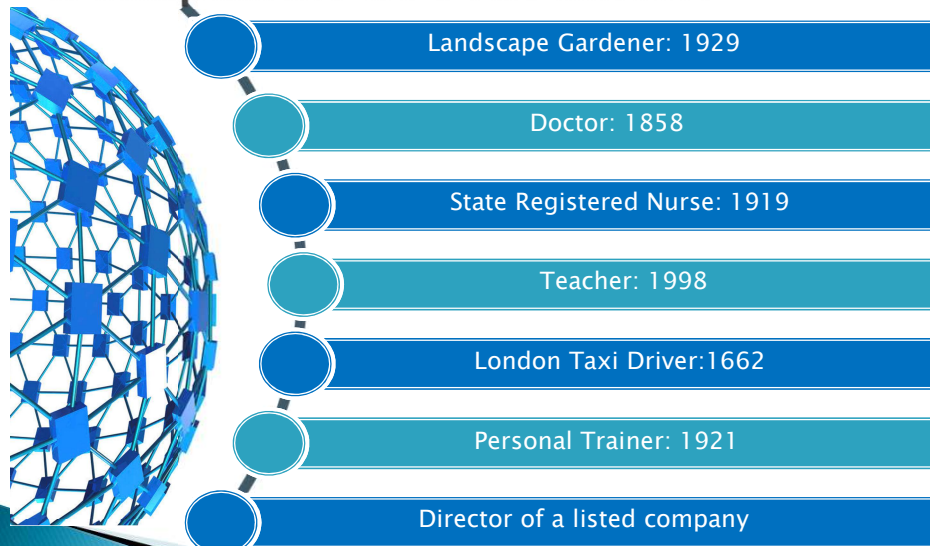
- Standards
- Training needs
- Relevant vocational qualifications
- Need to build competencies
- Measured degrees of competence
- A register of professional practitioners
- An independent regulator to hold professionals to account

## Occupation or Profession

Can anyone set up in the role, even if they are:

- Unqualified
- Under-qualified
- Qualified but with irrelevant qualifications
- No accredited experience
- Lacking skills and competencies

## Occupation or Profession



## Regulated or Unregulated

Do professional practitioners need to be...

...accredited?

...registered?

...regulated?

## Regulated or Unregulated

According to PARN there are approximately 400 professional bodies in the UK

Represent 13 million professionals

- Professional associations for members
- Learned institutes and societies for members
- Regulatory bodies with qualifying Registrants

Professional Associations Research Network

## Regulated or Unregulated

A profession has a *governing body* when the complexity of service-delivery has *risk* which needs to be minimalised and mitigated

*Regulated professions* ensure accountability of professional service delivery by those who are registered and regulated

## Regulated or Unregulated

Does the profession have a need to minimise and mitigate risk through:

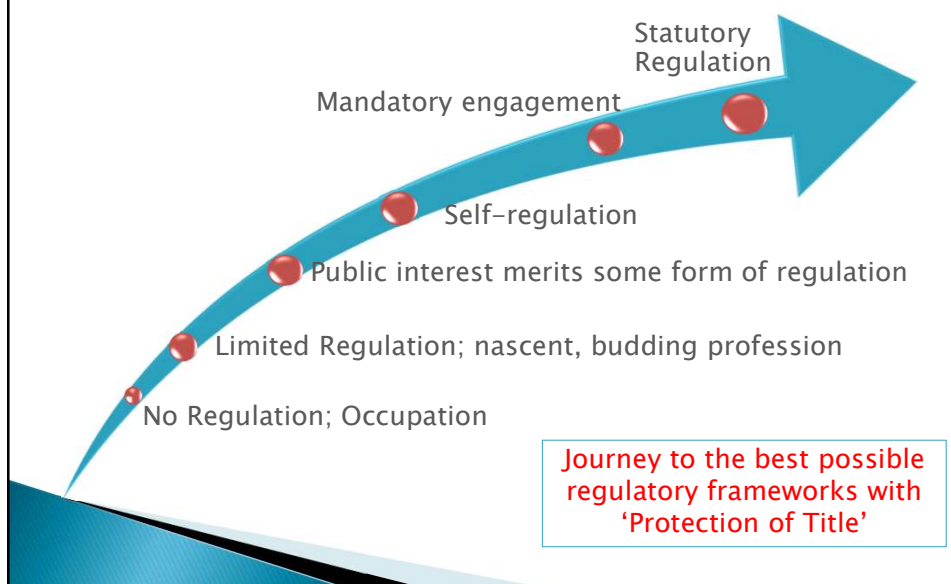
- Protecting the public
- Setting, maintaining and developing standards
- Relevant vocational qualifications
- Need to accredit competencies gained through experience
- Measured degrees of competence
- Protecting the practitioners
- A Code of Professional Conduct focusing on integrity
- Transparency ensuring visibility of accredited practitioners
- Protection of Title for practitioners
- A regulator and register of accredited professional practitioners

## Statutory or Self-Regulating

The extent to which the state has an interest in regulation of professions and how professions are regulated depends on *political necessity*

Self-regulation is action by the profession to operate and promulgate standards which are designed to ensure quality of practise, and accredit those fit to practise

## Statutory or Self-Regulating



## Statutory or Self-Regulating

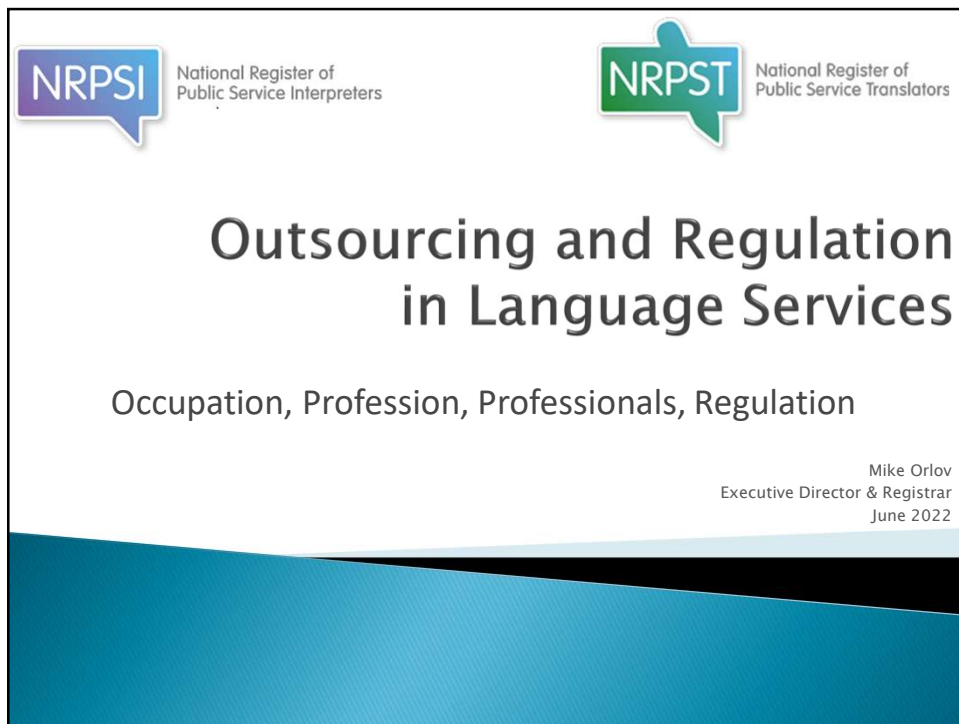
Typically *self-regulation* is first worked out within the ecosystem, negotiated with wider range of stakeholders, and promoted to extend the influence of how '*fit-to-practise*' is measured

Balancing standards, cost and supply of professionals, focusing on levels of risk, will drive government action and possible statutory regulation

## Statutory or Self-Regulating







The slide features a white background with a blue and black decorative wave at the bottom. In the top left corner is the NRPSI logo (National Register of Public Service Interpreters) and in the top right is the NRPST logo (National Register of Public Service Translators). The main title is centered in a large, bold, black font. Below the title is a subtitle in a smaller, regular black font. In the bottom right corner, the author's name and title are listed.

**NRPSI** National Register of  
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