



Government of **Western Australia**
Department of **Justice**

ANNUAL REPORT 2021/22

CBD Courts Project Contract

This Report covers the operation of the CBD Courts Project Contract as it relates to Court Security and Custodial Services.

September 2022



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Department of **Justice**

CBD Courts Project Contract

Annual Report 2021/22

Hon Bill Johnston MLA
Minister for Corrective Services

In accordance with section 45 of the *Court Security and Custodial Services Act 1999* (the Act), I hereby submit for your information and presentation to Parliament the 2021/22 Annual Report of the CBD Courts Project Contract. This report relates to the provision of court security and custodial services under the CBD Courts Project Contract Public Private Partnership with Western Liberty Group Pty Ltd.

Under section 45 of the Act, the Chief Executive Officer of the agency principally assisting the Minister for Corrective Services, is required to submit to you by 30 September each year a report on each contractor who provided services under a contract in the preceding 12 months.

This report presents an overview of services provided under the CBD Courts Project Contract by Western Liberty Group through their contractor G4S Custodial Services Pty Ltd (G4S). While G4S perform the services, the State's contract is with Western Liberty Group. This is reflected in the Annual Report through reference to Western Liberty Group in the main, with such references to be read as including G4S.

Compliance and statistical information in the report is presented for the period 1 July 2021 to 30 June 2022.

A handwritten signature in blue ink, appearing to read 'Adam Tomison'.

Dr Adam Tomison
Director General
DEPARTMENT OF JUSTICE

9 September 2022

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1. FOREWORD AND DIRECTOR GENERAL'S MESSAGE

The court security and custodial services provided under the CBD Courts Project Contract include services provided at both the District Court Building and the Central Law Courts. These two sites represent the bulk of court security and court custodial workload in the Perth metropolitan area. These services are part of a broader range of services provided by Western Liberty Group to the Department of Justice as part of the CBD Courts Project Contract Public Private Partnership.

The CBD Courts Project Contract was a unique model for the procurement and provision of court security and custodial services for the State of Western Australia through the amalgamation of service provision with the design, construction, maintenance and operation of the facilities in which the services are provided. To date, the project has resulted in the provision of good quality court security and custodial services in the District Court Building and Central Law Courts Building.

The provision of services under the Public Private Partnership has now been operating for fourteen years. I am pleased to report Western Liberty Group continued to provide a high level of security and custodial services in the District Court and the Perth Magistrates Court of Western Australia during the 2021/22 reporting period. This level of service has been achieved through a very positive and longstanding working relationship, and the continued monitoring of detailed performance linked indicators that provide comprehensive coverage of the standard of services to be provided by the contractor.

The high level of service delivered to date and the strong relationship built between the State and Western Liberty Group holds the partnership in good stead for continued success into the remaining years of the contract.



Dr Adam Tomison
Director General
DEPARTMENT OF JUSTICE

2. EXECUTIVE SUMMARY

The provision of services under the CBD Courts Project Contract commenced on 3 June 2008. The 2021/22 year was the fourteenth year of operation under the Services Agreement with Western Liberty Group for the provision of court security and custodial services at the District Court Building and the Central Law Courts Building.

The Principal of the Services Agreement under the contract pursuant to section 20(1) of the *Court Security and Custodial Services Act 1999* (the Act) is the Director General, Department of Justice (DoJ).

In managing the Services Agreement, the Department actively monitored, managed and reported on Western Liberty Group's performance during 2021/22. The Department met and communicated with Western Liberty Group on a regular basis to deal with contractual and operational issues.

In the fourteenth year of service provision Western Liberty Group performed generally well and provided a high level of court security and custodial services in the District Court Building and Central Law Courts Building. However, as it was the case for many other service providers, Covid-19 placed a huge strain on WLG resourcing during the reporting period. Due to the high volume of court sessions operated throughout the reporting period and co-accused matters heard, and additional service requests such as shuttle conferencing and front door entry guards, there were some instances where WLG was unable to provide adequate numbers of Gallery Guards and Court Orderlies. It was understood that WLG risk assessed and applied risk mitigating techniques in such instances. With the exception of the aforementioned, there were no major service delivery failures that impacted on court operations and the department's stakeholders continued to be satisfied with the level of service provided.

3. BACKGROUND

In June 2005, the State entered into a 27-year Public Private Partnership with Western Liberty Group for the provision of facilities and services associated with the operation of courts in the Perth Central Business District (CBD). This initiative is referred to as the CBD Courts Project. The contract with Western Liberty Group is comprised of two major and separate components, namely the Facilities Agreement and the Services Agreement.

The Facilities Agreement requires Western Liberty Group to design, construct and maintain the following:

- District Court Building and pedestrian tunnel under Hay Street to the Central Law Courts (Stage 1);
- Custodial areas of the Central Law Courts (Stage 2); and
- Security systems in the Central Law Courts (Stage 3).

Construction of the District Court Building and the Central Law Courts custodial area was completed during 2008. Construction of the Central Law Courts security systems was completed in April 2010.

The Services Agreement requires Western Liberty Group to provide the following services:

- Custody services within the District Court and Central Law Courts;
- User management and court security services within the District Court and Central Law Courts;
- Court recording and transcription services and court booking services within the District Court Building only; and
- Hard and soft facility management services for the District Court Building and Central Law Courts custodial area and security systems.

Services provision under the Services Agreement began on 3 June 2008 following completion of the District Court Building. Performance of the court security and custodial services is subject to the requirements of the Act and is subcontracted to G4S Custodial Services Pty Ltd (G4S). While G4S perform the services, the State’s contract is with Western Liberty Group Pty Ltd. This is reflected in this report through reference to Western Liberty Group in the main, with such references to be read as including G4S.

This report is submitted in accordance with Section 45 of the Act for the period 1 July 2021 to 30 June 2022.

4. ACHIEVEMENTS AND ACTIVITIES

A. Contract Governance

The governance arrangements for the Services Agreement consist of a committee structure as specified under the Services Agreement, management delegations from the Principal of the Services Agreement and documented roles and responsibilities for individual executive and management positions within the Department.

The committee structure is outlined below.

Title	Chairperson	Focus
Management Board	Executive Director Court & Tribunal Services (DoJ)	Contract strategic direction, governance and performance (meets biannually)
Management User Group	Judge of the District Court	Operational service delivery requirements and standards (meets quarterly)
Working Committee	CBD Courts Project Contract Administrator (DoJ)	Contract management and service provision (meets quarterly)

The Principal of the Services Agreement is the Director General of the Department of Justice. Contract management responsibilities have been delegated to the Executive Director, Court and Tribunal Services of the Department of Justice, pursuant to section 20(1) of the Act.

B. Contract Management

Contract management associated with the Services Agreement was undertaken by the Court and Tribunal Services division of the Department. The Contract Management Team in that division actively monitors, manages and reports Western Liberty Group's performance at the contractual level while also endeavouring to continue to build and maintain a long-term cooperative relationship. This is to ensure the partnership is a success for both the State and Western Liberty Group. Members of the team meet and/or communicate with Western Liberty Group and its sub-contractors on a regular basis to deal with contractual and operational issues as they arise and continually develop strategies for service improvement.

The Department has developed a comprehensive contract management plan to assist with the management of the contract. The core processes addressed by the contract management plan and associated working documents relate to:

- performance reporting and monitoring;
- relationship management, dispute resolution and issue management;
- governance, probity and compliance;
- knowledge and information management;
- change management;
- contingency planning; and
- ongoing review.

In undertaking specific monitoring of the services provided under the Act, the contract management team uses information from a range of sources. These include:

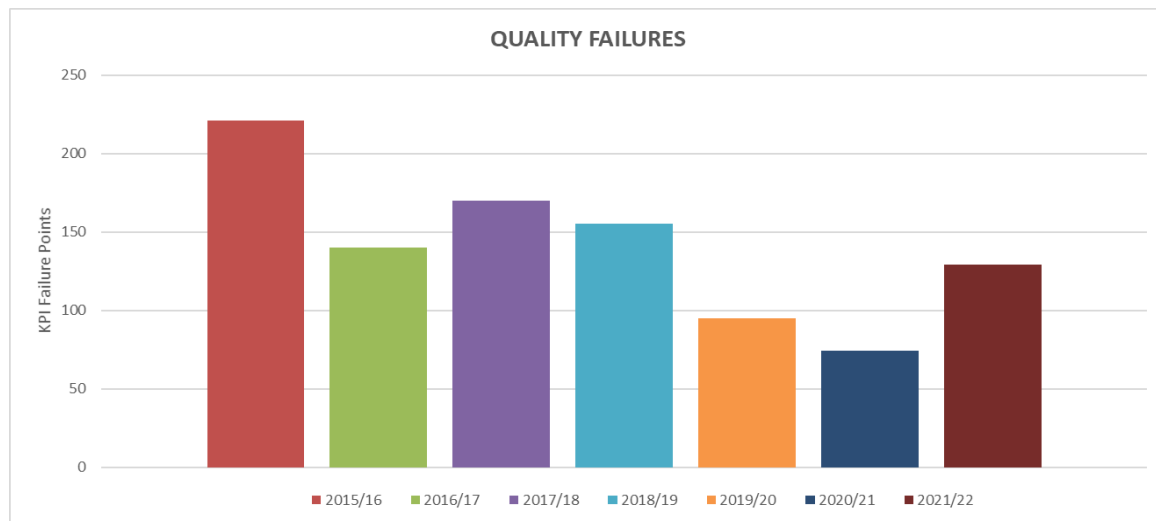
- reviewing data on custody hours, movements and incidents from the Custodial Services Support System;
- self-reported information on incidents and operations from Western Liberty Group and G4S;
- reporting from various stakeholders on service provision;
- audits conducted on various aspects of court security and custodial services, including officer training;
- lessons learnt exercises undertaken with WLG on G4S' handling of various incidents; and
- direct observations made by the contract management team and Courts Risk Assessment Directorate staff.

This information forms the basis for regular discussions on service delivery issues with Western Liberty Group and is also used by the contract management team in the assessment and application of contractual abatements.

C. Contractor Performance

In fourteenth year of service provision Western Liberty Group continued to perform well and provided court security and custodial services to the State which generally met the requirements of the contract. The relatively good level of service provided is largely attributable to the positive working relationship established between the State and Western Liberty Group and their sub-contractor, G4S. In addition, G4S' good understanding of the Department's business (i.e. court operations) is an important factor contributing to delivery at the expected level of services.

Performance against the Key Performance Indicators (KPI) has declined on an overall basis from the previous years (which include court security and custodial services). This is mainly attributed to the unavailability of Court Orderlies at CLC in June 2022 and the abatements applied for not providing adequate number of Gallery Guards in some instances. On one occasion, G4S was late by 28 seconds to respond to a duress alarm which was activated by an unknown jury officer in error. This failure itself also attracted 10 points in May 2022. A comparison of performance in the 2015/16, 2016/17, 2017/18, 2018/19, 2019/20, 2020/21 and reporting periods against 2021/22 is provided in the following graph.



It should be noted the application of abatements in itself should not be solely relied upon to measure Western Liberty Group's overall performance, rather it is an indication of areas where improvement was required in services delivered in 2021/22.

There were performance/service delivery issues where Western Liberty Group failed to provide gallery guards on numerous occasions due to peak service demands. In that respect, there were occasions where a large number of co-accused trials (some with high co-accused numbers) running concurrently which stretched G4S resources. Shuttle Conferencing Events (Family Violence Restraining Orders) commenced in July 2021 with a requirement to deploy an additional security officer at the front entrance for Covid-19

vaccination verification, this impacted on G4S staffing resources. Covid-19 infection impacted G4S staff simultaneously which again limited the level of service provided. The department was cognisant these pandemic events significantly increased service demand and thus resolved to take a reasonable and balanced approach with regards to which abatements were to be applied to the contractor. These unusual events were neither within the control of the contractor nor manageable within their staffing arrangements to satisfy KPIs on a daily basis.

The majority of performance/service delivery failures in custody areas is attributed to non-compliance of policies and procedures. On a few occasions the failures were related to delivering a person in custody late to court.

Notwithstanding the above service failures, on the whole Western Liberty Group continued to provide a high level of court security and custodial services in the District Court Building and Central Law Courts Building during the reporting year.

D. Reviews

A review was conducted of the Central Law Courts Building and District Court Building custody centres by the Office of the Inspector of Custodial Services during the reporting period.

E. Contract Variations

In accordance with the Services Agreement, the Contract's benchmarks are subject to regular reviews with the first benchmark period being seven years after the facilities commencement date (i.e. 20 June 2005). The State entered its third benchmarking period during the reporting year, initiated by Western Liberty Group on 7 July 2021 with a Benchmarked Services submission.

The benchmarking process was managed by the Department through the Project Steering Committee (PSC) established for this purpose.

The PSC was chaired by the Executive Director Court and Tribunal Services, and comprised senior representatives from Court Risk Assessment Directorate, Corporate Services Division and the Department of Treasury.

The prices agreed for Benchmarked Services are considered to be fair and reasonable compared with the increased service demand and reflected the current market. The benchmarking process resulted in an overall increase of \$2.618 M in 2021-dollar terms.

F. Contractual Disputes and Payment Issues

The Contract Management Team and Western Liberty Group worked cooperatively to resolve all payment issues without referring them to arbitration. There was no contractual dispute regarding payment for court security and custodial services delivered in 2021/22.

5. CONTRACT COMPLIANCE

A. Key Performance Indicators and Abatements

The contractor is required to meet KPIs in the provision of services and is required to monitor and report its performance on a daily and monthly basis. The contract management team also conducts targeted monitoring to verify the contractors self-reporting in this regard. There is also a reliance on various stakeholders to report service failures to the contract management team.

Failure to meet KPI standards can result in payment abatements being imposed against Western Liberty Group with the value of the abatements determined through the application of specified formulae contained in Annexure H of the Services Agreement. In determining the extent to which abatements would be enforced, consideration was given to the impact on court operations, the level of operational risk involved and the need to provide a commercial incentive for Western Liberty Group to improve performance. As a result, abatements were not applied to a number of non-critical service failures in recognition of the need to balance punitive actions with relationship management. This is a critical aspect in successfully managing the contract given the partnership arrangement envisaged and its longevity.

The following table provides a summary of KPI failures and associated abatements applied in 2021/22.

Service Failures against Court Security and Custodial Service KPI

2021/22 Financial Year

	Key Performance Indicator	Failure Incidents (Points)	Abatement \$
Court Security Services	34 Responding to duress alarms	10	9,994.50
	35 Attending to safety and security incidents	0	
	36 No unauthorised access	0	
	37 No unauthorised articles	0	
	38 Report safety and security incidents	0	
	40 Comply with User Management and Court Security Operating Plan and the Service Specifications	89	87,949.45
	65 Comply with Policy and Procedures Manual and Operating Manuals	0	
Custodial Services	41 Death in custody	0	
	42 Serious injury to Person in Custody	0	
	43 Completed escapes from custody	0	

44	Unlawful release from custody	0	
45	Assault upon a court user by a Person in Custody	0	
46	Persons in Custody are delivered to court on schedule	7	6,544.64
47	Report custodial incidents	0	
48	Comply with Custodial Services Operating Plan and Service Specifications	15	14,126.21
59	Helpdesk shall acknowledge Helpdesk communications as detailed in section 6.2.1 the Service Specifications.	0	
60	Provide a Monthly Performance Report in accordance with section 6.4.2 of the Service Specifications.	0	
61	Provision of Daily Performance Report and notification of loss /interruption of essential services	0	
62	The Project Company shall comply with section 6.4.4 of the Service Specifications.	0	
65	Comply with Policy and Procedures Manual and Operating Manuals	0	
Total Abatement points applied 2021/22 (Dollar value extrapolated using <i>Average</i> unit value invoiced)		121	118,614.80
Total Abatements invoiced 2021/22		39	39,153.26

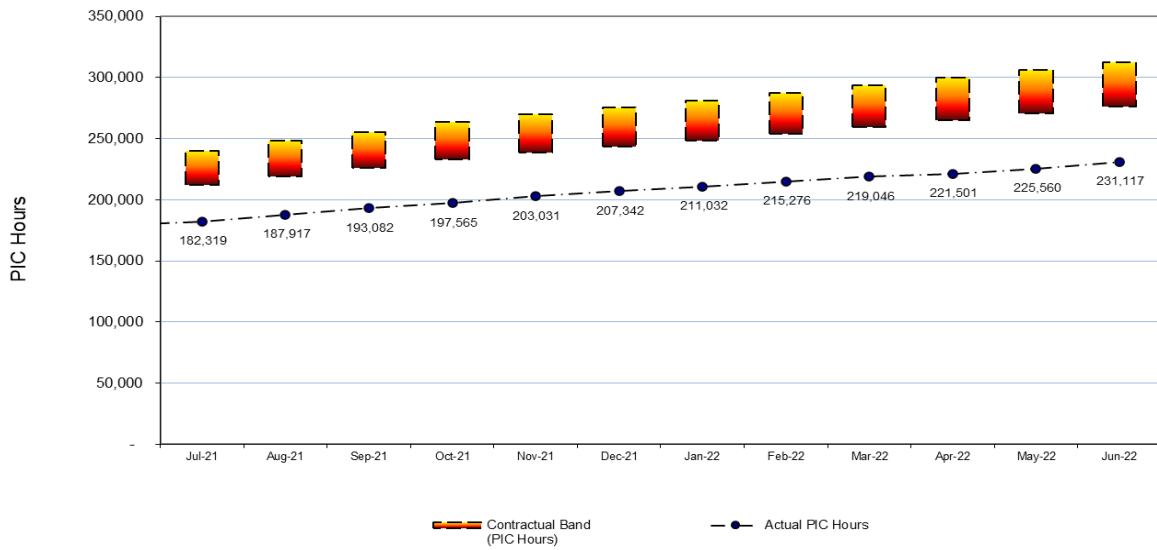
Note: In the above table the abatement dollars are calculated based on the total quality failure points applied. However, when determining the final abatements charged for each month, 10 quality failure points (i.e. deemed to be “free points”) are deducted from the abatements applied under the contract. Therefore, the total points abated do not correspond with the dollar amounts abated as shown above (i.e. while 121 total abatement points were applied only 39 abatement points attracted a dollar value of \$39,153.26).

B. Service Provision

Service demand and payment for the custodial services component of the contract is based on a fixed annual price for an anticipated band of court custody hours, with allowance for adjustment on an hourly rate basis should the actual custody hours fall outside of the set band. The band was established based on court custody data analysis and modelling performed in 2004 as part of the planning for the CBD Courts Project.

The actual custody hours of 231,117 was below the lower band limit of 276,555 for the reporting period. The average court custody duration was 4.43 hours for 11,758 persons in custody compared with 4.63 hours for 11,759 persons in the previous year and the 2004 model average of 5.4 hours per person.

Cumulative Actual PIC Hours v Contractual PIC Hour Band



Payment for the court security component of the contract is based on a fixed annual price for base building security and user management services plus a volume-based adjustment for variable demand services such as gallery guards and court orderlies. Approximately 95% of the court security and custodial services received under the contract are subject to a fixed annual payment irrespective of the resources engaged by Western Liberty Group to provide the services.

Apart from the variable volume-based costs for gallery guards and court orderlies the Department does not actively monitor or verify the resource hours utilised by Western Liberty Group. However, Western Liberty Group does provide this data on a monthly basis, and it is presented below for general information purposes in the broader context of court security and custodial services provided to the State.

Service Delivery Resource Hours Reported by Western Liberty Group

Activity	Resource Hours*
User Management and Court Security Services	90,061
Custodial Services	79,201
Total	169,262

* Figures not verified and not to be taken as an indicator of service demand or cost. Figures are for the period 1 July 2021 to 30 June 2022.

C. Cost of Service

Total Contract Cost (1 July 2021– 30 June 2022)	
User Management, Court Security and Custodial Services	\$ 12,397,795.50
Less Abatements	\$ 39,153.25
Subtotal (exclusive of GST)	12,358,642.25
GST	1,235,864.23
Total (inclusive of GST)	13,594,506.48

6. MAJOR CHALLENGES FOR 2022/23

There are no major challenges envisaged for the provision of security and custodial services in the ensuing year.