

Submission to the Education and Health Standing Committee Inquiry into the transition and operation of services at Fiona Stanley Hospital

Prepared on behalf of

Serco Watch

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**by Colin E Penter
Convenor Serco Watch**

CONTENTS

| | |
|--|-----------|
| PART A: SUBMISSION OVERVIEW | 3 |
| RECOMMENDATIONS..... | 10 |
| PART B: RISKS TO PATIENTS, STAFF, THE STATE AND THE WA PUBLIC..... | 13 |
| 1. Introduction..... | 13 |
| 1.1 The scope of our submission..... | 13 |
| 2. Risks from a contract doomed to fail..... | 14 |
| 2.1 Serco's record of failure in health and hospital services..... | 14 |
| 2.2 Serco's history of failure at Fiona Stanley Hospital..... | 16 |
| 3. Risks | 30 |
| 3.1 Risks arising from privatisation and outsourcing..... | 30 |
| 3.2 Risks arising from Serco's poor record and lack of expertise..... | 34 |
| 3.3 Risks to patients..... | 34 |
| 3.4 Risks to staff and clinical practice..... | 39 |
| 3.5 Risks arising from the use of sub contractors..... | 41 |
| 3.6 Financial risks and the failure to transfer risk..... | 42 |
| 3.7 Risks for public accountability..... | 49 |
| 3.8 Reputational risks..... | 60 |
| 3.9 Risks arising from health system configuration and transformation..... | 60 |
| 3.10 Risks arising from Serco's political influence..... | 61 |

PART A: SUBMISSION OVERVIEW

This submission is in two parts. Part A summarizes the main points and can be read as a standalone summary. Part A includes a list of recommendations.

Part B describes risks to patients, staff, the State and WA public from Serco's involvement in the management and delivery of services at Fiona Stanley Hospital. Part B includes an extensive evidence base and is informed by anecdotal information, feedback and case examples provided by patients and staff of Fiona Stanley Hospital.

Our submission presents evidence about Serco's performance. We do not comment directly on the WA Health Department's clinical services, other than where they are affected by Serco's integration and management of non-clinical services.

A contract doomed to fail

In our view this privatized contract was doomed to fail from the beginning. We expressed that view in our 2011 submission to the Public Accounts Committee Inquiry into the Serco contract.

Many risks arise from the original decision to privatise non-clinical services and these risks are discussed in Part B (page 14)

Serco has a persistent history of contractual failure and breaches on this contract.

A litany of failures have occurred prior to, and since the hospital's opening. In Part B (pages 16-29) we document 17 critical events and incidents of failure that occurred before the hospital opened that accentuate risk, including:

- Claimed benefits have proved illusory
- Procurement process lacked probity and integrity
- The contract with Serco was not scrutinized adequately
- A veil secrecy surrounds the contract
- Failure to transfer risk to Serco
- Procurement and contract negotiations served Serco's interest
- Serco planned to use prisoners at the hospital
- Serco demanded and was paid penalty payments
- Serco was stripped of responsibility for some functions
- Serco and WA Health failed to deliver a paperless hospital
- WA Health and Serco failed to meet workforce planning and employment targets
- Expiry of equipment warranties
- Failure to develop ICT systems on time
- Delays in the hospital's opening

- Serco employed 230 staff at a hospital without patients
- Major cost overruns and budget blowouts
- Redirection of funds from the public health system to fund budget blowouts.

Since opening, the hospital has been plagued with multiple and serious problems in areas in which Serco has responsibility. As a result, there has been significant additional financial costs to the public purse and reputational damage to Fiona Stanley Hospital and the WA Health Department. Lives have been put at risk.

In Part B (pages 21-29) we document 17 critical failures and problems arising from Serco's involvement in the management, integration and delivery of services at Fiona Stanley Hospital. These accentuate risk. Information provided by patients and staff are used to inform the discussion:

- Sterilization breaches
- Delays in providing surgical equipment and missing surgical equipment
- Lack of mobile phone coverage
- Allegations of poor management and unsafe conditions
- Understaffing of porter and other services
- Establishment of a Project Board to monitor risks to patient safety
- Parking problems
- Problems with food ordering system
- Coordination and integration problems
- Problems with removal of medical waste and rubbish
- Lack of specialized equipment and failure to ensure equipment is fit-for-purpose
- Delays in delivery and availability of medical supplies
- Concerns about cancer services
- Alleged problems with the call centre
- High level of abatements
- Poor quality service and patient experience
- High number of complaints

Risks

In Part B (pages 30-62) we identify eleven categories of risks. These are based on detailed assessment of the contract history, Serco's record of performance at the hospital and in other contracts and jurisdictions and information provided by patients and staff:

1. Risks from a contract doomed to fail.

2. Risks arising from privatisation and outsourcing of health and hospital services.
3. Risks arising from Serco's history of misconduct and persistent under-performance in the United Kingdom and Australia in health and hospital services and consistent failure to meet contractual obligations.
4. Risks to patients, including understaffing, declining service standards and quality, reliance on lower trained staff, use of staff in roles they are not qualified for and ill-treatment of people.
5. Risks to staff and clinical practice, including staffing problems, fracturing and fragmentation of care, workload pressures and concealment of incidents.
6. Risks arising from the use of sub-contractors.
7. Financial risks and the failure to transfer risk, including Serco's current financial woes, inflated fees overcharging and price gouging, lack of evidence about value for money, and lack of financial accountability.
8. Risks for public accountability including falsification and manipulation of data, culture of secrecy, failure to collect accurate data, inadequate monitoring of Serco's performance, corruption risks, gagging clauses and lack of whistleblower protections.
9. Reputational risks.
10. Risks resulting from health system reconfiguration.
11. Risks from Serco's political influence.

More detail on each risk is presented in Part B of our submission.

Failure to take action to address identified risks

Since the WA Government announced the decision to privatise and outsource clinical services at Fiona Stanley Hospital, there has been a history of risks being ignored or concealed, or action being delayed and not taken to reduce those risks.

This pattern of identifying, but ignoring, concealing or failing to act on risks and the resultant consequences are documented in our submission and were acknowledged by two Parliamentary Inquiries, the WA Auditor General, the Under Treasurer and Treasury, WA politicians and senior Government officials, including the Acting Director-General of WA Health, external consultants and advisers¹ and the Australian Medical Association and Unions.

In addition to identifying risks that exist in relation to the contract, we urge the Committee to investigate why action was not taken by the WA Government, WA Health Department and Serco to address risks (or where action has been taken why it has failed to address risk) and what future action is required to ensure that this pattern does not continue?

We urge the Committee to investigate why many risks were concealed, ignored, denied or not acted on, the impact of these on the transition to and operations of services at Fiona Stanley Hospital and to identify the additional costs to the public purse and the WA health system.

¹ This includes external reviews commissioned by Department of Health and Treasury, including the 2012 University Hospital Birmingham Review.

Failure to address these risks has resulted in an ongoing series of failures with serious consequences for the state, the public purse, the health system and the people of WA.

Our submission documents multiple concerns about Serco's performance. These are not 'teething problems' or isolated incidents, but show a corporation with a systemic history of misconduct, including contract gaming and over-billing, misrepresentation, manipulation of information, understaffing, persistent underperformance and failures of duty of care across countries and contracts.

Failure to transfer risk

Public private partnerships like those at Fiona Stanley Hospital are inherently risky with high rates of failure and higher cost to the public.²

PPPs are promoted by their proponents as a way to efficiently transfer risk from the public sector to the corporate/private sector, but the evidence shows that the corporate sector profiteers from the risk transfer component.³

The WA Health system and WA Government is exposed to serious financial and reputational risk as a result of Serco's role at Fiona Stanley Hospital.

We note the comments of pro-market, pro-business think tank The Centre for Independent Studies who found:

"The Fiona Stanley Hospital PPP has a complicated and untested management and governance framework in which the state appears to have assumed risks far greater than usual in similar hospital project".⁴

The State has effectively underwritten risk to the benefit of Serco's commercial interests and the public of WA is paying a high premium. The risk profile has been constructed to place Serco's commercial interests ahead of the public interest.

We urge the Committee to investigate why risk and responsibility for cost overruns, budget blowout and contractual failure at FSH has been transferred to the public purse, rather than Serco and corporate contractors as was intended. Why did this happen and what are the long term risk implications for patients, staff and the public of WA?

Serco's financial situation

We believe there are risks to the WA Government and the WA public arising from Serco's financial difficulties.⁵

² Duckett, (2013) Public-Private partnerships are risky business, *The Conversation*, 30 July 2013; Whitfield, D (2012) *In Place of Austerity: Reconstructing the economy, state and public services*, Spokesman Books; Cook, B, Quirk, V and Mitchell, N (2012) *The impact on community services of staff and service reductions, privatisation and outsourcing on public services in Australian states*, Report 1, Report prepared by the Centre of Full Employment and Equity for the Community and Public Sector Group (SPSF Group) June 2012.

³ Cook, B, Quirk, V and Mitchell, N (2012) *ibid*.

⁴ Gadiel, D & Sammut *How the NSW Coalition should manage health: Opportunities for micro-economic reform, Papers in Health and Ageing*, Centre for Independent Studies <http://www.cis.org.au/images/stories/policy-monographs/pm-128.pdf>

⁵ West, M (2015) Red ink flows from Serco's detention centres, *The Age*, May 4 2015 <http://www.theage.com.au/business/comment-and-analysis/red-ink-flows-from-serco-s-detention-centres>

Some commentators question whether Serco will survive financially and a recent investigation into Serco Australia found the company is technically insolvent.⁶

We urge the Committee to investigate any risks to the State and the people of WA resulting from Serco Group's current financial difficulties.

Serco's Australian contracts, particularly large contracts such as the immigration detention contract and the Fiona Stanley contract, play an important role in propping up the Serco Group's financial bottom line and insulate the company from strategic missteps, at a time of significant financial crises.⁷

Serco has suffered serious financial and reputational damage in the last two years as a consequence of criminal and statutory investigations and public scandals.

In 2014, Serco Group wrote down the value of the business by £3 billion. It was forced to issue four profit downgrades, seek emergency cash injections and sell assets because of a severe cash crisis due to loss of revenue from fewer contract wins, downgrading and loss of contracts and forced repayment of moneys it overcharged the UK Government.

Profits dropped 62% and the share price crashed. Senior executives resigned in the wake of scandals which saw Serco lose contracts because of overcharging, contract fraud and poor performance. It was forced to repay hundreds of millions of dollars to the UK Government and prohibited from bidding for government work for a period of time.

Since then Serco's problems have deepened. At the end of March 2015, Serco Group reported an annual operating loss of £1.3 billion (pounds) and wrote off another £1.3 billion (pounds) in contract provisions and asset impairments, including contract cancellations and losses. Serco Group was forced to raise £550 million through an emergency rights issue and began a major fire sale of assets to ensure the group's survival.⁸

Despite revenues of \$1.1 billion Serco Australia made a \$395 million loss for the year to December 2014. This figure is contrasted with the huge rise in profits in the previous year when net profits rose from \$49 million to \$128 million.⁹

Michael West has written that Serco in Australia is technically insolvent as its liabilities exceed its assets by \$43 million.¹⁰

How might Serco's wider company financial troubles impact on the FSH contract? Given the size and significance of this contract, we believe Serco should be required to report on these issues.

⁶ West, M (2015) *ibid*.

⁷ Farrell, P (2014) Australia detention centre profits propping up UK's, *The Guardian*, 11 November 2014 <http://www.theguardian.com/business/2014/nov/11>; Lowenstein, A (2014) Serco is failing but is kept afloat thanks to Australia's refugee policy, *The Guardian*, 11 November 2014; Rankin, J (2014) Serco shares crash after latest profits warning, *The Guardian*, Monday 10 November 2014 <http://www.theguardian.com/business/2014/nov/10/serco-profits-warning-shares-crash>

⁸ Investors Chronicle 20 March 2015 Serco's charges dent profits <http://www.investorchronicle.co.uk/2015/03/20/shares/news-and-analysis/serco>

⁹ West, M (2013) Serco's lack of transparency leaves much to be desired, *The Age*, May 8 2013 <http://www.theage.com.au/business/serco-s-lack-of-transperency-leaves-much-to-be-desired>

¹⁰ West, M (2015) Red Ink flows from Serco's detention centres, *The Age*, May 4 2015 <http://www.theage.com.au/business/comment-and-analysis/red-ink-flows-from-sercos-detention-centres>

In light of Serco's financial troubles, there are important questions whether Serco's pursuit of profit from the Fiona Stanley contract is compatible with the long term commitment needed to deliver high quality outcomes and services at FSH and whether it compromises quality and effectiveness of services.

Detailed study of Serco's record shows that it is unable to sustain reliability and quality of service and meet performance standards, whilst extracting profit from contracts. It has lost or withdrawn from contracts because the requirement to deliver sustainable service quality and meet performance targets has proved incompatible with Serco's drive for increased profits.

Reporting on Serco's level of profit and profit margins

In relation to the Fiona Stanley hospital contract, we believe it is essential for public transparency and accountability that more in-depth information about Serco's level of profit is made public including:

- What is the level of profit extracted from this contract?
- How are those profits delivered?

To ensure greater public transparency and accountability about the use of public funds by corporate contractors such as Serco, we urge that open book financing performance reporting and accounting requirements be built into all contracts with corporations and business who deliver public services on behalf of Government.

This should make it possible for the public to know the level of profits being made by corporate providers such as Serco and to determine whether those profits are made in ways that align with public and taxpayer interests.

The UK Cabinet Office is demanding that contractors such as Serco and G4S provide quarterly updates on revenue, profit and profit margins on government contracts to ensure that the public is getting value for money. Contracts worth more than £20 million will be subject to annual audits.¹¹

We urge the Committee to consider similar requirements, to ensure quarterly public reporting by Serco and sub-contractors on profits and profit margins on the FSH contract, including the requirement that Serco show how profits are made from the contract.

Lack of scrutiny and accountability and risks arising from an inadequate performance monitoring regime

The problems that have emerged at Fiona Stanley Hospital raise serious questions about the process and mechanisms used by WA Health to scrutinize and monitor the quality, safety and efficacy of Serco's performance and enforce contract requirements. There are serious doubts about the Department's capacity to ensure the safety, quality and value for money of services provided by Serco at Fiona Stanley Hospital.

¹¹ Collingridge (2015) Whitehall puts fresh squeeze on contractors after scandals, *The Sunday Times*, 31 May 2015. <https://www.thesundaytimes.co.uk/sto/business/companies/article1552530.ece>

Despite this being the largest services contract ever awarded by the WA Government, there is minimal information available about how Serco's performance is being monitored and by whom.

Our analysis of the limited public information shows that despite this being a contract worth over \$4.3 billion, Serco is essentially monitoring itself and self-reporting on its performance.

Information about Serco's performance is collected through a centralized helpdesk run by Serco itself.¹² Serco is required to provide monthly service reports on its performance against KPIs.

The performance monitoring regime seems to involve:

- a set of Key Performance Indicators (KPIs) against which Serco's service delivery performance is measured.
- a 'commercial' abatement regime which applies to Serco's performance failures or specified event failures.
- a requirement that Serco ensure each area in the hospital is available for use and meets defined criteria.
- monthly reports on compliance.

We are concerned that the Department appears to rely on Serco monitoring itself, despite its poor record of performance and history of concealment and manipulation of performance data in other contracts.

Throughout this contract, there has been a failure to adequately scrutinize and monitor Serco's performance, a lack of authentic public transparency and accountability about the contract and Serco's performance, and a failure by the Government and Department to hold Serco accountable.

In our view, assurances by WA Health that monitoring of the contract is rigorous are no doubt well intentioned, but in light of Serco's litany of controversies and performance failures at Fiona Stanley Hospital and in other contracts, are ultimately hollow.

Corporations such as Serco are accountable primarily to their shareholders, rather than the democratic process.

Serco is exempted from the standards of transparency and accountability required of the public sector. Freedom of Information Legislation (FOI) does not apply and commercial confidentiality is consistently used to conceal and deny access to information.

The problem is compounded by the inability of WA Government agencies, such as WA Health, to effectively regulate and monitor the operations and performance of multinational

¹² Public Accounts Committee (2012) *Building Foundations for Value: An analysis of processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital*, Report No 16, Legislative Assembly, Parliament of Western Australia.

corporations whose rationale is profit maximization. This failing is confirmed in a WA Auditor General's Report.¹³

The Auditor General found that corporations were failing to meet their environmental and social obligations and Government agencies were unable to effectively regulate and enforce the social and environmental activities of private corporations.¹⁴

A recent Corruption and Crime Commission report found that privatisation and outsourcing results in government agencies forming close relationships with private corporations, which increases the risk of misconduct and corruption.¹⁵ The Report identified that government agencies who oversee large contracts with corporations do not have the necessary skills, controls and governance systems to manage contractors.

Privatisation and outsourcing of public services undermines principles fundamental to our democratic system by creating conditions such as:

- Reduced public accountability and transparency
- Reductions in service quality
- Conflicts of interest
- Removal of democratic control of public functions and decisions from citizens
- Reduced protection for vulnerable people.

We believe the contract with Serco to deliver non-clinical services at Fiona Stanley Hospital should be terminated and the delivery of those services returned to public hands.

RECOMMENDATIONS

Recommendation: Given the size and significance of this contract, WA Health should seek regular updates and briefing from Serco and independent financial analysts on the impact of Serco's wider company financial troubles on the FSH contract

Recommendation: The Committee investigate and report on risks to the WA taxpayer from any incentive based contracts and no-fail contracts between WA Health and Serco and sub-contractors at FSH.

Recommendation: The Committee urge the adoption of similar requirements as the UK Cabinet Office to require quarterly public reporting by Serco and sub-contractors on profits and profit margins on the FSH contract, including the requirement that Serco show how profits are made from the Fiona Stanley Hospital contract.

13. Mercer D (2011) Miners and state fail eco audit, *The West Australian*, Friday October 14, 2011.

14. WA Auditor General's Report (2011) *Ensuring compliance with conditions on mining*, www.audit.wa.gov.au

15. Corruption and Crime Commission (2014) *Media Statement: WA Health urged to tackle corruption risks* <http://www.ccc.wa.gov.au/publications>; Emerson, D (2015) Public service crime risk rises, *The West Australian*, 27th March 2013.

Recommendation: *In order to ensure greater public transparency and accountability over the use of public funds by Serco, open book financing performance reporting and accounting requirements should be built into the contract (as well as other contracts with corporations and business who deliver public services on behalf of Government).*

Recommendation: *That the Committee ensure all reports of internal investigations into the Serco contract and its management and operations of the contract are made public.*

Recommendation: *That all relevant public sector transparency and accountability requirements be applied to corporate providers of public services including detail on supply chains, company ownership and governance structures, profit levels and margins, employment, remuneration, tax policies and practices.*

Recommendation: *The Freedom of Information of Act should be applied to all corporate providers of public services and all public sector commissioning, procurement and contract management.*

Recommendation: *That the Committee investigate, document and report publicly on the strategies and systems being used by the WA Health Department to scrutinize and monitor Serco's performance and the performance of sub-contractors and determine whether those strategies are capable of meeting contractual standards and requirements*

Recommendation: *The Committee investigate and make public the detail of Serco's contractual reporting requirements and those of sub-contractors and the Department's contract monitoring regimes and determine whether, and if so, how effectively these are being carried out by all parties.*

Recommendation: *More detailed public reporting of Serco's operations and performance (and that of sub-contractors) is required. This should include:*

- *More detailed information on Serco's financial costing and profit levels*
- *More detail on Serco's staffing levels*
- *Much more detail on the numbers of Departmental contract monitors, their role and activities, time spent on monitoring the contract, actual monitoring and compliance regimes used by contract monitors and information on action taken to limit regulator capture*
- *Full disclosure of all detail of Serco's performance against KPIs*

- ***Full public disclosure and reporting of incidents and contractual breaches by corporate providers, as it is in the public interest for these to be made public.***

Recommendation: That WA Health document and publicly disclose all abatements (including the number of abatements) imposed on Serco and sub-contractors for contractual breaches and make publicly available the reasons for those abatements, the amount of the abatement and the action taken by Serco to address those breaches.

Recommendation: There needs to be greater Parliamentary oversight and scrutiny of repeated and persistent failures by corporations such as Serco who are contracted by the State Government to deliver public services. This should include the capacity for legislative, legal and statutory action to be taken against corporations (and their Directors) that continually fail to meet contractual requirements, as well as action to be taken to ensure that the State terminates contracts with corporations whose actions have resulted in the activation of termination clauses.

Recommendation: The Committee consider the development of a Public Service Users Bill (Ownership and Involvement Bill) to ensure much greater public accountability and public control over the privatisation and outsourcing of public services to vulnerable people and to protect the wellbeing, dignity and rights of people directly affected by the operations and performance of corporations contracted by the state to deliver public services, such as prisoner transport. The Bill should provide the public with a 'right to recall' contracted-out services due to poor quality or performance that is not in the public interest.

PART B: RISKS TO PATIENTS, STAFF, THE STATE AND THE WA PUBLIC

1. Introduction

Serco Watch is a WA based citizen led network of individuals and organizations that monitors the delivery of public services and public functions by corporations, including Serco.

We have links with citizens and groups in other Australian states and overseas. Serco Watch was formed by Western Australian citizens concerned about the growing activities and operations of Serco and corporations involved in the delivery of public functions and public services.

1.1 The scope of our submission

We note the Committee's of Terms of Reference which are:

"To inquire into and report on the risks to patients and staff and the financial implications to the State arising from:

- *the transition and operation of clinical services to Fiona Stanley Hospital by the Department of Health and*
- *the management by Serco of the services it is contracted to deliver at Fiona Stanley Hospital"*

The Committee differentiates between clinical services provided by WA Health and Serco's management of non-clinical services, however, the distinction is not clear cut. When services are privatized, distinguishing between concerns and issues that relate to corporate providers, such as Serco and Genesis Care (and sub-contractors) and those that relate to the WA Health Department, becomes more difficult.

Our submission presents evidence about Serco's performance in Western Australia and other jurisdictions and contracts. We do not comment on the WA Health Department's clinical services, other than where they are affected by Serco's responsibility to integrate and manage non-clinical services.

Serco's record is directly relevant to this Inquiry as it shows systemic and recurring patterns of behavior that characterize Serco's way of doing business. These systemic and recurring patterns of behavior have been manifest since the beginning of the contract.

Serco's record is also relevant because both the Minister for Health and former Director-General of WA Health cited Serco's UK record as a reason for awarding them the contract. The Director General of Health claimed that Serco would deliver better services, citing their UK record:

"They have delivered really, really well. In fact they just won an award for their facility management in one of the Scottish hospitals".¹⁶

Our submission is informed by anecdotal information, feedback and case examples describing the experience of patients, family members and friends of patients and staff¹⁷ at Fiona Stanley Hospital.

2. Risks from a contract doomed to fail

In our view this contract was doomed to fail from the beginning. We expressed that view in our 2011 submission to the Public Accounts Committee Inquiry into the Serco contract,¹⁸ as did others who gave evidence.

Many of the risks we describe arise from the original decision:

- This is the largest public privatization and outsourcing project in WA history, however Serco was contracted to deliver services in areas where it had no comparable Australian experience or expertise. Serco had no experience running public hospital and health services in Australia and no experience running a hospital comparable in size, scale and scope to Fiona Stanley Hospital.
- Serco's record of failure, misconduct and poor performance in the UK, Australia, USA and Canada should have alerted WA Health to the risks of outsourcing services to Serco.
- The idea that the functions required to operate a large public hospital can be categorized into clinical services (provided by the public sector) and non-clinical services (provided by multinational corporations) is flawed and dangerous and lacks any evidentiary support. The danger of this arrangement is demonstrated by the 18 critical failures and problems that have occurred since the hospital opened including catastrophic sterilization failures and Serco's high level of abatements in the first 6 months.
- The procurement process lacked probity, competitive rigor and integrity. Serco was always the preferred tenderer. Serco's bid to run non-clinical services at Fiona Stanley Hospital was not adequately risk assessed.
- The decision to award the contract to Serco was influenced by Serco's political influence and lobbying activities.

2.1 Serco's record of failure in health and hospital services

Serco's record of persistent and repeated failure in the delivery of health and hospital services in the UK raises questions about its capacity to deliver services.

¹⁶ ABC News (2011) 'Value for money' reason for Serco winning contract, ABC News, October 25, 2011 <http://www.abc.net.au/news/2011-10-25/serco-contract-for-hospital>

¹⁷ This includes Serco and Health Department staff.

¹⁸ Serco Watch (2011) *Submission to the Public Accounts Committee Inquiry into decision to award Serco Australia the contract for the provision of non-clinical services at Fiona Stanley Hospital*, October 2011.

Margaret Hodge, the Chair of the UK Parliament Public Accounts Committee has conducted inquiries into the delivery of health and hospital services by corporations in the British health system has said:

*'Serco has proved it is good at bidding but not at delivery... Serco has been desperate to build a presence in the healthcare market by undercutting (bids on) contracts at a cost to the taxpayer and a loss of service.... It's pointless being good and getting contracts and then hopeless at delivering the systems.'*¹⁹

In relation to Serco, multiple UK Parliamentary Inquiries found sub-standard service, overcharging, failure to provide an acceptable quality of service, manipulation and falsification of data, harm and death of patients, persistent contractual failures, bullying and intimidation of staff and cover up of failure and poor performance.

Speaking about Serco Margaret Hodge said:

"This is not just about ripping off the taxpayer but about a failure to provide acceptable quality in a service that is vital for diagnosing what in many cases are serious or even life threatening illnesses.'.....

'It is also not the first time that serious concerns have been raised about Serco and its track record, including in other parts of the NHS where last year our Committee reported on sub-standard service and data manipulation in a contract to provide GP out- of- hour services'

In 2014, recognizing its inability to provide clinical health services, Serco withdrew from the UK market as a result of multi-million losses on National Health Services contracts.

The withdrawal was a response to a series of high profile scandals and followed an internal review which found that the cost of delivering improved service levels and meeting performance requirements of contracts was eroding Serco's profits.

Contractual failures that triggered Serco's withdrawal included:

- In Suffolk, Serco withdrew from its contract to deliver community health services²⁰ for 60,000 patients, citing an inability to make adequate profit. However, Serco was failing on response times and faced official contract queries over concerns about its service and failure to meet performance targets. UNISON alleged that £40 million of public money was lost through Serco underbidding the contract by £16 m and £25 million through public funds being lost.²¹
- The UK National Audit Office and Parliamentary Public Accounts Committee found that Serco provided under-staffed and sub-standard GP out-of-hours services in Cornwall and then deliberately falsified performance data on 252 occasions to present a rosier

¹⁹ Centre for Health and Public Interest (2015) *The contracting NHS- can the NHS handle the outsourcing of clinical services*, CHPI, March 2015; Lawrence, F (2013) Who will hold NHS contractors like Serco to account? *The Guardian*, 24 April 2013. <http://www.theguardian.com/2013/apr/23/who-will-hold-nhs-contractors>; Lawrence, F (2013) Serco's GP out-of-hours service in Cornwall 'substandard' say MPs, *The Guardian*, 11 July 2013

²⁰ This included community nursing, specialist nursing, management and operation of community hospitals, speech and language therapy, specialist children's services and community equipment services.

²¹ Bunn, M (2015) Union complaint over 'disastrous' awarding of community health contract, *Ipswich Star*, Wednesday April 2015 http://ipswichstar.co.uk/news/union_complaint-over-disastrous-awarding-of-contract

picture of serious underperformance.²² The Chair of the Public Accounts Committee described a culture of 'lying and cheating' and identified glaring inadequacies in management of the contract.

- In 2014 Serco withdrew from a contract to run clinical and non-clinical services at Braintree Community Hospital in Essex three months early, claiming that not enough patients were using the hospital and the level of patient referrals made it unprofitable.²³
- Serco's takeover of one of the UK's biggest pathology laboratories via a public private partnership (PPP) led to a series of clinical incidents and financial failures that forced London hospitals to lend the company the money. Leaked documents showed that over 400 clinical incidents occurred in a 12 month period, including losing and mislabeling samples, test results wrongly calculated, patients receiving inappropriate blood, exceeding turnaround times for tests and computer failure that shut down blood group analysers.²⁴
- Leaked internal documents suggest that the company established by Serco was alleged to have overcharged UK hospitals millions of pounds for pathology and diagnostic tests.²⁵ The company trading as Viapath was a joint venture between Serco and Guys and St Thomas Hospitals. Allegations of overcharging were a continuation of problems for Serco's consortium which was dogged by claims of cost-cutting and clinical failings. In internal e-mails clinicians claimed that Serco had 'an inherent inability to understand that you cannot cut corners and post savings above quality'. A 2013 internal audit found that invoicing and billing systems were unreliable resulting in overbilling of £283,561 over a 3 month period. Auditors found invoices double counted tests charged to hospitals with both samples and patients included in bills.

2.2 Serco's history of failure at Fiona Stanley Hospital

Serco has a persistent history of failure and breaches on this contract, prior to, and since the hospital's opening.

Before the hospital opened

Claimed benefits have proved illusory

When announcing the State Government decision to award the contract to Serco, Minister Hames claimed that Serco's innovative new approaches would lead to improvements in health services:

22. Lawrence, F (2013) Serco's out-of-hours service in Cornwall sub-standard say MP's, *The Guardian*, 11 July 2013 <http://www.theguardian.com/society/2013/jul/11/serco-gp-out-of-hours-substandard>

23 BBC News (2014) Braintree Community Hospital's future feared as Serco cuts contract, 5 February 2014 <http://www.bbc.com/news/uk-england-essex26049360>

24 Corporate Watch (2012): Ramesh, K (2012) Serco takeover of pathology labs led to clinical and financial failures, *The Guardian*, 30 September 2012 <http://www.guardian.co.uk/society/2012/sep/30/pathology-labs-taken>

25 Whittell R and Duggan E (2014) Service provider established by outsourcing giant Serco overcharged NHS by millions, *The Independent*, 27 August 2014 <http://www.independent.co.uk/news/uk/politics/exclusive-overcharging>

'It is clear that services are likely to be of a higher standard than these delivered across WA Health. This is partly due to Serco's use of new state-of-the-art technology and sophisticated systems that are currently not in use in the public health system in Western Australia'.²⁶

The Managing Director of Serco Australia claimed that Serco would set a benchmark for high quality modern and innovative healthcare and significantly improve the capacity and standard of healthcare services in Western Australia.²⁷

The Director-General of WA Health claimed that Serco was chosen to run non-clinical services because they provided 'value for money'.²⁸ The Department claimed that it would make significant savings by outsourcing non-clinical services to Serco and claimed:

'WA Health will make significant savings by using this model for facilities management and support services. However, financial savings are not the only major benefit. Innovative services and high standards with continuous improvement were also compelling factors'²⁹

The Department claimed that signing the contract three years ahead of the planning of the hospital would enable Serco to meet all its requirements on time, including testing equipment, services, technology and systems and recruiting and training staff.

The Serco CEO described the Fiona Stanley Hospital as an 'extraordinarily significant win' that was beyond the scope and scale of any previous contract. The contract was viewed by Serco as providing leverage for growth into new markets, including health.³⁰

The procurement process lacked probity and integrity

A Parliamentary Inquiry by the WA Public Accounts Committee found that the procurement process lacked probity, competitive rigor and integrity, was mismanaged by WA Health and breached Government policies and processes.³¹

Evidence presented to the Public Accounts Committee suggested that the original public sector comparator lacked rigor, credibility, effectiveness and transparency and was structured to achieve a desired outcome of contracting out non-clinical services to Serco. It failed to seriously assess the real comparative costs of corporate provision of non clinical services vis-a-vis public provision of those services.³²

Serco was the preferred and favored contractor and the procurement process was designed to deliver that outcome. A series of decisions taken by the WA Health Department limited the competitiveness of the procurement process and benefited Serco.

²⁶ Media Statements by the Minister for Health quoted in Fuhrmann, K (2010) Serco preferred Fiona Stanley contractor, *WA Business News*, 19 October 2010 <http://wabusinessnews.com.au/en-story/1/84338/Serco-preferred>

²⁷ Fuhrmann, K (2010) *ibid*.

²⁸ ABC News (2011) 'Value for money' reason for Serco winning contract, *ABC News*, October 25, 2011 <http://www.abc.net.au/news/2011-10-25/serco-contract-for-hospital>

²⁹ WA Department of Health (2012) *Fiona Hospital: Summary of Facilities Management Support Services Contract*.

³⁰ Serco News (2010) *What's New: Serco is Fiona Stanley Hospital's Preferred Bidder*.

³¹ Public Accounts Committee (2012) *Building Foundations for Value: An analysis of processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital*, Report No 16, Legislative Assembly, Parliament of Western Australia.

³² Public Accounts Committee (2012) *ibid*.

The contract with Serco was not scrutinized adequately

The WA Government and WA Health Department were in such a rush to award the contract to Serco that proper assessment and scrutiny of the contract was lacking.

The contract was designed and written in a way that benefited Serco's commercial interests. For example, if buildings and infrastructure at FSH were not ready for opening by the designated date Serco would be compensated. This is despite Serco being responsible for many functions.

In essence, the contract guaranteed Serco additional payment regardless of failure.

Key timeframes and milestones established for the hospital's commissioning and operations were unrealistic and benefited Serco financially.

Treasury warnings about risks, such as delays to the opening of the hospital, were ignored. In February 2014, the former WA Under-Treasurer told a Parliamentary Committee that Treasury had highlighted risks for several years but no action was taken. The Under Treasurer revealed that Treasury was given just two weeks to scrutinize the \$4.3 billion dollar Serco contract before it went to Cabinet for approval.

Treasury would normally take up to 12 months to review contracts of this size and complexity.³³

In April 2015, the Australian Medical Association raised concern about the lack of scrutiny of Serco's capacity to provide non-clinical services, particularly sterilization services and suggested that a lack of scrutiny was applied to private contractors delivering clinical services.

An AMA spokesman said:

*'How is it that a non-clinical provider was asked to provide clinical services? Are there other aspects of the contract they are just not capable of providing?'*³⁴

A veil of secrecy

For over 5 years, a veil of secrecy surrounded many decisions about the commissioning of Serco, the detail of the contract, the monitoring of the contract and Serco's performance.

Procurement processes served Serco's interests and Serco exercised considerable influence over the terms and conditions of its own contract

Procurement decisions by WA Health, such as the bundling of so many services into a single service specification benefited Serco's commercial interests. WA Health's failure to design accurate and detailed service specifications strengthened Serco's negotiating position.

³³ Parker, G (2014) Treasury kept in dark over hospital, *The West Australian*, 14 February 2014: See Transcript of Evidence by Under Treasurer Tim Marney to the Education and Health Standing Committee *Inquiry into the Department of Health's Response to the Challenges Associated with the Commissioning of Fiona Stanley Hospital*, 13 February 2014.

³⁴ Australian Medical Association, (2015) Cancelling Serco contract would be positive move, Media Release, AMA: Perpitch, N (2015) Parliamentary Inquiry to focus on risks posed by Fiona Stanley Hospital's practices, *ABC News*, 21 April 2015. <http://www.abc.net.au/news/2015-04-21/>

Serco had the upper hand in contract negotiations and was able to exercise influence over WA Health in the contracting and procurement process. Two separate Parliamentary Committee Reports found that Serco was instrumental in setting the rules for engaging and defining the terms and conditions of the contract.

Serco was responsible for handling all procurement matters for the hospital on behalf of the WA Government. WA Health also gave Serco the responsibility to procure goods not part of the Fiona Stanley Hospital contract.

Serco planned to use prisoners at the hospital

The Minister for Corrective Services and Minister for Health supported a plan by Serco to use prisoners and young offenders to provide services at Fiona Stanley Hospital.

Media reports alleged that the detail allowing Serco to use prison labor at Fiona Stanley was included in the contract Serco signed with the WA government to run Wandoo Young Adult Prison. Serco denied that it planned to use prisoners at the hospital.³⁵

In response to public outrage about the proposal, the Premier and Minister for Corrective Services ruled out Serco's plans.

Serco was paid penalty payments

The WA Government paid Serco an extra \$118 million³⁶ to run the hospital, despite there being no patients, after Serco demanded penalty payments³⁷ as compensation for delays in the commencement of the hospital.

Fifty three (\$53) million was a compensation payment provided by the WA Government because of delays in the planned opening. This was despite Serco having responsibility for some functions that were the cause of the delays. Serco was paid \$66.1 million to run the hospital during the delay and phase in period.

Serco was stripped of responsibility for key functions and services before the hospital opened

Before the hospital opened Serco was stripped of responsibility for a number of functions and services included in the original contract, including responsibility for data management, health records management and patient administration systems.³⁸

Serco and the Department failed to deliver a paperless hospital despite this being one of the reasons Serco was awarded the contract

In announcing Serco's original appointment as the contractor, the Minister for Health and WA Health (and Serco executives) emphasized Serco's 'innovative use of technology and sophisticated systems' as among reasons for awarding them the contract. The Minister and

³⁵ WA Today (2012) Minister back flip over prison worker gaffe, *WA Today*, March 27 2012

³⁶ Emerson, D (2013) \$118 million to operate an empty hospital, *The West Australian*,

³⁶ WA Today (2012) Minister back flip over prison worker gaffe, *WA Today*, March 27 2012

December 23, 2013 <http://au.news.yahoo.com/thewest/a20451248/118m-to-operate-empty-hospital>

³⁷ The- then Treasurer Troy Buswell disputed these were penalty payments, describing them as 'cost mitigation discussions'.

³⁸ See statement by the Minister for Health, 13 April 2014 and question by The Hon. Amber Jade Sanderson in the Legislative Council, Fiona Stanley Hospital-Serco Contract, Tuesday May 6 2014 p2584b-2584b

WA Health Department claimed this would contribute to savings and innovation, lead to higher quality care, improve health services and benefit patients.

Serco, WA Health and the Minister for Health regularly claimed that Fiona Stanley would be a paperless hospital. Indeed, the Minister used the claim to explain why Serco was chosen as the preferred provider.

Plans to make the hospital a paperless environment were abandoned.³⁹ However, Serco and WA Health continued to work on systems development to make Fiona Stanley Hospital a 'paperless' environment after the vision had been abandoned. The Minister continued to talk about a 'virtually paperless hospital'.⁴⁰

WA Health and Serco failed to plan the workforce and meet employment targets

Serco was contracted by South Metropolitan Health Services to provide a Human Resource Managed System to recruit clinical staff for Fiona Stanley Hospital. Serco employed specialist workforce advisors to recruit Health Department clinical staff.

However, employment targets for clinical staff were not met. Serco and WA Health were criticized by the AMA, RANF and Unions about the lack of workforce planning and recruitment of nurses, doctors, radiographers, physiotherapist, occupational therapists and other allied health professionals.

Failure to meet employment targets and plan for the workforce contributed to the delayed opening of the hospital and led to budget blowouts and cost overruns. WA Health had to transfer staff from other hospitals, thereby placing additional pressure on the public system.⁴¹

These failures in planning, governance and management went unreported and unaddressed. A WA Parliamentary Inquiry found that:

'...those with ultimate responsibility for the project were kept in the dark'

Expiry of equipment warranties

Despite Serco being responsible for maintenance of hospital equipment, the warranties on key equipment were allowed to expire.⁴² WA Health was forced to extend the warranties and make arrangements with suppliers. When asked about any additional financial costs resulting from Serco's failures the Chief Executive of FSH Commissioning was vague with his claim:

'It didn't cost any additional money that has not already been flagged'.⁴³

³⁹ ABC News (2013) WA Government has abandoned plans to make Fiona Stanley a paperless hospital, 27 November 2013. <http://www.abc.au/news/2013-11-27/fiona-stanley-no-longer-paperless>

⁴⁰ Answer to Parliamentary Questions from the Hon. R Cook to the Minister for Health, Hansard WA Legislative Assembly, Tuesday June 11 2013, p 1200c-1201a

⁴¹ Vickery, K (2013) Critical condition: Fiona Stanley Hospital set to be short of staff even under best case scenario, *Perth Now*, <http://www.perthnow.com.au/news/western-australia/critical-condition>; Lampathakis, P (2012) No Doctors at Hospital, *Sunday Times*, 30 December 2012; O'Leary, C (2011) Staff concerns grow for new hospital, *The West Australian*, October 12, 2011.

⁴² O'Leary, C (2014) Warranties run out at new hospital, *The West Australian*, December 7, 2014. <http://news.yahoo.com/thewest/a/25707518/warranties-run-out-at-new-hospital>

⁴³ Interview with David Russell-Weisz, CEO Fiona Stanley Hospital Commissioning in Vickery, K (2014) Fiona Stanley Hospital will have benefits but has come at a huge cost, *The West Australian* July 12 2014. <http://perthnow.com.au/news/western-australia/Fiona-stanley-hospital-will-have-benefits>

Failure to develop ICT systems

The ICT contract with Serco was always 'high risk' and benefited Serco who were able to charge for additional services (without a cap) to deliver required services. Unsurprisingly, costs for the development of ICT systems blew out by \$191 million and the hospital's opening was delayed as a result of failures by WA Health, Serco and its main subcontractors (British Telecom Australasia and Siemens).

This figure does not include the total cost of negotiations with Serco for additional managed equipment services outside the scope of the original contract⁴⁴ which have not been made public.

Serco disputed that hospital delays resulted in financial gains for the company, claiming they lost money because of the delayed opening.⁴⁵

Redirection of funds from the public health system to fund budget blowouts and reward Serco

Moneys allocated within WA Health to improve the public health system and build beds and improve assets and services at Osborne Park Hospital, Joondalup Hospital and Princess Margaret Hospital and provide more mental health beds to take pressure off Graylands Hospital were diverted to fund cost blowouts at Fiona Stanley Hospital.

Funds allocated to ICT projects within WA Health were also diverted to pay for cost blowouts on the development and installation of ICT at Fiona Stanley Hospital.

Since the hospital opened

Since opening, the hospital has been plagued with multiple and serious problems in areas in which Serco has responsibility.

As a result, there have been significant additional financial costs to the public purse, major reputational damage to Fiona Stanley Hospital and the WA Health Department. Lives have been put at risk.

The severity of concerns about Serco's performance and management of its contractual responsibilities forced WA Health to step in and take serious action.

Sterilization breaches

The hospital was plagued by sterilization breaches by Serco, including contamination of surgical equipment by blood and bone fragments on medical instruments, forcing operations to be delayed and putting patient's health at risk.

Serco received 3 contract breach notices. The first breach notice was issued in December 2014 and a second notice in February 2015. Following the second breach, Health Department staff were assigned to oversee all sterilization procedures, at a cost to Serco of an estimated

⁴⁴ Parker, G (2014) Treasury kept in dark over hospital, *The West Australian*, 14 February 2014.

⁴⁵ Perth Now (2014) More than 220 workers at empty Fiona Stanley Hospital <http://www.perthnow.com.au/news/western-australia/more-than-200-workers-at-empty-hospital>

\$60,000. A third breach notice was issued in April 2015 and Serco was required to show how it had made improvements and why it should retain the sterilization contract.⁴⁶

On April 20th 2015, Minister Hames stripped Serco of responsibility for sterilization after multiple and catastrophic failures. The Minister conceded it was a mistake to award Serco the sterilization contract.⁴⁷

The WA Branch of the Australian Medical Association criticised the decision to award the sterilization contract to Serco, noting that Serco had no background, expertise or experience in that area. The President of the AMA noted that:

'Sterilisation is a core clinical service and privatizing it has been a monumental policy failure that puts patients' health and lives at risk. Serco clearly did not have the ability to provide this service and questions need to be asked about why the decision was made'.⁴⁸

Delays in providing surgical equipment to theatres on time and missing surgical equipment in theatres

Serco failed to return sterilized equipment to operating theatres and the emergency department on time and within guidelines and provided incomplete surgical equipment kits. Some alleged incidents were⁴⁹:

- Heart surgery patient kept under anesthetic because equipment was missing.
- Patient with a broken jaw was kept under anesthetic because staff were provided with the wrong equipment.
- Kit to fix a patient's broken leg was missing a screwdriver.
- Improvised equipment had to be used during surgery.
- Patients kept under anesthetic for extended time while nurses searched for clean equipment.

Lack of mobile phone coverage and communications and ICT problems

A lack of mobile phone coverage in parts of the hospital and breakdowns in communication placed patients at risk. Doctors were unable to receive calls about seriously ill patients and forced to carry cordless landlines in the hospital.⁵⁰

Problems were compounded by the sub-contractor model and failures of coordination and information sharing between Serco, Optus and other telco providers.^{51 52}

⁴⁶ The Guardian (2015) Nurses threaten strike at Fiona Stanley Hospital over unsterilized equipment, *The Guardian*, 7 April 2015.

⁴⁷ Wearne, P (2015) Serco loses sterilisation duties, *The West Australian*, April 21, 2015.

⁴⁸ O'Leary, C (2015) Serco tipped to lose contract, *The West Australian, Weekend West*, April 18-19, 2015.

⁴⁹ The Guardian (2015) op.cit.

⁵⁰ O'Leary, C (2015) Fiona Stanley Hospital a mobile dead spot, *The West Australian*, February 25 2015 <https://au.news.yahoo.com/thewest/a/26424058/fiona-stanley-hospital-a-mobile-deadspot>

⁵¹ O'Leary, C (2015) Hospital to offer phones that work, *The West Australian*, 26 February 2015

⁵² Perth Now (2015) Telecommunication companies blamed for phone black spot at FSH, *Perth Now*, <http://www.perthnow.com.au/news/western-australia/telecommunication-companies-blamed-for-phone-black-spot>

Optus was awarded the contract for the hospital's telephone services; however clinical staff using other providers struggled to get signals inside the hospital.

Clinical staff were provided with Optus phones or wireless baton phones and antennas were provided at the hospital while the problem was resolved, which was expected to be completed by May 2015, six months after the hospital's opening.

Why this problem was not resolved earlier, particularly as Serco had 230 staff working at the hospital for months prior to its opening, raises questions about Serco performance of responsibilities as lead contractor and service integrator.

The Nurses Federation, AMA and Shadow Health Minister expressed concern that problems were putting patients' health at risk. The State Secretary of the ANF said:

*'It is dangerous that there is a breakdown of communication between medicos and patients or other staff at the State Government's new flagship hospital.'*⁵³

Other ICT problems included ICT outages which crippled wireless devices, mobile duress alarms and pagers, forcing staff to use 2 way radios and prevented patients from ordering meals via the online system.⁵⁴

Poor management and unsafe work environment and conditions

Nurses threatened to strike claiming that the Serco-run hospital is an unsafe work environment.

Serco Watch has been contacted by hospital employees (and patients) expressing concern about Serco's management and the environment and conditions at the hospital.

An employee told Serco Watch:

'I can tell you that 90% of the people employed here by Serco are unhappy... Even supervisors are unhappy with how things are going and are biding their time until WA Health takeover, apparently this is inevitable. They have lost a lot of staff in the past few weeks due to their lack of management skills. Supervisors who are good are talked to and treated like shit. Long term friendships between some supervisors & managers, those supervisors are basically not held accountable for what they do and are just arseholes. Pays are constantly stuffed up and lots of problems with getting paid correctly & according to the EBA.'

Serco employees spoke about staff frustration with the quality of managers and supervisors.

Understaffing of porter services and cleaning and waste collection

Understaffing by Serco caused major delays in the transfer and transport of patients within the hospital, resulting in delays getting patients to operating theatres and doctors and nurses having to collect patients themselves for appointments.⁵⁵

⁵³ O'Leary, C (2015) Fiona Stanley Hospital a mobile dead spot, *The West Australian*, February 25 2015 <https://au.news.yahoo.com/thewest/a/26424058/fiona-stanley-hospital-a-mobile-deadspot>

⁵⁴ O'Leary, C (2015) Health Chiefs failed to foresee patient demand, *The West Australian*, 28-29 March 2015

In response to widespread complaints about the time taken to move patients in the hospital, Serco was forced to employ 57 more porters and orderlies and a special Board was set up to monitor risks to patient safety.

Hospital employees contacted Serco Watch to raise concerns about Serco's understaffing in cleaning:

'Serco are largely understaffed and is going to cause burnout or injuries to cleaning staff as they put huge amounts of pressure on them'

Establishment of a Project Board in response Serco's unsatisfactory level of service

A Project Board was established by WA Health to identify key risks to patient safety and efficient service delivery as a result of Serco's failures.⁵⁶ The Executive Director of the hospital noted:

'The Board and Serco will be continuing to identify issues and track and monitor progress in effectiveness until a satisfactory level of service is achieved on a consistent basis'

Concerns about parking

Serco is responsible for parking and traffic management at Fiona Stanley Hospital. A host of problems have arisen and parking is described as chaotic by staff and patients.⁵⁷

On the 23 April 2015, a petition signed by two hundred and thirty seven people was presented to the WA Parliament asking for parking problems to be addressed. The signatories claimed there was an inadequate amount of safe, secure and affordable parking at the hospital.⁵⁸ The signatories wrote:

"We believe the lack of allocated parking spaces available for afternoon staff gives cause for serious personal safety issues for staff, patients and visitors. Walking in the dark alone and far from the hospital late at night greatly increases the risk of attack. The current situation amounts to a dereliction of duty on the part of the State Government, as the provider of public hospitals'

Problems include:

- High cost of parking
- Lack of staff parking. Some staff are forced to park in visitor car parks where they are charged more.⁵⁹
- Patients unable to find parking.⁶⁰

⁵⁵ O'Leary, C (2015) New Serco failure at Fiona Stanley Hospital, *The West Australian*, March 10, 2015: Fremantle Herald (2015) Fiona Stanley too full for new mums April 10 2015 <http://heraldonlinejournal.com/2015/04/10/fiona-stanley-too-full-for-new-mums>

⁵⁶ O'Leary, C (2015) New Serco failure at Fiona Stanley Hospital, *The West Australian*, Tuesday March 10, 2015.

⁵⁷ O'Leary, C (2015) Cancer Patients face big delays, *The West Australian*, March 27 2015 <https://au.news.yahoo.com/thewest/a/26830651/cancer-patients-face-big-delays>

⁵⁸ Petition presented to the WA Legislative Assembly, Fiona Stanley Hospital-Parking Facilities, Thursday April 23 2015. *Hansard p2826c-2826c*

⁵⁹ Strutt, J (2015) Fiona Stanley Hospital opening 'challenging', WA Health Minister Kim Hames conceded, *ABC News* 30 March 2015 <http://www.abc.net.au/news/2015-03-30/hames-concedes-fiona-stanely-hospital-problems>

- Large distance between parking and the hospital
- Safety risks for staff who work night shifts because of the distance of staff parking from the hospital.

Staff and patients express concern about the high cost of parking. The WA Health Department doubled the cost of parking at FSH from what was originally planned,⁶¹ claiming this was to bring parking fees in line with fees at the adjacent St John of God Hospital.⁶²

Patients and staff who contacted Serco Watch allege that high parking fees is a way for Serco to make money from patients and staff. We encourage the Committee to investigate this matter.

People with disabilities also express concern about Serco charging for use of ACROD parking bays, a practice they claim does not occur at other public hospitals. In a letter read in Parliament, a patient wrote:

*'I recently needed to go to the Rehab Unit of Fiona Stanley Hospital to have my wheelchair checked and adjusted. It is outrageous that pwds using ACROD parking bays there have to pay an hourly rate when it was free at RPH campuses. Is this Serco making a profit out of people's disabilities?'*⁶³

Problems with food production, ordering and supply

Problems emerged with Serco's food preparation and ordering system.

A patient suffered a potentially life-threatening anaphylactic reaction after eating a meal containing mushrooms, despite telling staff he was severely allergic to them. The patient claimed he had to use his own EpiPen because a trolley containing life saving equipment was not readily available. The Acting Director General of WA Health disputed some of the patient's claims.⁶⁴

An 82 year old woman claimed she was left to starve at the hospital after clinical staff denied her food.⁶⁵ Although this was explained as a clinical decision by WA Health staff, the problem appears to have been compounded by communication failures between clinical staff and Serco's automated food ordering system, resulting in the patient receiving the wrong food.

Patients, family members of patients and hospital staff alerted Serco Watch to concerns about Serco's automated meal ordering system including:

- Some older people not being able to order meals using the automated system.

⁶⁰ This issue was raised by patients who contacted Serco Watch, as well as patients who contacted radio stations about problems at FSH.

⁶¹ Kagi, J (2015) Doubling Fiona Stanley Hospital parking rates a burden on the sick: Opposition, *ABC News*, October 16 2014 <http://www.abc.net.au/news/2014-10-16/parking-fees-double-at-fiona-stanley-hospital>

⁶² See answers to Parliamentary Questions by Minister Hames on Fiona Stanley Hospital Parking Fees, Thursday 16 October 2014 in Legislative Assembly Hansard p74487d-7488a, p7488b-7488b and Wednesday 15 October 2014 p 7258c-7258c

⁶³ Question in Parliament by the Hon. Stephen Dawson, Wednesday 25 February, 2015.

⁶⁴ Perpetch, N and Strutt, J (2015) Fiona Stanley Hospital patient 'had to use his own EpiPen after reaction to food'; Health Minister rejects 'bungle' *ABC News*, 15 April 2015 <http://www.abc.net.au/news/2015-04-15/fsh-patient-used-own-epipen/6395348>

⁶⁵ Foster, B (2015) 82 year old says she was 'left to starve to death' at Fiona Stanley Hospital, *WA Today*, April 12.

- Some people being unable to order meals due to internet and system crashes.

A staff member contacted Serco Watch about problems with the meal ordering system:

'I had a post op patient miss out on the evening meal because fasting was still on their name BUT they had returned around 1pm. The things is we don't have the time to continually monitor patient's meals etc'

Hospital staff raised concerns about the entertainment system. A staff member told Serco Watch:

'.. we have issues with the entertainment systems run by Serco at FSH... you can't watch free to air TV if you don't pay it. So we have patients bored out of their brains because they can't afford the \$7 or because they can't get down to pay it... They are charging \$7 a day yet the only way we are aware that patients can add \$ to it is to go down to the 1 kiosk downstairs. We were told yesterday that if \$ wanted to be added after hours nurses had to go and add it if the relatives weren't around.'

Coordination problems between Serco and the Department of Health

The Minister and Acting Director-General of WA Health acknowledged coordination problems between Serco and the Department were affecting the delivery of medical supplies to wards.⁶⁶

Staff who contact Serco Watch express concern over problems resulting from confusion about the respective responsibilities of Serco and Health Department staff.

Problems with the removal of medical waste and rubbish

Serco Watch received information from hospital staff alleging poor hygiene standards resulting from Serco's failure to remove medical waste and rubbish in parts of the hospital.

They identified bins overflowing with rubbish, dirty linen and medical waste left uncollected, a lack of bins, rubbish and waste not being cleared in a timely manner and building up, and other staff having to remove rubbish and waste that was building up and blocking movement in particular areas. A staff member said:

'There was so much rubbish in a bin room that it was nearly impossible to fit anymore in and it was smelly... it's not safe for patients to be in a filthy environment like that.'

'dirty lined trolleys are being left in a bin room... there are not enough bins, the waste department rarely have even 3 spare bins for us so this is why bins are overflowing as well.'

'... there is a shortage of bins as nobody can ever get clean bins when needed.'

Lack of specialized equipment and failure to ensure equipment is fit for purpose

Serco is responsible for procuring all supplies and equipment, including the managed equipment service, which includes procurement, installation and maintenance of all medical equipment. Serco sub-contracts the delivery and maintenance of specialist medical equipment to Siemens

⁶⁶ Perpitch, N (2015) Health chief concerned about delivery of medical supplies to FSH, ABC News, Thursday 15 <http://www.abc.net.au/news/2015-04-16/fiona-stanley-hospital-mdeical-supplies-delivery>

The contract between Serco and the Health Department requires Serco to ensure all equipment is fit for purpose, available for use and functional for use.⁶⁷

Problems have arisen at the hospital with the lack of specialized equipment and the failure to ensure that equipment is 'fit for purpose' and 'functional for use', as required in the contract.

Patients have been sent to other hospitals for procedures due to the lack of equipment. Some key equipment was not installed and a specially built room cannot be used because of flaws in the design and configuration of the equipment.⁶⁸

Concerns about cancer services

The Government and WA Health used the commissioning of FSH and the privatisation of non-clinical services to Serco as an opportunity to transform the availability and accessibility of cancer treatment services provided in the metropolitan area.

This includes expanding the corporate provision of cancer services by Genesis Care⁶⁹ at FSH⁷⁰ and transferring radiation oncology and chemotherapy services and patients from Royal Perth Hospital and Fremantle Hospital to FSH.

Genesis Care's role at FSH is the result of a \$200 million contract with the WA Government to provide cancer treatment services and radiotherapy services at Royal Perth Hospital and Fiona Stanley Hospital and establish a \$15.2 million cancer centre in Bunbury.

Early in 2015, senior clinicians at FSH, including the Hospital's Head of Oncology, raised concerns about the safety of cancer services at FSH and warned that major delays in the treatment of patients could lead to a major tragedy.⁷¹

Concerns include overworked staff and long delays in patients getting treatment. The hospital acknowledged that the move of chemotherapy services from Royal Perth Hospital and Fremantle Hospital was causing a surge in demand at FSH.

A leaked e-mail from the FSH Head of Oncology noted that delays are causing serious problems for patients, some of whom were admitted to hospital with serious complications. He wrote:

*'A major tragedy will occur if this scenario is allowed to persist. I repeat there will be, if we continue as we are, major additional patient tragedies'*⁷²

⁶⁷ Department of Health (2011) Fiona Stanley Hospital: Summary of Facilities Management Services Contract, Government of WA www.fionastanely.health.wa.gov.au

⁶⁸ Perpetch, N (2015) Fiona Stanley Hospital sends patients elsewhere due to lack of specialized equipment, ABC News, 26 February 2015 <http://www.abc.net.au/news/2015-02-26/patients-sent-elsewhere-as-hospital-lacks-specialist-equipment>

⁶⁹ Genesis Care is a Sydney based corporation and is Australia's largest corporate provider of radiation oncology treatments. Since arriving in WA in 2007, Genesis Care is now the leading provider of cancer treatment and radiotherapy services as a result of contracts with the WA Government. Genesis Care's contracts to run the WA Government's radiotherapy services, enables it to treat public hospital patients and provide cancer treatment in some public hospitals.

⁷⁰ <http://www.parliament.wa.gov.au/parliament/pquest.nsf/969994fcf861850d4825718d002fe7fb/1a0879929194423248257d9a00181a27?OpenDocument>

⁷¹ O'Leary, C (2015) Cancer patients face big delays, *The West Australian*, March 27, 2015; O'Leary, C (2015) tragedy in making at FSH: top doctor, *The West Australian*.

⁷² O'Leary, C (2015) Tragedy in making at FSH: top doctor, *The West Australian*.

The Head on Oncology said that services were funded for 670 patients, but were on target to handle 1200 and the chemotherapy clinic was set up to provide 50 treatments per day but was regularly doing 70-80.⁷³

WA Health acknowledged that the number of cancer patients at FSH was far greater than anticipated and patients were being referred to Sir Charles Gardiner Hospital.⁷⁴

Delays in delivery and availability of medical supplies to wards, such as IV drips and medical supplies

The Director-General of WA Health expressed concern about delays in Serco's delivery of supplies within the hospital, including IV drips and other medical supplies and problems with the number, timing and the coordination of supplies, which meant that supplies were not getting from docks to the wards on time.⁷⁵

The Minister and Director General acknowledged the problems were the result of coordination failures between Serco and the Department of Health.⁷⁶

The Minister said that Serco and the Department were confused about their responsibilities as they were each doing different parts of the medical supplies contract:

'So they have responsibilities for part, we have responsibilities for part. And there's been trouble with integrating the two things'.

A staff member who contacted Serco Watch claimed delays were partly the result of Serco's actions and failure to consult adequately with clinical staff:

'Apparently Serco idiots ordered stuff doctors and nurses won't use as it is not their preferred brand of item so Serco have had to move 17 semi-trailers of stuff from the loading dock at FSH to a central warehouse' (private communication)

Problems with the call centre

Hospital staff contacted Serco Watch claiming problems with the Call Centre including:

- Understaffing
- Not enough computers
- Roster problems
- Tensions between managers, supervisors and staff
- Calls not being answered or not answered in timely manner.

High level of abatements

Just 6 months into the hospital's operations Serco was penalized \$1 million for failing to achieve key performance targets in five service areas including cleaning, information

⁷³ O'Leary, C (2015) Patients face big delays, *The West Australian*

⁷⁴ O'Leary, C (2015) Health chiefs failed to foresee patient demand, *The West Australian*, March 27, 2015.

⁷⁵ Perpetch, N (2015) Health chief concerned about delivery of medical supplies to FSH, *ABC News*, Thursday 15

⁷⁶ Perpetch, N (2015)

technology, logistics, estate service, communications and help desk. The Minister claimed this as evidence that the contract was working as intended.⁷⁷

Serco received more than \$45 million in contract payments since October 2014. Abatements in that period represented around a miniscule proportion of all Serco's payments.

Poor quality services and patient experience

Serco Watch has received complaints from patients and staff about poor quality services and patient experience.

Sample of comments provided to Serco Watch

'Last week I flew from xxxxx caught a taxi to Fiona Stanley Hospital, arrived 30 minutes early at the main reception and asked where the building was for my appointment. I was told by Serco to take a seat and they would contact a Serco orderly to wheelchair me there. Apparently getting an orderly can only be done by computer. I sat there for over 30 minutes and asked the lady nicely what was happening. She was quite rude. I said I'd been waiting over 30 minutes just to be wheelchaired somewhere, and now I was late for my appointment. It would have been quicker to hobble there with crutches. 60 minutes went by and still "nothing". Meanwhile sitting with me at reception for an hour were 2 unpaid "volunteers" who were quite willing to push my wheelchair, but were banned from doing so by Serco. A trained seal can push a wheelchair. Staff at the airports wheel me around without a special licence. Eventually it got so late I found the phone number of the Hospital's customer liaison manager who came down personally, apologised and wheeled me to the other building. I was very late, and lucky to catch the outpatient doctor before that outpatients rehabilitation closed for the day. I ended up being his last patient for the day. Then we had to find an orderly to wheelchair me from that building back to the main hospital reception for a taxi. Once again there was a ridiculously long wait from a building where all the staff had finished for the day. The orderly was pleasant enough when he eventually arrived at the empty rehab building. He said there are nowhere near enough Serco orderlies, and they are 'under the pump' every moment of the day'. (Patient)

'I am a patient. The whole place is tied up in red tape. Serco have cut corners, particularly in regards to orderlies. Phone systems were haywire for a bit. My medical team have complained about them on numerous occasions... I always ask the staff how they feel about FSH and its always incredibly negative answers. Luckily I have not had to be an inpatient yet. I know RPH was dysfunctional and outdated but this is 10 times worse'. (Patient)

'Whenever I visit FSH I feel like throwing myself off the freeway bridge. It's a soul destroying experience and I don't want to spend the rest of my life treated by that hospital. FSH is a mess'. (Patient)

'Serco staff are ones I've made a complaint about. Never come across such inept people in my life who constantly cover up their errors. My clinical treatment has been fine. I believe that

⁷⁷ O'Connor, A (2015) Serco ordered to pay \$1 million in penalties over failure of Fiona Stanley Hospital contracts, ABC News, 10 June 2015 <http://www.abc.net.au/news/2015-06-10/serco-ordered-to-pay-1-millions-in-penalties>

Drs and nurses are working with one hand tied behind their back with lack of support services.'
(Patient)

High number of complaints

The Director General Health reported that 58 complaints had been made about Fiona Stanley Hospital in the months since opening, most relating to concerns about access to and quality of services.⁷⁸

3. Risks

We discuss the following categories of risks:

1. Risks from privatisation and outsourcing of health and hospital services
2. Risks arising from Serco's record
3. Risks to patients
4. Risks to staff and clinical practice
5. Risks arising from the use of sub-contractors
6. Financial risks and the failure to transfer risk
7. Risks for public accountability
8. Reputational risks
9. Risks arising from health system configuration and transformation that results from privatisation and outsourcing of public health services to corporate providers
10. Risks from Serco's political influence.

3.1 Risks arising from privatisation and outsourcing

There are major risks from privatisation and outsourcing of hospital and health services to corporate providers.

3.1.1 Benefits are illusory

Evidence is growing that the claimed benefits of the privatisation and outsourcing of public hospital and health services to corporate and private providers are illusory and driven primarily by ideology and political imperatives.⁷⁹

Governments claim that privatizing and outsourcing public hospital and health services to corporate providers reduces costs and improves the quality and equity of health services.

⁷⁸ Wearne, P (2015) Serco loses sterilisation duties, *The West Australian*, April 21, 2015.

⁷⁹ Hunter, D (2013) *To Market! To Market*, Centre for Health and the Public Interest; Coote, A & Penny, J (2014) *The Wrong Medicine: A Review of the Impacts of NHS Reforms in England*, New Economics Foundation, London 2014.; Pollock, A (2014) NHS Privatisation keeps on failing patients- despite a decade of warnings, *The Guardian*, 16 August 2014, <http://www.theguardian.com/2014/aug/15/nhs-privatisation-failing-patients>; Coote, A (2014) *The Wrong Medicine*, *Open Democracy*, 27 November 2014.

A plethora of recent reports and monographs cast serious doubt on the supposed benefits.⁸⁰ Time and time again, privatisation and outsourcing of services has failed to deliver promises of better and cheaper services.

3.1.2 Deterioration of health services as a result of privatisation

Evidence from the UK shows that excessive and unnecessary privatisation and outsourcing of health services is resulting in health services deteriorating faster than at any other time since the early 1990's, with waiting lists at record highs, staff morale low and services under severe strain.⁸¹

Privatisation and outsourcing of health services to corporate providers is an ideological luxury. It wastes public money, destabilizes health services and the real purpose is to divert public funds to corporations.⁸² Privatisation and outsourcing also fails patients.⁸³

3.1.3 Privatisation and outsourcing of health services costs more and service quality declines

A recent review by the New Economics Foundation of the impact of market reforms, such as privatisation and outsourcing in the UK National Health Service, found no sound evidence to support the claim that the introduction of corporate and sector providers into health and hospital services increases efficiency or quality of care.⁸⁴ The Report concluded that academic studies show that privatisation and market mechanisms in healthcare systems:

'...have largely inconclusive or negative effects on quality and equity in healthcare'.

The New Economics Foundation report found that there is no evidence that corporate and private providers are more responsive to patients. The introduction of corporate providers in health services has dangerously heavy long term financial obligations on the health system with no compensating savings or benefits and private and corporate providers 'cherry pick' more profitable and straightforward cases, take payments for services and treatments not delivered and have an overall damaging impact on public health services.

A review by Jane Lethbridge from the University of Greenwich of over 30 studies considered whether outsourcing of health and hospital services had positive, inconclusive or negative

⁸⁰ Centre for Health and Public Interest (2015) *The contracting NHS- can the NHS handle the outsourcing of clinical services*, CHPI, March 2015; Lethbridge, J (2012) *Empty Promises: The Impact of Outsourcing on the delivery of NHS Services*, An Independent Report commissioned by UNISON, Public Services International Research Unit, University of Greenwich; Lister, J (2013) *Health Policy Reform: Global Health versus Corporate Profit*, Libiri Publishing; Coote, A (2014) *The Wrong Medicine: A Review of the Impacts of NHS Reforms in England*, New Economics Foundation; Whitfield, D (2012) *In Place of Austerity: Reconstructing the Economy, state and public services*, Spokesman Books, Nottingham.

⁸¹ See reports listed in Footnotes 79 and 80.

⁸² Davis, J (2015) Don't believe the false re-assurance about NHS Privatisation, *Open Democracy*, 12 February 2015. <http://opendemocracy.net/ournhs>; Davis, J, Lister, J and Wrighey, D (2015) *NHS for Sale*.

⁸³ See Kings Fund; Pollock, A (2015) BMA backs Principles of NHS reinstatement Bill to save NHS from destruction by market forces, *Open Democracy*

⁸⁴ New Economics Foundation (2014) *The Wrong Medicine: A Review of the Impacts of NHS Reforms in England*.

consequences.⁸⁵ The Lethbridge review found that of the 30 studies scrutinized 18 found negative impacts, 11 were inconclusive and 4 found positive impacts.

The Report concluded:

'Much of the evidence demonstrates either the negative impacts of introducing competition into the provision of health care services or inconclusive results' and that '...overall there is a lack of evidence to show that outsourcing leads to improved quality of patient care'.

There is no evidence that the cost of services has gone down or that efficiency has improved when health services are privatized and outsourced to corporations like Serco. In fact, evidence points the other way. Costs increase and service quality often worsens as a result of cuts to services, understaffing or downgrading of staff.⁸⁶

In Australia, Professor Stephen Duckett⁸⁷ has documented the risks associated with public-private partnerships and outsourcing of hospital services to corporate providers. Duckett writes that there is little evidence that greater corporate sector involvement in hospital management leads to greater efficiencies.

Duckett describes a litany of failure in Australia in public-private partnerships and outsourcing of hospital services to corporations. Duckett shows that the Australian experience is characterized by:

- Failure to adequately transfer risk to the corporate sector
- Failure to develop robust contracts and monitor corporate performance
- Failure to demonstrate clear benefits in terms of quality of care, costs and innovation
- Significant opportunity costs to the public purse.

3.1.4 The failure of outsourcing of public hospitals and facilities management in hospitals

Jane Lethbridge's work in the UK demonstrates that outsourcing of facilities management does not deliver better outcomes to patients.⁸⁸

Privatisation and outsourcing of Hinchingbrooke Hospital

The recent failed privatisation of Hinchingbrooke Hospital in the UK demonstrates the risk of corporations running public hospitals. In 2011, Circle became the first corporation to run a public hospital in the UK. The buildings remained under public ownership. In January 2015 Circle received the worst rating for caring of any hospital in the UK. Its performance was deemed inadequate by the UK Care Quality Commission who recommended the Hospital be placed under special measures because the hospital was not adequate in terms of care and safety and leadership was failing to promote good care in areas of a & e

⁸⁵ Lethbridge, J (2012) *Empty Promises: The Impact of Outsourcing on the delivery of NHS Services*, An Independent Report commissioned by UNISON, Public Services International Research Unit, University of Greenwich.

⁸⁶ Davis, J Lister, J and Wrigley, D (2015) *NHS for Sale*

⁸⁷ Duckett, (2013) Public-Private partnerships are risky business, *The Conversation*, 30 July 2013.

⁸⁸ Lethbridge, J (2012).

medical care. Circle subsequently announced it was withdrawing from the contract just 3 years into a 10 year contract, claiming that the Hospital was no longer financially viable for Circle. The privatisation was an expensive failure, leaving taxpayers responsible to pick up the bill for Circle's failures.

3.1.5 Cleaning

Jane Lethbridge's review of contracting-out of cleaning services in hospitals and health facilities in the UK found that:

- Patient care was affected by reduced teamwork which resulted from changes to the ways that cleaners employed by corporate providers work with other groups in the hospital.
- Contract cleaning specifications for external contractors were not reviewed regularly and failed to keep up with changes in the hospital environment.
- Outsourced cleaning led to problems in staff recruitment and retention due to low wages because of pressure to reduce costs.
- Contract cleaners are not well integrated with infection control teams with the resultant risk of a decline in standards.

Lethbridge writes that contracting out of cleaning has been abandoned by devolved governments in Scotland, Wales and Northern Ireland.

Davis, Lister and Wrigley describe what they call the 'fiasco' of hospital cleaning under privatisation and outsourcing: apparent short term savings at the expense of lower hygiene standards, higher rates of hospital acquired infection, the breakup of established ward teams and the casualisation of the workforce.⁸⁹

Lethbridge notes a similar trend, describing how the pressure to cut costs creates a fractured workplace and results in an increasingly casualised and precarious cleaning workforce. Lethbridge writes⁹⁰:

'Contracting out pushes wages down, creates a high turnover of staff and problems with general recruitment. Other processes that result from outsourcing- particularly the pressure on time and the focus on specific tasks- also leads to a very fragmented way of delivering the cleaning service'

Lethbridge argues that effective hygiene and cleaning requires teamwork and direct communication between infection control teams, nursing staff and cleaners working together in the hospital ward.

When cleaning services are privatized there is less interaction and team work in the ward between clinical and cleaning staff. Lethbridge believes this results in fragmented and lower quality cleaning services and places patients at risk.

⁸⁹ Davis, J Lister, J and Wrigley, D (2015) *NHS for Sale*

⁹⁰ Lethbridge, J (2014) What price hygiene, *Practical Patient Care*, 12 September 2014 <http://www.practical-patient-care.com/features/featurewhat-price-hygiene>

3.2 Risks arising from Serco's poor record and lack of expertise

Major risks arise from Serco's record of misconduct, contractual failures, mismanagement and scandal and its lack of expertise and experience to deliver the services for which it is contracted.

Analysis of Serco's record across jurisdiction and contracts shows a corporation with a systemic history of fraud, scandal, falsification of data, contract gaming and over-billing, misrepresentation, institutional brutality, understaffing, persistent underperformance and failures of duty of care across countries and contracts.

Frances Crook, the Director of the UK Howard League for Penal Reform describes Serco's pattern of behavior as a form of criminality:⁹¹

'The evidence points to practices aimed at maximising profits by cutting corners, paying low wages, stinting on training, employing too few staff, not sharing good practice with public agencies, buying cheap equipment.

The result has been years of poor delivery and incompetence. But more than this. I would argue that providing a poor service on the cheap because the company wants to increase its profits at the expense of the taxpayer and the service user amounts to criminality, whether or not it hits the courts' required threshold.'

3.3 Risks to patients

3.3.1 Understaffing and declining service standards and quality

Problems of understaffing have emerged at Fiona Stanley Hospital. For example, WA Health was forced to take action to force Serco to employ more porters and orderlies.

Hospital staff have contacted Serco Watch to allege understaffing in a range of other areas including rubbish and waste removal, cleaning and the call centre.

Serco has a history of understaffing in contracts in Western Australia, Australia and globally.⁹²

Staff shortages and understaffing are persistent features of Serco's management of contracts. One way Serco makes profit from contracts is through reduced staffing levels, understaffing, extensive use of casual and contract staff and lowered pay levels.

In management of the onshore immigration detention contract for the Australian Government, Serco has consistently understaffed detention centres. A 2012 Senate Committee Report found that inadequate and low staffing levels were recurring patterns in Serco's management

91. Crook, F (2014) How do you solve a problem like Serco and G4S? *Frances Crooks Blog, Howard League for Penal Reform*, June 2014.

92. Serco's understaffing of porter services at Fiona Stanley Hospital has been highlighted earlier. Concerns have also been raised about the impact of understaffing and staffing cut backs at Yongah Hill Immigration Detention Centre in Northam and in Serco's Prisoner Transport and Court Security contract and its contract to run Acacia Prison.

of detention centres.⁹³ The Committee noted that Comcare found that Serco failed to comply with health and safety obligations in relation to staffing ratios.

The Senate Committee expressed concern that Serco's understaffing and low staffing levels placed staff and detainees at greater risk.

There are persistent allegations of understaffing in Serco's WA prisoner transport and court security contract. In 2012 WA media outlets cited internal Serco documents showing that Serco managers consistently raised concerns about the threat to public safety and security posed by Serco's understaffing.⁹⁴ The documents show that:

- Some contracted services were not provided due to a lack of staff.
- Services were sometimes provided with half the number of staff required.
- Managers' request for additional staff were ignored.
- Extra staff were not provided despite requests from managers.

Questions about Serco staffing levels and the adequacy of staff training were raised again after a serious security breach in 2013 at a regional courthouse when a man smuggled 3 knives into the courtroom and slashed his wrists. The seriousness of the security breach prompted the Attorney General to ask the State Solicitors Office to investigate whether Serco had breached its contract.⁹⁵

Understaffing and fraud in Serco's Cornwall contract

From 2006 Serco had a contract to provide out-of-hours GP services for 500,000 residents of Cornwall. In running GP services Serco regularly had insufficient staff to fill shifts and frequently re-deployed GPs and nurses taking them out of home visits to cover clinical shifts. Serco repeatedly took staff away from front line services, resulting in long queues and threatening patient safety. A litany of incidents occurred, which resulted in severe risks to patient health, including deaths.

The service was repeatedly understaffed to be unsafe and consistently failed to meet key legal requirements to provide enough staff and ensure accurate monitoring and reporting.⁹⁶ At one point a single doctor was on duty for the entire county.

Serco staff also passed calls onto the local ambulance service rather than deal with calls themselves. Serco management threatened and bullied staff.

Managers and employers at Serco falsified records and manipulated performance data on 252 occasions over 6 months to make it appear that 100% of emergency patients were getting a face-to-face appointment in an hour.⁹⁷

⁹³ Parliament of Australia (2012) Report of the Senate Committee Joint Select Committee on Australia's Immigration Detention Network. see Chapter 3 The Departments administration of its contract with Serco http://www.aph.gov.au/parliamentary_business/committees/senate

⁹⁴. Roberston, K (2012) How Serco's security service is slipping, *Sunday Times*, October 6 2012 <http://www.perthnow.com.au/news/revealed-how-serco's-security-service-is-slipping>

⁹⁵. Moulton, E (2013) Court Safety Breach, *Perth Now*, October 2013 <http://www.perthnow.com.au/news/western-australia/john-quigley-calls-for-metal-detectors>

⁹⁶ Lawrence, F (2012) Serco gave NHS false data about its GP service 252 times, *The Guardian*, Friday February 21 September 2012.

Repeated staffing shortages and falsification of performance data were ignored by those responsible for monitoring Serco's performance. Neither Serco management nor the contract monitors chose to investigate.

The Government agency responsible for monitoring the contract failed to find repeated staff shortages, underperformance and falsification of data. Serco admitted that managers and staff falsified data when reporting to the National Health Service on performance targets.

After staff whistleblowers exposed Serco's fraud and deceit to a national newspaper⁹⁸, an investigation by the UK National Audit Office found a pattern of persistent and deliberate manipulation and misreporting of performance data by Serco over a 4 year period.

Serco blamed two 'rogue managers' who were sacked with gagging clauses that prevented them from speaking publicly about issues.⁹⁹ Serco's falsification of data, underperformance and understaffing and bullying of staff only came to light because of whistleblowers who claimed the fraud had gone on for years and predated the two managers who were sacked.

The deceit and fiddling of figures was no mere accountancy exercise. It covered up real risk and had human cost, including terminal cancer patients not receiving home visits in time, such as Eve Tonkin, a terminally ill patient with cancer who died after Serco took 6 hours to send an after-hours GP for an emergency home visit. Whistleblowers claimed that Serco had understaffed the GP service that evening.¹⁰⁰

Serco suffered no sanction or penalty once its fraud and failings were exposed. It was not fined for lying and breaching its contract, nor did it lose the contract. In fact Serco received bonus payments and the contract was extended.¹⁰¹

Understaffing by Serco was also a cause of a decline in service quality in 2012 after a new computer based system for answering calls was introduced.¹⁰²

Serco was called before the UK Parliament Public Accounts Committee to explain its actions. Serco disputed that managers had been ordered to falsify data or were receiving financial incentives.¹⁰³

In 2013 the Chairman of the UK Public Accounts Committee branded Serco's behavior as 'lying and cheating' and said that '*Serco had fallen unacceptably short of essential standards of quality and safety*'. Other MPs described Serco's cover-up as 'disgraceful'.¹⁰⁴

⁹⁷ Lawrence, F (2013) Who will hold NHS contractors like Serco to account? *The Guardian*, 24 April 2013. <http://www.theguardian.com/2013/apr/23/who-will-hold-nhs-contractors>

⁹⁸ Staff concerned about the service tried every avenue to highlight problems. They went to managers, unions and professional bodies and those responsible for managing the contract. They then went to local politicians, the regulator and local health authority. When nobody took action they went to the national press.

⁹⁹ Lawrence, F (2013) Horsemeat dinner is served, courtesy of organized crime, *The Guardian*, Thursday December 19, 2013 <http://www.theguardian.com/commentisfree/2013/dec/18/horsemeat-dinner-is-served>

¹⁰⁰ Lawrence, F (2012) Cornwall out-of-hours case study: Eve Tonkin, *The Guardian*, 25 May 2012 <http://www.guardian.co.uk/society/2012/may/25/cornwall-case-study>

¹⁰¹ Lawrence, F (2013) Serco's out-of-hours service in Cornwall 'substandard' say MPs, *The Guardian* 11 July 2013 <http://www.theguardian.com/society/2013/jul/11/serco-gp-out-of-hours-substandard>

¹⁰² Lawrence, F (2013) *ibid*.

¹⁰³ This is Cornwall (2013) Health chiefs and Serco criticised, Thursday April 25 2013 <http://www.thisiscornwall.co.uk/Health-chiefs-Serco-criticised/>

3.3.2 Reliance on lower trained staff and using staff in roles for which they are not qualified

A feature of Serco's management of contracts is a reliance on lower trained and unregulated workers as a way to reduce costs and achieve greater efficiencies. This change in the skill mix of staff is driven by the employment of less qualified staff, reduced rates of pay and employment conditions, shifting more complex services to ancillary workers and limiting training to workers while expecting them to take on more complex tasks.¹⁰⁵

Serco has a history of using staff in roles for which they are not qualified.

In Cornwall Serco replaced skilled clinicians with call handlers without medical training to follow a computer generated script to assess patients.

During unrest on Christmas Island in 2011, Serco instructed administrative staff to put on security uniforms and appear to be custodial personnel. Serco disputed that administrative staff performed the duties of custodial staff.

Serco Watch has received information from staff at FSH alleging that some Serco managers and supervisors have employed family members in roles for which they are not necessarily qualified. No further detail was provided and Serco Watch has been provided with no information to verify those claims.

The use of lower trained staff by Serco is a pattern across jurisdictions and contracts, with serious consequences for clients, as demonstrated by the case study below:

The death of Ethan Corrigan

The death of six year old Ethan Corrigan from a burst appendix after staff at Serco's out-of-hours GP helpline services in Cornwall advised his father to give him an aspirin and put him to bed rather than seek medical attention, highlights the risks of Serco's understaffing and use of lesser qualified and trained staff.¹⁰⁶

After attending the emergency ward of the local hospital because of his son's stomach pains and vomiting over a number of days, Ethan's father was referred by staff to the Serco run medical after-hours helpline because there were no Doctors on duty at the time.

Ethan's father was asked by the Serco telephone advisor via phone to examine his son in the car park at 2am in the morning, after which the staff member advised him to take his son home, give him some medication and a warm bath and make an appointment to see a GP the following day. The staff member advised the father there was nothing to worry about. The next day Ethan collapsed at the GP surgery and died later in hospital.

A Serco spokesperson was quoted as saying:

¹⁰⁴ Centre for Health and Public Interest (2015) *The contracting NHS- can the NHS handle the outsourcing of clinical services*, CHPI, March 2015: Lawrence, F (2013) Who will hold NHS contractors like Serco to account? *The Guardian*, 24 April 2013. <http://www.theguardian.com/2013/apr/23/who-will-hold-nhs-contractors>

¹⁰⁵ Fotaki, M, Ruane, S & Leys, C (2013) *The future of the NHS? Lessons from the market in social care in England*, Centre for Health and the Public Interest CHPI, October 2013.

¹⁰⁶ Cornish Guardian, October 5, 2011, Helpline missed symptoms hours before boy 6 died <http://www.thisiscornwall.co.uk/Helpline-missed-symptoms>

*The death of Ethan Kerrigan was a terrible tragedy..... We feel the nurse should have asked more questions. However, on the information given, we feel the advice she gave was appropriate*¹⁰⁷

The local MP Andrew George raised questions about Serco's standards of clinical care and called for Serco's contract to be taken off them. He claimed that cost cutting was keeping people out of hospital in dangerous circumstances and putting people's lives at risk.¹⁰⁸

Andrew George said:

" we've always been concerned about a private company which has to meet key performance indicators, which has to do with how quickly they answer the phone and whether they get a clinician talking to, at least, if not seeing, patients within certain time periods..."

Andrew George said the system was under pressure to drive down costs and avoid unnecessary and avoidable admissions.

Two months after the inquest into Ethan's death Serco's contract was renewed for another 5 years.

3.3.3 Serco record of ill-treatment of people in its care

In Australia and the UK, Serco has a disturbing record of mistreatment of people in its care, including sexual exploitation and coercion of women; unlawful use of force and violence on detainees, young people and children; racial abuse; lethal use of restraint; a reliance on force and violence and deaths in custody resulting from systemic failures of duty of care.

Serco has allowed policies and practices that cause the death of children and inflict serious harm and damage on vulnerable children and youth. Serco has a record of institutional brutality, negligence and mistreatment and abuse of children and young people that should disqualify it from providing health and community services.¹⁰⁹

The use of unnecessary and unlawful, and sometimes lethal restraint and force is a recurring feature of Serco's work in Australia and the United Kingdom and indicates an organizational culture in which the use of force and violence is viewed as legitimate.

In Australia the number of deaths in Serco-run services and facilities are not officially recorded or known. But where public information is available, it provides an indictment of Serco's systemic failure in its duty of care. The number of deaths puts an unsettling perspective on the company slogan 'Bringing services to life'.

Serco's callousness about deaths and disregard for human life is reflected in comments by a Serco executive who suggested that deaths of asylum seekers in detention are just 'a part of doing business'.¹¹⁰

¹⁰⁷ <http://www.thisiscornwall.co.uk/Helpline-missed-symptoms>

¹⁰⁸ <http://www.bbc.co.uk/news/uk-england-cornwall-15107111>

¹⁰⁹ Serco Watch (2015) *Submission to the WA Standing Committee on Public Administration Inquiry into the Transport of Persons in Custody*.

¹¹⁰ Wilson-Chapman, A (2011) Refugee deaths a part of business: Serco boss defends 'secret' group, *Sunday Times*, October 30, 2011.

3.4 Risks to staff and clinical practice

3.4.1 Staffing problems

Staff and patients at FSH have contacted Serco Watch with allegations of staffing problems, including understaffing, poor staff management, a culture of sycophancy by some managers, employment of family members and allegations about some staff allegedly working illegally.

Concerns were raised about Serco's reliance on managers and staff bought in from its UK operations, many of whom are reported as having little understanding of the WA context and limited hospital experience in WA.

Serco Watch hears from current and former Serco staff who allege that Serco's commercial interests dictate how staff are expected to perform their responsibilities, creating significant work tensions. They describe a high pressure, results-driven environment that creates a culture of short cuts, nepotism, manipulation of information, stifling and marginisation of critical questioning and gaming and contract gouging.

Thomas Faunce has written about the risks facing health professionals and support staff employed by corporate and private providers to deliver privatized and outsourced hospital and public health services.¹¹¹ This includes:

- Imposition of data collection metrics
- Control, ownership and value of patient information
- Commodification of patient information
- Corporate encroachment and interference with the way professionals choose to practice.

3.4.2 Fracturing and fragmentation of care and services

At Fiona Stanley, professional and clinical staff are employed by the Health Department, however professional support staff are employed by Serco and sub-contractors.

Privatisation and outsourcing leads to fragmentation of responsibility and accountability for care and services, resulting in communication failures, co-ordination problems and lack of information sharing between multiple providers.¹¹²

When a number of different providers are directly involved in the care of vulnerable patients, problems can arise if information is not shared, different service and care functions are not integrated and accountability for patient care and treatment is fragmented. This is a challenge

¹¹¹ Faunce, T (2014) Commission of Audit in Australia: Health System privatisation Directives and Civil Conscripton Protections, *Medical Law Reporter*, 2014 21, JLM 561-571

¹¹² Hunter, D (2013) *To Market! To Market*, Centre for Health and the Public Interest: Coote, A & Penny, J (2014) *The Wrong Medicine: A Review of the Impacts of NHS Reforms in England*, New Economics Foundation, London 2014 : Pollock, A (2014) NHS Privatisation keeps on failing patients- despite a decade of warnings, *The Guardian*, 16 August 2014, <http://www.theguardian.com/2014/aug/15/nhs-privatisation-failing-patients>: Coote, A (2014) *The Wrong Medicine*, *Open Democracy*, 27 November 2014. Centre for Health and Public Interest (2015) *The contracting NHS- can the NHS handle the outsourcing of clinical services*, CHPI, March 2015: Lethbridge, J (2012) *Empty Promises: The Impact of Outsourcing on the delivery of NHS Services*, An Independent Report commissioned by UNISON, Public Services International Research Unit, University of Greenwich: Lister, J (2013) *Health Policy Reform: Global Health versus Corporate Profit*, Libiri Publishing.

for patients with complex conditions whose treatment and care requires co-ordination between multiple service providers.

When patients have contact with different providers for different aspects of care, communication, information sharing and accountability become fragmented and split between organizations. Whole of patient care is lost and this can have the effect of diminishing quality of service and patient experience and undermining patient health and wellbeing.

Splitting workforce teams involved in caring for patients under different employers undermines the integrated teamwork that is essential to maintain high patient care standards. It creates a two tiered structure where clinical staff are employed by WA Health and other staff critical to the quality of patient care are employed and managed separately by a corporation with a different set of priorities.

Problems have already emerged at Fiona Stanley Hospital:

- Failures in the coordination and delivery of surgical equipments (see earlier comments).
- Failures of co-ordination over the delivery of medical supplies to wards.
- Appointment details, information and communication not being shared.
- Confusion over who has responsibility for enabling patients to use the electronic meal ordering and entertainment system.
- Lack of coordination between call centre and other parts of the hospital with callers (patients) being left waiting or being transferred to the wrong places.

Fragmentation of responsibility and lack of communication between public and corporate providers has been highlighted in a number of coronial inquiries into deaths in Serco's care, highlighting again the risks of governments privatizing and outsourcing services for vulnerable people.

A Victorian Coronial Inquiry found that Serco and IHMS (the detention health provider) had no system in place to ensure detainees have access to professionals with mental health expertise.¹¹³ The coroner found failings of information sharing between Police and Serco staff and noted that Serco sought no information about the detainee's mental health status, despite evidence of mental health issues.

The Victorian Coroner highlighted that fragmentation and lack of co-ordination and communication between Serco, the contracted health provider (IHMS), Police and Government agencies heightened the risk of harm for vulnerable people.

A Report by the Office of the Inspector of Custodial Services describes how the fragmentation of responsibility and lack of communication between public providers and Serco on matters that affect the care and wellbeing of vulnerable clients and the level of security risk intensifies risk for clients and the wider community.¹¹⁴

113. Cooper, A (2014) Coroner: Inquest into Dalvir Singh's suicide urges more mental health access to detainees, *The Age*, March 26, 2016.

114 Office of the Inspector of Custodial Services (2013) *Medical Transport Incidents- Individuals transported after major surgery: Audits, Reviews and Thematics*, OICS, March 2013.

3.4.3 Workload pressures

Employees at FSH contacted Serco Watch about workload pressures resulting from poor quality management and supervisors. A staff member told us:

'There's rising tension amongst some of the cleaning staff due to older/injured staff being given preferential treatment. This is causing some to feel they are being pushed and being forced to carry those not doing their job properly but being paid the same and given preferential treatment as to shifts and consideration when time wasting'.

3.5 Risks arising from the use of sub contractors

Serco is responsible for coordinating all sub-contractors and is required to procure sub-contracts in an open and transparent matter.

The reliance on sub-contractors is a major risk and limits the ability of WA Health to scrutinize whether Serco and sub-contractors are fulfilling their contractual requirements.

Risks are multiplied by the reliance on multiple sub-contractors and the WA Government and WA public carry the risk for failures by Serco and the sub-contractors who are effectively removed from public oversight and accountability.

Problems with the sub-contractor model have emerged at FSH including:

- delays and problems arising from workforce planning
- delays in the development and implementation of IT systems
- problems with mobile phone coverage
- problems with the lack of specialized equipment and failure to ensure that equipment is 'fit for purpose' and 'functional for use', as required in the contract.

Serco outsourced responsibility for the design, provision and integration of ICT and communications infrastructure and systems to British Telecom Australasia, who like Serco had limited experience and knowledge of the WA health system and IT systems and WA conditions. Coupled with the challenge of recruiting skilled staff, Serco and BT were always scrambling to get on top of their responsibilities.

Industry sources suggested that Serco and BT lacked WA project management experience and experienced high staff turnover.¹¹⁵ Their lack of local experience was complicated by WA Health's own record of struggling to implement IT projects and their difficulties in defining complex requirements and approving and implementing IT designs at Fiona Stanley Hospital.¹¹⁶

Recommendation: That Serco be required to provide a complete and updated publicly available list of all sub-contractors and suppliers used at Fiona

¹¹⁵ McDonald, K (2013) ICT complexity to delay opening of Fiona Stanley Hospital, *Pulse+IT*, 11 June 2013. http://www.pulseitmagazine.com.au/index.php?option=com_content

¹¹⁶ Education and Health Standing Committee (2014) *More than Bricks and Mortar: The report of the inquiry into the organizational response within the Health Department of Health to the challenges associated with the commissioning of Fiona Stanley Hospital*, Report No.2, April 2014, Legislative Assembly, Parliament of Western Australia.

Stanley Hospital. This to include information on their contractual role and responsibilities, the nature of the contractual relationship, the amount of the contract, the ownership structure of the business entity and whether any Serco staff have business interests or involvement in any of those subcontractor or supplier entities.

3.5.1 The risk of conflicts of interest and corruption and failure to comply with legal requirements

The risk of conflicts of interest and corruption in public service delivery are heightened as sub-contractors are effectively removed from public oversight and accountability.

A hospital staff member contacted Serco Watch with allegations that some Serco staff employed at the hospital had links to firms awarded contracts to provide services at FSH. No further information was provided and Serco Watch has no information to verify such allegations.

Another potential risk is that sub-contractors fail to comply with local laws regarding the qualifications, eligibility and employment of staff.

This issue has emerged in other Serco contracts where evidence suggests that Serco and its sub-contractors have failed to comply with relevant local laws regarding the licensing of staff. In Darwin, one of Serco's sub-contractors hired unlicensed staff to supervise asylum seekers.¹¹⁷

3.6 Financial risks and the failure to transfer risk

3.6.1 Failure to transfer risk to corporate providers

Public private partnerships like those at Fiona Stanley Hospital are inherently risky with high rates of failure and higher cost to the public.¹¹⁸

PPPs are promoted by their proponents as a way to efficiently transfer risk from the public sector to the corporate/private sector, but the evidence shows that the corporate sector profiteers from the risk transfer component.¹¹⁹

This is certainly the case with the Fiona Stanley Hospital contract where the risks of cost overruns and contractual failure have been transferred to the public purse. The WA Health system and WA Government are exposed to serious financial and reputational risk as a result of Serco's role at Fiona Stanley Hospital.

We note the comments of pro-market, pro-business think tank The Centre for Independent Studies who found:

¹¹⁷ O'Brien, J (2010) Security firm raided over unlicensed claim, *NT News*, October 21, 2012 <http://www.news.ntnews.com.au/article/2010/10/21/188361netnews.html>

¹¹⁸ Duckett, (2013) Public-Private partnerships are risky business, *The Conversation*, 30 July 2013: Whitfield, D (2012) *In Place of Austerity: Reconstructing the economy, state and public services*, Spokesman Books: Cook, B, Quirk, V and Mitchell, N (2012) *The impact on community services of staff and service reductions, privatisation and outsourcing on public services in Australian states*, Report 1, Report prepared by the Centre of Full Employment and Equity for the Community and Public Sector Group (SPSF Group) June 2012.

¹¹⁹ Cook, B, Quirk, V and Mitchell, N (2012)

*“The Fiona Stanley Hospital PPP has a complicated and untested management and governance framework in which the state appears to have assumed risks far greater than usual in similar hospital project”.*¹²⁰

In evidence presented to the Parliamentary Inquiry undertaken by the Education and Health Standing Committee in 2014, the then Under-Treasurer acknowledged that despite claims to the contrary, risk was never adequately transferred to Serco and that the State retained most of the risk.¹²¹

We urge the Committee to investigate why much of the risk and responsibility for cost overruns, budget blowout and contractual failure at FSH has been transferred to the public purse, rather than Serco and corporate contractors as was intended.

The State has effectively underwritten risk to benefit Serco’s commercial interests and the public of WA is paying a high premium. The risk profile has been constructed to place Serco’s commercial interests ahead of the public interest.

Why did this happen?

3.6.2 Serco’s financial crisis

There are risks to the WA Government and WA public from Serco’s current financial problems.¹²² Some UK commentators question whether Serco UK will survive financially and a recent investigation into Serco Australia found the company is technically insolvent.¹²³

Serco’s Australian contracts, particularly large contracts such as the immigration detention contract and the Fiona Stanley contract, are important to the company’s financial bottom line.¹²⁴

Serco has been the subject of numerous criminal and statutory investigations in the last two years and suffered financial and reputational damage as a consequence of serious mishandling of its responsibilities.

In 2014, Serco wrote down the value of the business by £3 billion. It was forced to issue four profit downgrades and seek emergency cash injections and sell assets because of a severe cash crisis due to losses of revenue resulting from fewer contract wins, downgrading of contracts and loss of contracts and forced repayment of moneys it overcharged the UK Government.

¹²⁰ Gadiel, D & Sammut How the NSW Coalition should manage health: Opportunities for micro-economic reform, Papers in Health and Ageing, Centre for Independent Studies <http://www.cis.org.au/images/stories/policy-monographs/pm-128.pdf>

¹²¹ Transcript of Evidence by Under Treasurer Tim Marney to the Education and Health Standing Committee inquiry into the organizational response within the Health Department of Health to the challenges associated with the commissioning of Fiona Stanley Hospital, Thursday 13 February 2014.

¹²² West, A (2015) Red ink flows from Serco’s detention centres, *The Age*, May 4 2015 <http://www.theage.com.au/business/comment-and-analysis/red-ink-flows-from-serco's-detention-centres>

¹²³ West, A (2015) Red ink flows from Serco’s detention centres, *The Age*, May 4 2015 <http://www.theage.com.au/business/comment-and-analysis/red-ink-flows-from-serco's-detention-centres>

¹²⁴ Lowenstein Guardian, West Rankin, J (2014) Serco shares crash after latest profits warning, *The Guardian*, Monday 10 November 2014 <http://www.theguardian.com/business/2014/nov/10/serco-profits-warning-shares-crash>

Profits dropped 62% and the share price crashed. Senior executives resigned in the wake of scandals which saw Serco lose contracts because of overcharging, contract fraud and poor performance. It was forced to repay hundreds of millions of dollars to the UK Government and prohibited from bidding for government work for a period of time.

At the time Serco's Australian contracts, particularly the immigration detention contract, were shoring up the business's profits.¹²⁵

Since then Serco's problems have deepened. At the end of March 2015, Serco Group Ltd, the UK parent company, reported an annual operating loss of £1.3 billion (pounds) and wrote off another £1.3 billion (pounds) in contract provisions and asset impairments, including contract cancellations and losses. Serco Group was forced to raise \$550 million through an emergency rights issue to ensure the group's survival.¹²⁶

Despite revenues of \$1.1 billion Serco Australia made a \$395 million loss for the year to December 2014. This figure is contrasted with the huge rise in profits in the previous year when its net profits rose from \$49 million to \$128 million.¹²⁷

Michael West has written that Serco in Australia is technically insolvent as its liabilities exceed its assets by \$43 million.¹²⁸

Recommendation: Given the size and significance of this contract, WA Health should seek regular updates and briefing from Serco and independent financial analysts on the impact of Serco's wider company financial troubles on the FSH contract?

3.6.3 Inflated fees, price gouging fees and overcharging

Global experience demonstrates that outsourcing and contracting encourages contractors such as Serco to maximize their revenue and profit.¹²⁹

Australian and UK reports into the privatisation and outsourcing of public services show that corporations routinely game the system to maximize revenue and make money for shareholders at the expense of the public and taxpayers,¹³⁰ increasing the overall cost of privatisation and outsourcing.

¹²⁵ Rankin, J (2014) Serco shares crash after latest profits warning, *The Guardian*, Monday 10 November 2014 <http://www.theguardian.com/business/2014/nov/10/serco-profits-warning-shares-crash>

¹²⁶ Investors Chronicle 20 March 2015 Serco's charges dent profits <http://www.investorschronicle.co.uk/2015/03/20/shares/news-and-analysis/serco>

¹²⁷ West, M (2013) Serco's lack of transparency leaves much to be desired, *The Age*, May 8 2013 <http://www.theage.com.au/business/serco-s-lack-of-transperency-leaves-much-to-be-desired>

¹²⁸ West, M (2015) Red Ink flows from Serco's detention centres, *The Age*, May 4 2015 <http://www.theage.com.au/business/comment-and-analysis/red-ink-flows-from-sercos-detention-centres>

¹²⁹ Whitfield, D (2012) *In Place of Austerity: Reconstructing the economy, state and public services*. Spokesman Books: Gash, T, Panchaia, N, Sims & Hotson, L (2013) *Making Public Services Markets work- professionalizing Government's approach to commissioning and stewardship*, Institute for Government, London: Crowe, D, Gash T and Kippin, H (2014) *Beyond Big Contracts: Commissioning for Public Services for Better Outcomes*, Institute for Government, Institute for Government, London.

¹³⁰ Institute for Government (2013) and (2014); Wright, O (2013) Revealed: The great outsourcing scandal as firms cut corners to cream profits off public, *The Independent*, 18 July 2013 <http://www.independent.co.uk/news/uk/politics>: Social Enterprise UK (2013) *The Shadow State: A report about outsourcing of public services*, A report by Social Enterprise UK.

The reports show that government agencies struggle to effectively manage corporations providing public services and in some cases turn a blind eye to gaming and other unlawful practice by corporate (and NFP) providers.

The inability of government agencies to specify every aspect of a service in advance for complex and multi-year contracts also leads to contracts that allow corporate providers to claim significant fee adjustments.

In the UK, Serco has a record of contract gaming, including overcharging and price gouging across a number of contracts with the result that it has been the subject of multiple Parliamentary, statutory and criminal investigation.

Following a recent scandal the responsible UK Minister Chris Grayling said:

'It has become very clear that there has been a culture within parts of Serco that has been totally unacceptable and actions which need to be investigated by the Police'.¹³¹

In its UK prisoner transport contract Serco resorted to gaming techniques, including using loopholes in payment systems, ineffective monitoring of operations, use of contract variations, inflating fees, overcharging and charging for services not provided and price gouging.¹³²

Serco was investigated by the UK National Audit Office, UK Department of Justice, Fraud Office and London Police.

In August 2013, the Minister of Justice initiated a criminal investigation into allegations of fraudulent behavior by Serco staff in the management of the Prisoner Escorting and Custodial Services contract in London and East Anglia¹³³.

In light of evidence uncovered, the Government took the following action:

- Serco's prisoner transport contract was put under administrative supervision.
- Serco was forced to repay all past profits (estimated at £2 million pounds) and forgo future profits.
- Serco was forced to undergo a 'corporate renewal' process, including overhauling its management, strengthening internal audit procedures and opening up all management accounting to Government scrutiny.
- The UK Government launched a Government wide review of all contracts held by Serco which led to Serco being sidelined on a number of new contract opportunities.
- Serco was prevented from tendering for new Government contracts for a fixed period of time.

Serco also overcharged the UK Government tens of millions of pounds for electronic monitoring and tagging of offenders. Serco billed the Government for tracking the movement

131. *Ministry of Justice Press Release*, 28 August 2013 MOJ audit of Serco contracts- prison escort services <http://www.gov.uk/government/news/moj-audit-of-serco-contracts-prison-escort-services>

¹³² Similar claims have been made about Serco's WA Prisoner Transport contract. Serco Watch (2015) *Submission to the WA Standing Committee on Public Administration Inquiry into the Transport of Persons in Custody*.

¹³³ Serco was awarded the 285 million pound contract in 2011, to transport prisoners between 24 courts, 43 magistrates' courts, 24 prisons and 131 Police stations.

of offenders who had gone abroad, been returned to jail or who were dead, as well as charging for non-existent tags. Serco also charged the Ministry of Justice for monitoring fees for months and years after electronic monitoring activity had finished, or never occurred.¹³⁴

Before a UK Parliamentary Inquiry, a Serco senior executive admitted that Serco charged for services for years after they had ceased to provide them and billed the Government excessively for services provided by one part of Serco to another part of the company.¹³⁵

Serco was forced to repay £68.5 million and lost the contract to another provider. In oral evidence given to a UK Parliamentary Inquiry the CEO of Serco explained the company's actions:

'We made judgments on a complex contract that were inappropriate... The contract was open to interpretation. We made judgments on the way in which to interpret those and those judgments were inappropriate. We made the wrong judgment and that led us to over-billing'.

3.6.4 Lack of evidence about value for money

The WA Government and Serco claim that the outsourcing of non-clinical services at Fiona Stanley Hospital saves the State \$500 million over the life of the contract, but no detail has been provided about the nature of savings and how these are achieved.

A critical question about this contract is how does the WA public know that that they are getting value for money? In reality, the WA public has no way of knowing whether this contract provides value for money.

The publicly available information provides little or no information about Serco's financial performance to assess whether the public is getting value for money. Despite regular claims by Ministers that Serco delivers 'value for money' it is impossible to test these claims.

3.6.5 Overly generous contracts

Serco has been instrumental in the use of incentive based contracts and 'poison pill' or 'no-fault' contracts¹³⁶ which guarantee additional payments for simply delivering services they are contracted to provide.

Incentive based contracts involve Serco receiving incentive payments for meeting specified targets. Under incentive based contracts, when specific targets are met the agency is contractually obliged to pay Serco a bonus or incentive. Bonuses or incentives are justified as a way of rewarding Serco for meeting targets.

In reality, such incentive bonuses are often an opportunity for contract gaming as they encourage staff to make it appear that targets are being met when they aren't.

¹³⁴ Travis, A (2013) Investigated Serco can bid for new contracts, says Chris Grayling, The Guardian, Monday September 16 2013 <http://www.theguardian.com/politics/2013/sep/15/serco-g4s-bid-con>

¹³⁵ Butt, E (2013) G4S and Serco Fraud: Oops we couldn't tell the difference between right and wrong, *Open Democracy*, 21 November 2013 <http://www.opendemocracy.net/ourkingdom/ellie-butt>

¹³⁶ Travis, A (2014) 'Poison pill' privatisation contracts could cost £300-£400m to cancel, The Guardian, 12 September 2014 <http://www.theguardian.com/politics/2014/sep/11/poison-pill-probation-contracts-moj>

Serco have also locked in 'no fault clauses' into recent contracts. No fault or 'poison pill' contracts guarantee Serco's profits over the life of the contract, even if the contract is cancelled. The contracts include a staged repayment clause which covers the loss of profits for the entire life of the contract if terminated early.

Answers to Parliamentary questions in the WA Parliament suggest that Serco's contract for FSH does include 'no fault' clauses which guarantee Serco's profits in the first 10 years of the contract.¹³⁷

Recommendation: The Committee investigate and report on risks to the WA taxpayer from any incentive based contracts and no-fail contracts between WA Health and Serco and sub-contractors at FSH

3.6.6 Lack of financial accountability and transparency

We believe that greater public transparency and accountability is required over the use of public funds by corporate contractors such as Serco.

Serco holds a dominant, privileged and monopoly position in WA. Given this cherished position in running privatized public assets and services, their duty of financial disclosure and transparency should be greater not less.¹³⁸

Commercial confidentiality is used as a cloak to conceal

The notion of 'commercial confidentiality' is used by Ministers, politicians, Government agencies and corporate providers to limit accountability and transparency and withhold and conceal information about the operations of corporate providers, such as Serco (as well as not-for-profit contractors such as St John of God¹³⁹).

As Allyson Pollock and Liz Richardson have shown, commercial confidentiality functions as a cloak for policy failings and failure by corporate providers.¹⁴⁰

When openness and public transparency clash with commercial confidentiality, the latter always wins out.

Recommendation: Remove commercial confidentiality provisions and end the use of commercial confidentiality by Ministers, politicians, Government agencies and corporate providers to limit accountability and transparency and withhold and conceal information about the operations of corporate providers.

Business journalist Michael West has shown that Serco actively seeks to avoid financial reporting and disclosure standards expected of corporations.¹⁴¹ West has written that Serco's

¹³⁷ WA Legislative Council (2014) Answer to Questions by the Hon Amber-Jade Sanderson on Health-Government Contracts-No Fault Provisions, Legislative Council, *Hansard*, Tuesday 25 November 2014 p8640b-8640b

¹³⁸ West, M (2013) What is Serco hiding, *Business Today*, May 7 2013, <http://www.businessday.com.au/business/what-is-serco-hiding-2013>

¹³⁹ The KPIs for the Midland Hospital contract with St John of God have also been concealed using the guise of commercial confidentiality. See Parliamentary questions by the Hon Amber Jade Sanderson.

¹⁴⁰ Pollock, A & Richardson, L (2009) Commercial confidentiality: a cloak for policy failure, *British Journal of General Practice*, 2009 59:893-894

financial and accounting and reporting standards do not comply with Australian accounting standards. West argues this is a gross failure in disclosure and accountability.¹⁴²

West argues that as Serco's economic and political status has increased there has been a plunge in its financial reporting standards and disclosure.

Lack of detail about Serco's level of profit

In relation to the Fiona Stanley hospital contract it is essential for public transparency and accountability that more in-depth information about Serco's level of profit is made public including:

- What is the level of profit extracted from this contract?
- How are those profits delivered?

The UK Cabinet Office is demanding that contractors such as Serco and G4S provide quarterly updates on revenue, profit and profit margins on government contracts to ensure that the public is getting value for money. Contracts worth more than £20 million will be subject to annual audits.¹⁴³

Recommendation: The Committee urge the adoption of similar requirements as the UK Cabinet Office to require quarterly public reporting by Serco and sub-contractors on profits and profit margins on the FSH contract, including the requirement that Serco show how profits are made from the Fiona Stanley Hospital contract.

This is to ensure that public can make their own judgments about whether the Serco contract provides value for money as is claimed, rather than rely on untested claims by Ministers, politicians and others that the contract delivers value for money.

To ensure greater public transparency and accountability over the use of public funds by corporate contractors such as Serco, we suggest that open book financing performance reporting and accounting requirements should be built into all contracts with corporations who deliver public services on behalf of Government. This should make it possible for the public to know the level of profits being made by corporate providers and determine whether those profits are made in ways that align with public and taxpayer interests.

Actions could include:

- Where a public sector agency decides to outsource a specific service to corporate and for-profit business it should be required to publish and consult on the business case, including anticipated and actual profit. It should publish publicly all arrangements for public accountability, performance monitoring and reporting and regimes for monitoring and sanctioning the contractor's operational and financial performance.

¹⁴¹ West, M (2013) What is Serco hiding, *Business Today*, May 7 2013, <http://www.businessday.com.au/business/what-is-serco-hiding-2013>

¹⁴² West, M (2015) Red Ink flows from Serco's detention centres, *The Age*, May 4 2015 <http://www.theage.com.au/business/comment-and-analysis/red-ink-flows-from-sercos-detention-centres>

¹⁴³ Collingridge (2015) Whitehall puts fresh squeeze on contractors after scandals, *The Sunday Times*, 31 May 2015. <https://www.thesundaytimes.co.uk/sto/business/companies/artcile1552530.ece>

- Where services are outsourced open book accounting procedures and transparent financial reporting practices should be enforced, including an annual independent audit on all public service contracts.
- There should be a requirement to publish audited and verified statements on contractors' operational and financial performance, with access to relevant information, systems and personnel for the Auditor General and external auditors.
- Regular reports on the full costs of the contract should be published, including contingency costs required to cover unforeseen circumstances, the use of external advisors, and the contract management and monitoring costs for individual contracts.

Sydney University Professor Bob Walker has undertaken extensive research into the privatisation and outsourcing of public services and raises serious concerns about Serco's huge profits, describing it as a 'river of gold'.

Walker suggests that Serco has a 38% return on shareholder equity, which he describes as extremely high. Walker raises concerns that Serco's huge profits are generated by serious cost cutting.¹⁴⁴

Business writer Michael West¹⁴⁵ and journalist Antony Loewenstein make similar claims pointing to the significant level of profit made by Serco on its immigration detention contract.¹⁴⁶ West argues that Serco's financial reporting is grossly inadequate.

Recommendation: In order to ensure greater public transparency and accountability over the use of public funds by Serco, open book financing performance reporting and accounting requirements should be built into the contract (as well as other contracts with corporations and business who deliver public services on behalf of Government).

3.7 Risks for public accountability

Corporations such as Serco are accountable primarily to their shareholders, rather than the democratic process.

Serco is exempted from the standards of transparency and accountability required of the public sector. Freedom of Information Legislation (FOI) does not apply and commercial confidentiality is consistently used to conceal and deny access to information.

Close study of Serco's record show there are serious risks to public accountability from their involvement at FSH.

3.7.1 Falsification and manipulation of data

Serco has a record of falsifying and doctoring data.

144. Quoted in Tabakoff N (2011) The cell of secrecy, *The Daily Telegraph*, May 14 2011 <http://www.dailymail.com.au/locked-away-in-the-cells-of-secrecy>

145 West, M (2013) What is Serco hiding? *The Age*, May 7 2013. <http://www.businessday.com.au/business/what-is-serco-hiding-2013>

146 Loewenstein, A (2013) *Profits of Doom*, Melbourne University Press, Melbourne: Loewenstein, A (2013) Stopping the Boats is bad for business, *The Age*, August 3 2013.

The UK National Audit Office and the UK Parliamentary Public Accounts Committee found that Serco provided under-staffed and sub-standard GP out-of-hours services in Cornwall and then deliberately falsified performance data on 252 occasions to present a rosier picture of serious underperformance.¹⁴⁷

Serco admitted that managers and staff falsified data when reporting to the National Health Service on performance targets. Serco blamed two 'rogue managers' who were sacked with gagging clauses that prevented them from speaking publicly about issues.¹⁴⁸

Leaked emails from managers to staff included instructions on how to falsify emergency cases in order to make it appear that performance targets were being met.

Serco's falsification of data, underperformance and understaffing and bullying of staff only came to light because of whistleblowers who claimed the fraud had gone on for years and predated the two managers who were sacked.

The Chair of the UK Public Accounts Committee described a culture of 'lying and cheating' and identified glaring inadequacies in the management of the contract.

An investigation into Serco's management of the UK prisoner tagging contract found a pattern of doctoring records and falsifying data to make Serco's performance look better, with some staff recording prisoners as having been ready for court when in fact they were not. Rather than improve performance the staff simply falsified data and doctored records.

3.7.2 Culture of secrecy and lack of scrutiny

Serco's FSH contract is complex and large. Large and complex contracts between the public sector and corporate providers such as Serco, present a greater risk of large scale malpractice and fraud.¹⁴⁹

This is partly the result of the limitations on scrutiny that result from complex contracts and partly because the pursuit of profit and the nature of performance requirements linked to payments creates multiple opportunities for errors to be made and overcharging and fabrication of performance data.¹⁵⁰

Laurence Vick argues that the involvement of corporate providers in health services inevitably leads to lack of scrutiny and delays and failures in the public learning out about clinical and non-clinical problems.¹⁵¹

The Western Australian Information Commissioner argues that medical and hospital facilities run by corporate and private providers in Western Australia are subject to a weaker level of transparency and scrutiny than similar facilities run by the public sector.¹⁵²

147. Lawrence, F (2013) Serco's out-of-hours service in Cornwall sub-standard say MP's, The Guardian, 11 July 2013 <http://www.theguardian.com/society/2013/jul/11/serco-gp-out-of-hours-substandard>

148. Lawrence, F (2013) Horsemeat dinner is served, courtesy of organized crime, *The Guardian*, Thursday December 19, 2013 <http://www.theguardian.com/commentisfree/2013/dec/18/horsemeat-dinner-is-served>

149. Button, M & Tinley, M (2014) *The risk of fraud in the new NHS: lessons from the USA and the need for a response from England*, Centre for Health and the Public Interest <http://chpi.org/reisk-of-fraud>

150. Button, M & Tinley, M (2014) *The risk of fraud in the new NHS: lessons from the USA and the need for a response from England*, Centre for Health and the Public Interest <http://chpi.org/reisk-of-fraud>

151. Vick, L cited in Button and Tinley (2014)

A culture of secrecy surrounds the Serco contract, resulting in a lack of scrutiny, transparency and accountability about the contract and the contractor's performance. This includes:

- Failure to publicly disclose all information.
- Minimal or no public information is provided about the nature of contractual breaches.
- Significant redacting and removal of information from documents released publicly.
- Serco and its sub-contractors are not subject to Freedom of Information (FoI) legislation.
- Use of commercial-in-confidence and Cabinet-in-confidence to block FOI requests about Serco's contract and WA Health's management of the contracting and procurement process.
- Governments and Serco refuse to release the necessary information on grounds of 'commercial confidentiality'.
- Financial and other information, such as the detail about Serco's profits and its cost structures and costs to provide additional services over and above its obligations are concealed behind the veil of "commercial confidentiality".
- Failure to make public reports of internal reviews and investigations into aspects of the Serco contract, the hospital commissioning and contractual breaches.

Recommendation: That the Committee ensure all reports of internal investigations into the Serco's contract and its management and operations of the contract are made public.

Recommendation: That all relevant public sector transparency and accountability requirements be applied to corporate providers of public services including detail on supply chains, company ownership and governance structures, profit levels and margins, employment, remuneration, tax policies and practices.

Recommendation: The Freedom of Information of Act should be applied to all corporate providers of public services and all public sector commissioning, procurement and contract management.

3.7.3 Failure to collect data

Corporate providers such as Serco have a poor track record of data collection in health services. Alyson Pollock writes that poor quality of data collected by the corporate and private sector in health services makes it difficult to monitor contract compliance.¹⁵³

3.7.4 Risks arising from an inadequate performance monitoring regime

¹⁵² Blumenthal, S (2014) *Achieving Transparency with blurred Government Boundaries*, presentation to the 2014 National Administrative Law Conference, Perth, July 2014

¹⁵³ Pollock, A (2014) Why the public should opt in to care: Data and out of data privatisation <http://www.alysonpollock.com>

The problems that have emerged at Fiona Stanley Hospital raise questions about the mechanisms used by WA Health to monitor the quality, safety and efficacy of Serco's performance and enforce contract requirements. There are doubts about the Department's capacity to ensure the safety, quality and value for money of services provided by Serco at Fiona Stanley Hospital.

Reliance on self monitoring and reporting and lack of transparency is a serious risk

WA Health and Serco provide minimal information about how Serco's performance is being monitored and how they will be held to account. There is limited public information about the monitoring of contractual performance and no information about Serco's financial performance.

Despite this being the largest services contract ever awarded by the WA Government, there is minimal information available about how Serco's performance is being monitored and by whom.

Our analysis of the limited information publicly shows that despite this being a contract worth over \$4.3 billion, Serco is essentially monitoring itself and self-reporting on its performance.

Information about Serco's performance is collected through a centralized helpdesk run by Serco itself.¹⁵⁴ Serco is required to provide monthly service reports on its performance against KPIs.

The performance monitoring regime seems to involve:

- a set of Key Performance Indicators (KPIs) against which Serco's service delivery performance is measured,
- a 'commercial' abatement regime which applies to Serco's performance failures or specified event failures,
- a requirement that Serco ensure each area in the hospital is available for use and meets defined criteria and
- monthly reports on compliance.

Relying on a 'thin monitoring' model¹⁵⁵ and self-monitoring and self-reporting by Serco is a serious risk.

In light of Serco's performance failures at Fiona Stanley Hospital and other contracts, assurances by WA Health that monitoring of the contract is rigorous are no doubt well intentioned, but are ultimately hollow.

¹⁵⁴ Public Accounts Committee (2012) *Building Foundations for Value: An analysis of processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital*, Report No 16, Legislative Assembly, Parliament of Western Australia.

¹⁵⁵ A thin model of monitoring involves reliance on performance indicators and targets, fines and abatements and a reliance on self-monitoring by contractors. Whitfield, D (2012) *In Place of Austerity: Reconstructing the economy, state and public services*, Spokesman Press.

It is concerning that the Department relies primarily on Serco monitoring itself, given its poor performance and history of concealment and manipulation of performance data in other contracts.

This includes, charging for services not delivered, issuing staff with instructions on how to falsify performance data to make it appear that performance targets were met, manipulating performance data, falsifying data to make it appear that targets were being met when they were not, covering up and failing to report incidents that would lead to a fine or abatement, and bullying and exerting pressure on staff not to report contractual breaches and failure to meet targets.¹⁵⁶

Evidence from contracts in the UK and Australia exposes extensive failings and major gaps in Serco's self-reporting, as well as the monitoring and reporting done by Departmental monitors.¹⁵⁷ Some examples are presented earlier in our submission.

A Guardian investigation of contact monitoring in immigration detention found that oversight reports that formed part of Serco's contractual performance monitoring and reporting process did not exist. Serco did not provide, nor did the Department request the reports, even though they were supposed to be used to assess the service provider's performance against the contractual performance measures.¹⁵⁸

An investigation found that independent auditing of Serco's performance by Departmental monitors was not taking place and joint meetings between Serco and the Department that were supposed to be taking place were not.

Answers to Senate questions show how little Serco's performance in the immigration detention contract is scrutinized and monitored by the responsible government agency. The agency admitted that it collected scant data on Serco's contractual breaches and performance and had limited knowledge of Serco's training of its staff. Abatements were not recorded in a recordable number.¹⁵⁹

Recommendation: That the Committee investigate, document and report publicly on the strategies and systems being used by the WA Health Department to scrutinize and monitor Serco's performance and the performance of sub-contractors and determine whether those strategies are capable of meeting contractual standards and requirements

Recommendation: The Committee investigate and make public the detail of Serco's contractual reporting requirements and those of sub-contractors and the Department's contract monitoring regimes and determine whether, and if so, how effectively these are being carried out by all parties.

¹⁵⁶ Rowlings, B (2013) Serco fiddles health contract data, Civil Liberties Australia.

¹⁵⁷ Farrell, P and Laughland, (2013) G4S and Serco fail to report on Australia's asylum centre conditions, *The Guardian*, Tuesday, 17 September 2013 <http://www.theguardian.com/world/2013/sep/16/g4s-serco-australia>

¹⁵⁸ Farrell, P and Laughland (2013) *ibid*.

¹⁵⁹ Brereton, A (2011) Department admits no-one watching Serco, *New Matilda*, 24 May 2011.

Recommendation: More detailed public reporting of Serco's operations and performance (and that of sub-contractors) is required. This should include:

- ***More detailed information on Serco's financial costing and profit levels***
- ***More detail on Serco's staffing levels***
- ***Much more detail on the numbers of Departmental contract monitors, their role and activities, time spent on monitoring the contract, actual monitoring and compliance regimes used by contract monitors and information on action taken to limit regulator capture***
- ***Full disclosure of all detail of Serco's performance against KPIs***
- ***Full public disclosure and reporting of incidents and contractual breaches by corporate providers, as it is in the public interest for these to be made public.***

The inadequacy of the current performance regime

A recent report by the Victorian Auditor General¹⁶⁰ concludes that performance and monitoring regimes based on performance standards and abatements do not drive efficiency or performance.

Rising abatements

One measure of Serco's underperformance and failure to fulfill its obligations is the level of abatements. Abatements are not paid directly by Serco to the Department, but are deducted from monthly contract fees paid to Serco.

Since October 2014 Serco was penalized \$1 million for failing to achieve key performance targets in five service areas including cleaning, information technology, logistics, estate service, communications and help desk. The Minister claimed this was evidence that the contract was working as intended.¹⁶¹

Serco received more than \$45 million in contract payments since October 2014. Abatements in that period represented around a minuscule percentage of Serco's payments.

The Minister and the WA Government claims that the abatement regime drives the contractor to continuously improve their performance, but there is no evidence that abatement regimes drive improved performance.

160. Victorian Auditor General (2014) *Prisoner Transportation*, Government of Victoria.

161 O'Connor, A (2015) Serco ordered to pay \$1 million in penalties over failure of Fiona Stanley Hospital contracts, ABC News, 10 June 2015 <http://www.abc.net.au/news/2015-06-10/serco-ordered-to-pay-1-millions-in-penalties>

The Victorian Auditor General questions that claim and argues that performance and monitoring regimes based on performance standards and abatements do not drive efficiency or performance.¹⁶²

Reliance on abatement regimes is problematic, as the level of penalties is usually not commensurate with the consequences of particular events and Serco builds in abatements as just another cost of doing business.

Detailed information about reasons for those abatements, the amount of the abatement and the action taken by Serco to address breaches are rarely made public.

In November 2014, the Australian Information Commissioner released a decision compelling the Department of Immigration to release documents about financial penalties and abatements incurred by Serco arguing that it is in the public interest:

I believe that the Australian public have a right to know how the operators of these centres are performing with respect to the contracted KPIs and what penalties are being imposed on them when they fail to meet KPIs'

Recommendation: That WA Health document and publicly disclose all abatements (including the number of abatements) imposed on Serco and sub-contractors for contractual breaches and make publicly available the reasons for those abatements, the amount of the abatement and the action taken by Serco to address those breaches.

The Victorian Auditor General report notes how a reliance on KPIs does not alert contract monitors and managers to problems that occur in contracts, such as contract gaming and overcharging and understaffing.

The Auditor General highlights the problem of too many KPIs which means that staff spend time measuring hundreds of KPIs which may not necessarily demonstrate problems with the contractor's performance.

Similarly, Dexter Whitfield¹⁶³ notes a thin monitoring model does not make for an intelligent informed client or the development of a complete understanding of what has and has not been achieved. Nor does it show the real cost to the Government or the full impact on other services, service users, staff and the wider public.

A thin monitoring model provides some semblance of accountability and monitoring that usually backfires with significant consequences for service users, staff, value for money and the public interest.¹⁶⁴

The reality is that the monitoring of large corporate providers such as Serco by public agencies is undermined by a number of factors:

162. Victorian Auditor General (2014) *Prisoner Transportation*, Government of Victoria.

163. Whitfield, D (2012) *In Place of Austerity: Reconstructing the economy, state and public services*, Spokesman Press.

¹⁶⁴ Whitfield, D (2012)

- Information asymmetry is a serious problem. Providers such as Serco have better information about the work they do and the costs of doing it, which they are unwilling to share. Those who commission and monitor corporate providers are not always able to have confidence in the accuracy of the information they provide. This is particularly the case with Serco who have a repeated history of concealment and manipulation of performance information and provision of misleading or deceitful information.
- Monitoring of contracts is time consuming and expensive and the opportunity costs of monitoring powerful corporate providers and a large and complex contract are high.
- Contract monitors are often at a disadvantage in terms of staff resources and skills and capabilities. This is a significant problem at times of cutbacks in public agencies.
- Threats of financial penalties are not always credible. Serco builds abatements and financial penalties in as a cost of doing business. Often there are caps on the level of abatements and penalties so the full cost of Serco's abatements could be much larger than the penalties Serco actually pays. Abatements are not actually paid by Serco. They are deducted from future payments and is not uncommon for abatements to not be deducted even when penalties apply. Another reason the abatement regime lacks credibility is because Serco challenges abatements, effectively delaying and even mitigating, against the need to pay abatements. Serco Watch is aware of abatement disputes that have not been resolved some time after they were applied.¹⁶⁵
- There is an institutional unwillingness and reluctance by the authorities to acknowledge contract failures and enforce contracts. Public agencies that commission and monitor contracts with corporate providers often have disincentives to use financial and other sanctions to enforce a contract. Some agencies are reluctant to enforce contracts by enforcing financial penalties, for fear of exacerbating provider's existing difficulties or threats of litigation.¹⁶⁶
- Contract monitoring is undermined by the agency's dependence on corporate providers such as Serco. This is the 'too big to fail' issue. The Government and WA Health are overly reliant on a corporate provider who has become too big and too influential to fail.

3.7.5 Is WA Health equipped to monitor large multinational corporate providers such as Serco (and others)?

There is concern about the WA Health Department's capacity to scrutinize and monitor Serco's performance. The size and complexity of Serco's FSH contract goes beyond anything done in WA before.

The inability of WA Government agencies to effectively regulate and monitor the operations and performance of multinational corporations whose rationale is profit maximization was confirmed in a WA Auditor General's Report.¹⁶⁷

¹⁶⁵ Serco Watch (2015) *Submission to the WA Standing Committee on Public Administration Inquiry into the Transport of Persons in Custody*.

¹⁶⁶ Centre for Health and the Public Interest (2015) *The contracting NHS-can the NHS handle the outsourcing of clinical services* www.chpi.org.uk

¹⁶⁷ Mercer D (2011) Miners and state fail eco audit, *The West Australian*, Friday October 14, 2011.

The Auditor General found that corporations were failing to meet their environmental and social obligations and Government agencies were unable to effectively regulate and enforce the social and environmental activities of private corporations.¹⁶⁸

A recent Corruption and Crime Commission Report¹⁶⁹ identified that large government agencies such as Health (and Corrective Services and Transport) who oversee large contracts with corporations do not have the necessary skills controls and governance systems in place to manage these contractors.

A number of substantial UK reports have found that the regulation and monitoring of corporate providers in health care (such as Serco) is largely ineffective and government agencies and statutory authorities responsible for monitoring have not proved themselves up to the job of ensuring that adequate services are provided by corporate providers such as Serco.¹⁷⁰

Experience from the UK shows that failure to enforce contracts with the corporate sector has led to patients being harmed or put at risk of harm or misleading information being provided to those responsible for monitoring contracts.¹⁷¹

Former WA Inspector of Custodial Services Richard Harding raised concerns about the lack of genuine accountability of Governments over corporations like Serco:

'These big global companies in relation to specific activities are more powerful than the Governments they're dealing with'.¹⁷²

What is instructive about Serco's management of public services is the lack of accountability and public transparency exercised over Serco's operations and performance by the Government agencies responsible for managing contracts. There is a lack of authentic public accountability and an absence of moral and democratic accountability.

3.7.6 Risks of corruption

A recent Corruption and Crime Commission report found that privatisation and outsourcing results in government agencies forming close relationships with private corporations, which increases the risk of misconduct and corruption.¹⁷³

The Report found that the shift by the Health Department from service delivery models to outsourced models increases the risk of corruption, particularly as the Department may not have the necessary skills, controls and governance systems to manage the changed role.

168. WA Auditor General's Report (2011) *Ensuring compliance with conditions on mining*, www.audit.wa.gov.au

¹⁶⁹ Corruption and Crime Commission

¹⁷⁰ Leys, C (2015) *The private provision of NHS clinical services: how is the NHS handling the contracts?* London School of Economics <http://blogs.lse.ac.uk/politicsandpolicy/the-private-provision-of-nhs-clinicalservices> Centre for Health and the Public Interest (2015) *The contracting NHS- can the NHS handle the outsourcing of clinical services*, CHPI, London: Coote, A & Penny, J (2014) *The Wrong Medicine: A Review of the Impacts of NHS Reforms in England*, New Economics Foundation

¹⁷¹ Centre for Health and the Public Interest (2015) *The contracting NHS- can the NHS handle the outsourcing of clinical services*, CHPI, London.

172. Quoted in Bernstein, N (2011) *Companies use Immigration detention crackdown to turn a Profit*, *New York Times*, 28 September 2011 <http://www.nytimes.com/2011/09/29>

173. Corruption and Crime Commission (2014) *Media Statement: WA Health urged to tackle corruption risks* <http://www.ccc.wa.gov.au/publications>: Emerson, D (2015) *Public service crime risk rises*, *The West Australian*, 27th March 2013.

The Corruption and Crime Commission Report identified systemic failure within WA Health about the management of fraud and corruption risks within procurement, finding that 90% of WA Health contracts by value and 78% by number did not comply with the State Government's own transparency requirements within WA Health.

3.7.7 Lack of controls and oversight and failure to record and report incidents

One concern consistently raised about Serco is the lack of controls and oversight of the quality of service delivery.

In November 2013, a Serco senior Executive admitted to a UK Parliamentary Committee that after 20 years of running outsourced public services, the company's internal management controls and oversight were inadequate.

This is a remarkable admission that after 20 years of running public services Serco did not have proper controls in place.

In other contracts there have been allegations that Serco covers up incidents and uses confidentiality clauses to silence staff.¹⁷⁴

Serco has a history of concealing incidents. Senator Sarah Hanson Young argues that Serco conceals reports of major incidents such as self-harm and suicide attempts under the guise of 'commercial-in-confidence'. Refugee activists and Serco staff have exposed this pattern of behavior by Serco¹⁷⁵.

Serco staff report that Serco keep the truth of what happens in immigration detention centres from the responsible Government agency and the Federal Government and there have been accusations by Serco staff of documents being destroyed.¹⁷⁶

Serco Watch is often contacted by staff working at FSH concerned about events and incidents that go unreported. Some of these have been reported in this submission.

Most recently, hospital staff contacted Serco Watch about a suspected suicide at the hospital. A staff member was told that a person had committed suicide by jumping off a car park roof. The staff member claimed they had been told that another staff member had tried to resuscitate the person. The staff member expressed surprise that the incident was not reported publicly and claimed it had been kept secret.

3.7.8 Lack of whistleblower protections and gagging clauses

The lack of public accountability and culture of secrecy is evident in the restrictions placed on staff and professional workers in their ability to speak out about their work related experiences for Serco.

The use of gagging clauses and strict confidentiality agreements in employment contracts places restrictions on staff speaking out about conditions, practice and their experience¹⁷⁷ and makes it difficult for the authorities to investigate unlawful practice by Serco.¹⁷⁸

174. See United Voice submission to the Joint Select Committee on Australia's Immigration Detention Network.

175. Needham, K (2011) Concern at rising numbers of detainees self-harming, *The Age*, July 30, 2011 <http://www.theage.com.au/national/concerns-at-rising-number>

176. Lloyd, P (2011) Guard blows whistle on detention centre conditions, *Lateline, ABC News*, <http://www.abc.net.au/lateline/content/2011/s3209164.htm>

Serco imposes gagging clauses and strict confidentiality agreements on current and former staff. Politicians, journalists, unions and campaigners have consistently raised concerns about the implications of such restrictions for public accountability and transparency about public services.¹⁷⁹

Whistleblowers have confirmed that staff are frightened to talk to anyone outside Serco about incidents and practices for fear of being identified or sacked.¹⁸⁰

Shadow Minister of Health Roger Cook expressed concern that whistleblowers at Fiona Stanley Hospital are silenced by draconian employment contracts and threats of legal action if they expose concerns about the company's practices¹⁸¹. He expressed concern that this has the effect of limiting the ability of staff to highlight contractual breaches and report on major health risks and issues that affect the performance of the hospital and the care of patients.

These concerns are justified, as there have been examples of professional staff being sacked for raising questions and concerns about Serco's practice and their impact on clients.^{182 183}

Serco Watch is regularly contacted by current and former staff, and family members of current staff who raise concern about Serco's practices and the ways the company exert pressure on staff to remain silent about those practices and their impact on clients.

Recommendation: There needs to be greater Parliamentary oversight and scrutiny of repeated and persistent failures by corporations such as Serco who are contracted by the State Government to deliver public services. This should include the capacity for legislative, legal and statutory action to be taken against corporations (and their Directors) that continually fail to meet contractual requirements, as well as action to be taken to ensure that the State terminates contracts with corporations whose actions have resulted in the activation of termination clauses.

Recommendation: The Committee consider the development of a Public Service Users Bill (Ownership and Involvement Bill) to ensure much greater public accountability and public control over the privatisation and outsourcing of public services to vulnerable people and to protect the wellbeing, dignity and rights of people directly affected by the operations and performance of corporations contracted by the state to deliver public services, such as prisoner transport. The Bill should provide the public with a

177. See United Voice submission to the Joint Select Committee on Australia's Immigration Detention Network.

¹⁷⁸ Lawrence, F (2013) Horsemeat dinner is served, courtesy of organized crime, *The Guardian*, Thursday December 19, 2013 <http://www.theguardian.com/commentisfree/2013/dec/18/horsemeat-dinner-is-served>

¹⁷⁹ Lawrence, F (2013) Horsemeat dinner is served, courtesy of organized crime, *The Guardian*, Thursday December 19, 2013 <http://www.theguardian.com/commentisfree/2013/dec/18/horsemeat-dinner-is-served>: See submission by United Voice to the Joint Select Committee on Australia's Immigration detention network.

¹⁸⁰ Prior, F (2011) Serco accused of brutality at detention site, *The West Australian*, 25 August 2011.

¹⁸¹ WA Labor (2011) Serco contracts fail to protect whistle blowers, 7 October 2011, <http://www.wa.alp.org.au/news/2011/10/07/serco-contracts-fail-to-protect-whistleblowers>

¹⁸² Taylor, P (2011) Second "leaker" suspended, *The Australian*, May 3 2011.

¹⁸³ Prior, F (2011) Serco accused of brutality at detention site, *The West Australian*, 25 August 2011.

'right to recall' contracted out services due to poor quality or performance that is not in the public interest.

3.8 Reputational risks

Serco's record of poor performance at Fiona Stanley Hospital and other contracts has damaged public confidence in the performance and reputation of Fiona Stanley Hospital. A spokesperson for the Australian Medical Association said:¹⁸⁴

'Public confidence about the standard of health care of FSH is being weakened by the performance of Serco and this cannot be allowed to continue'

The problem is compounded by Serco's reputation and problems in other contracts. Crisis and problems that occur in Serco's contracts in prisoner transport, court security, immigration detention or prisons, has a flow on effect on public confidence in Fiona Stanley Hospital.

3.9 Risks arising from health system configuration and transformation

A major risk of the privatisation and outsourcing of services at Fiona Services Hospital is that the WA Government appears willing to compromise the equity, quality and availability of health services to meet the requirements of corporate providers and transform and re-configure the metropolitan health system.

The WA Government is using privatisation and outsourcing of services at FSH as an opportunity to bring about a substantial shift in the balance of the mixed system of public-private provision that has characterized health services in WA.¹⁸⁵ This is being achieved through:

- reconfiguration of services in the South Metropolitan Health Services Region.
- the ongoing transfer of hospital and health services to the corporate and private sector at Fiona Stanley Hospital, Midland Hospital and other hospitals.
- the closure and reduction of capacity and bed numbers at public hospitals including Fremantle Hospital, Rockingham Hospital, Royal Perth Hospital and Sir Charles Gardiner Hospitals.
- closure and transfer of specialist hospital, out-patient and community-based services to Fiona Stanley Hospital.
- offering incentives to Departmental staff to transfer from the Health Department to corporate providers.¹⁸⁶
- directing Departmental staff to transfer to work at Fiona Stanley Hospital.¹⁸⁷

¹⁸⁴ O'Leary, C & Adshead, G (2015) Doctors call for probe of Serco deals, *The West Australian*

¹⁸⁵ Faunce, T (2014) Commission of Audit in Australia: Health System privatisation Directives and Civil Conscriptio Protection, *Medical Law Reporter*, 2014 21, JLM 561-571

¹⁸⁶ Vickery, K (2013) Critical Condition: Fiona Stanley Hospital set to be short of staff even under best case scenario, *Perth Now*, 21 December 2013. <http://www.perthnow.com.au/news/western-australia/critical-condition-fiona-stanley-hospital-set-to-be-short-of-staff-even-under-best-case-scenario/story-fnhocox3-1226788057776>

- job losses and staff cuts at other hospitals under the guise of creating staff positions at Fiona Stanley.¹⁸⁸

The WA Government uses public funds to underwrite the risks of corporate sector entry into hospital provision through public subsidies, guaranteed payments, generous contracts, failure to transfer risk to corporate providers and contracts which guarantee profits.

In the case of the St John of God-run Midland Hospital, the WA Government is building a separate facility to provide services such as terminations, sterilization and reproductive health services to provide services disallowed by the Catholic Church.

3.10 Risks arising from Serco's political influence

Serco's growth and expansion owes much to their political and business connections and the role of political lobbying. Serco uses its political power to create new markets.¹⁸⁹

Evidence from the United Kingdom, New Zealand, Canada, United States and Australia shows that Serco spends millions to shape the policy environment for outsourcing by engaging lobbyists and undertaking political activities to aggressively lobby governments and convince them to privatize and outsource public services and public responsibilities.¹⁹⁰

In Western Australia, Serco benefits from state government support for privatisation and outsourcing and maintains an expanding monopoly of privatized public services funded out of the public purse and held in place by monopoly and political power.

Despite persistent failure, Serco is a dominant provider with monopoly status and is rewarded with more contracts. There appears to be a willingness by the State government and WA Health to accept persistent underperformance and reduced public accountability and transparency by Serco and other corporations involved in the privatisation and outsourcing of services.¹⁹¹

A culture of secrecy surrounds Serco's performance on this and other contracts in WA, as well as Serco's relationship with the WA Government and the Department which throws into doubt the probity and integrity of this contract.¹⁹²

The Government and Department have become too reliant on a corporate provider who is too big and too influential to fail.

In doing so, the Government and the Department have placed a blinkered and ideological approach to privatisation and outsourcing and Serco's corporate profit, ahead of public value and the public interest and their duty of care to patients.

¹⁸⁷ Lampathakis, P (2012) Fiona Stanley Hospital short on Doctors, *The Sunday Times*, 29 December 2012.

¹⁸⁸ Weber, D (2013) Bentley Hospital set to lose 100 positions over next year, *ABC News*, 13 August 2013, <http://www.abc.net.au/news/2013-08-13/bentley-hospital-to-lose-100-positions>

¹⁸⁹ This is detailed in more detail in Serco Watch (2015) *Submission to the WA Standing Committee on Public Administration Inquiry into the Transport of Persons in Custody*.

¹⁹⁰ Serco Watch (2015) *ibid*.

¹⁹¹ Michael Grewcock, from the Law School at the University of NSW argues that the lack of accountability for outsourcing of public services is intentional and designed to distance and insulates Governments from criticism and accountability when things go wrong.

¹⁹² Serco Watch (2015) *Submission to the WA Standing Committee on Public Administration Inquiry into the Transport of Persons in Custody*.

