



National Audit Office

Memorandum

for the House of Commons
Home Affairs Committee

Home Office

The Home Office's management
of its contract with G4S to run
Brook House immigration
removal centre

JULY 2019

Summary

Key findings

The design of the contract

9 The Home Office contract requires G4S to operate, manage and maintain Brook House immigration removal centre. The contract started in March 2009 and was extended in 2018 to end in May 2020. The contract's 223-page output specification sets requirements for G4S to meet. For some requirements, such as staff training, G4S must provide plans for Home Office approval. G4S is expected to pay all the costs of meeting the contract requirements. As at April 2019 the contract provided for 448 beds, of which about half were in use. The contract also requires a minimum staffing level. Since May 2018 G4S has aimed to have three detainee custody officers and one manager at all times on each of Brook House's four wings (paragraphs 1.2, 1.5, 1.7 to 1.9, 2.10 and Figures 2 and 4).

10 The Home Office pays G4S around £13 million a year through a fixed monthly fee with deductions for performance failures. The contract contains 30 performance measures, covering, for example, availability of facilities, substantiated complaints, cleaning, staffing and maintenance. G4S must report to the Home Office any failure to meet one of the 30 performance measures. The Home Office can decide to make a deduction of £18 to £30,000 (depending on the measure) from G4S's monthly fee for each failure. Failing to report a failure can incur an £895 penalty. Because the contract allows for a deduction for each failure identified, rather than setting a required level of performance, some level of deduction for poor performance is almost inevitable (paragraphs 1.9, 1.12 to 1.13, Figure 5, and Appendix One).

11 In addition to the contract, G4S's management of Brook House is subject to other scrutiny, oversight, regulation and inspection. G4S manages Brook House in line with statute and guidance including the Detention Centre Rules, Detention Centre Operating Standards, and Detention Services Orders. It is inspected by HM Inspectorate of Prisons. The Independent Monitoring Board scrutinise conditions in the centre on an ongoing basis. And a number of other Home Office teams are involved in providing oversight of the centre. Our focus in this memorandum is on the contract and the contract management (paragraphs 1.11, 3.17 and Figure 12).

The operation of the contract by G4S

12 G4S has broadly delivered to the terms of the contract. The Home Office told us that it was generally pleased with G4S's overall performance. Deductions for underperformance have been relatively small (under 1.5% of the fee), although penalties are incurred almost every month and have increased slightly over time. Most penalties have been for failing to provide sufficient staff, communications, activities or cleaning. The two largest deductions have been £30,000 for an escape in March 2016 and £21,000 levied in January 2019 for items of undelivered mail. The Home Office chooses not to apply deductions for slightly less than half of the recorded performance failures due to extenuating circumstances (paragraphs 2.2 to 2.6 and Figures 6 and 7).

13 The abuses documented in BBC's September 2017 *Panorama* were not a contractual breach and did not lead to substantial penalties under the contract. Under the contract, the Home Office can only award deductions for specific incidents of underperformance. Inappropriate use of force or verbal abuse of detainees are not counted as a performance failure under the contract. The Home Office and G4S's investigation of the footage counted 84 incidents. Most of these were either already reported or were not required to be reported under the contract. However, the Home Office charged G4S £2,768 (less than 0.5% of the monthly fee) for eight incidents, four of which should have been previously reported. The Home Office concluded that the behaviour depicted in *Panorama* did not constitute evidence of systemic failures or a material breach of the contract and that it was not necessary to try to terminate G4S's contract (paragraphs 2.7 to 2.9).

14 The contract requires G4S to provide both staff training and education to detainees but does not stipulate the quality required. The content of staff training is set out in the staff training plan approved by the Home Office, but there are no penalties for not meeting this and there is no equivalent plan for the education of detainees. Following *Panorama*, G4S commissioned an external review of Brook House from Kate Lampard. G4S published this review in November 2018. The investigation found shortcomings with staff training and the education and activities provided to detainees, that were under-resourced (paragraphs 2.12 to 2.13, 3.13 and Figures 9 and 10).

15 G4S told us it made an annual gross profit on the contract of 18% to 20% until 2016, falling to 10% in 2017 and 14% in 2018. This is the revenue G4S receives minus the direct costs of operating the contract, before deducting any overheads such as HR, legal, finance or regional management. The Home Office is not entitled to any share of these profits. We have not benchmarked these profits to other contracts. The appropriate level of profit is not easy to determine, but should be linked to the risk G4S carries. It is not obvious from the scale of the possible performance penalties that G4S carries a particularly high level of financial risk on this contract, although its profits did fall following *Panorama* because it started to spend more on the contract (see paragraph 17) (paragraphs 2.16 to 2.21 and Figure 11).

Home Office oversight of the contract

16 The behaviour of staff shown in *Panorama* came as a shock to G4S management and the Home Office. Although G4S had reported many of the specific incidents depicted, the contractual reporting did not communicate their severity. The undercover reporter had not used the whistleblowing mechanisms in place to report his concerns (paragraph 3.8).

17 Immediately after *Panorama*, the Home Office and G4S agreed an action plan for how G4S would improve its management of the centre. G4S and Home Office drew up the plan together and G4S formally proposed it in October 2017. Under the action plan, G4S dismissed staff, changed its initial training course, recruited extra staff, introduced body-worn cameras and reduced standard weekly hours for detainee custody officers from 46 to 40. It also commissioned the Kate Lampard review mentioned in paragraph 14 above. The Home Office did not formally serve G4S a 'rectification notice' (a notice requiring G4S to provide the action plan), meaning it would not have been able to terminate the contract had G4S not met the terms of its action plan. But the Home Office did closely monitor how G4S implemented the action plan. G4S presented its final report on its action plan to the Home Office in May 2018, and the last actions were implemented as part of the contract extension (paragraphs 3.9 to 3.12 and Figure 13).

18 The contract was due to end in May 2018, but the Home Office agreed to extend it to May 2020. The Home Office was due to award a new contract at the end of September 2017. But it decided to first pause and then cancel the procurement to take account of the then-emerging lessons. This meant extending G4S's contract two years beyond its allowable term, but enabled the Home Office to take account of lessons from the various reviews into Brook House in the design of the new contract (paragraphs 3.14 to 3.16).

19 Until 2018, the Home Office did not have the people in place to properly verify or validate G4S's reported level of performance. The on-site monitoring of G4S's contractual compliance was part of one executive officer's role (a junior civil servant), who sat in the detainee casework team and focused mainly on monitoring G4S's level of staffing. This was insufficient to enable the Home Office to properly examine G4S's self-reported performance, or challenge G4S on its management of the centre (paragraph 3.3).

20 Since *Panorama*, in line with wider improvements across government, the Home Office has increased the size and role of its contract monitoring team. In 2018, following an independent report by Stephen Shaw, the Home Office decided to strengthen the role of the on-site detainee engagement and casework team. It also decided, in line with a general strengthening of contract management across government and the National Audit Office's recommendations on contracting to strengthen its contract management role. It separated the contract management role from the team supporting detainee casework and increased the size of its on-site compliance team to six, led by a Grade 7 official (a civil service middle manager) (paragraphs 3.2 to 3.4 and Figure 12).

21 The larger compliance team allows the Home Office to scrutinise G4S's self-reported performance and focus on other issues important to detainees.

The new team monitors G4S's performance through daily walk-arounds of the centre, checks that G4S reports all the performance failures it is aware of, and agrees when and when not to apply a fee reduction for performance failures. It also challenges and monitors wider performance issues, such as the appropriateness of use of force by staff against detainees, even though this is not a strict contract compliance issue (paragraphs 3.5 to 3.7 and Figure 12).

22 The work of the larger compliance team has also revealed some weaknesses in G4S's self-reporting.

Most of G4S's reporting relies on manual processes and staff reporting problems. The Home Office noticed a few failures to report issues promptly, including when a table-tennis table was unavailable. G4S has agreed to improve its self-audit of its performance and has recruited a new business intelligence manager to improve its reporting (paragraphs 2.6 and 3.6 to 3.7).

23 The 2018 review by Moore Stephens LLP found G4S's billing was free from material errors in the level of staffing, service levels and costs savings achieved.

G4S commissioned a review by Moore Stephens LLP in response to the Home Affairs Select Committee inquiry on Brook House to confirm whether G4S's charges were accurate, complete and in accordance with the contract; and that G4S profits on the contract agreed with G4S's underlying books and records. The review covered 2012 to 2016 and found no material errors, meaning errors that it considered important or significant in context (paragraphs 3.18 to 3.20 and Figure 14).

24 The Cabinet Office and Home Office have engaged the auditors EY to undertake a further review of the Brook House contract.

This is part of a government-wide initiative to undertake open-book reviews to assess whether the delivery and charging of government suppliers are compliant with the contracts, laws and regulations. EY plans to provide its final report to the Home Office and the Cabinet Office later this year (paragraph 3.21).

25 The Home Office has concluded that, in retrospect, the Brook House contract does not provide it with the levers it needs.

The contract's performance incentives are not focused on many of the things that matter most to the Home Office and detainees, and the Home Office has not issued any rectification notices to drive improvement in other areas. The Home Office is currently procuring a new contract to manage Brook House from 2020 to 2028. Its intention is that new performance measures will cover staff recruitment, induction, training, mentoring and culture. It also wants to establish a contractual role for the Home Office to monitor the appropriateness of the use of force against detainees, and care of staff and detainees following an incident (paragraphs 1.14 to 1.16).

Concluding remarks

26 It is not within the scope of this memorandum to comment on the severity, causes or prevention of the staff behaviour brought to light by BBC *Panorama* in 2017 or the current safeguarding arrangements. But it is worrying that the normal contract monitoring and incident reports did not communicate the gravity of what was shown by the documentary. G4S and the Home Office have both taken steps to improve the management and oversight of the centre since. However, immigration removal centres remain a high-risk activity, and it is important that the Home Office remains vigilant in its oversight.

27 The Home Office has since concluded that the contract as written is not fit for purpose. The inability of the Home Office to impose any significant financial consequences on G4S for the abuse of detainees highlights limitations in the contractual approach. While Brook House is also subject to regulation and scrutiny beyond the contract monitoring, if G4S had not wanted to demonstrate improvement, it would have been difficult to contractually enforce action. The Home Office is letting a new contract to start next year, presenting the opportunity to give more importance to issues of safeguarding, staff culture and staff training. Even so, it is vitally important that the Home Office continues its new approach of managing its provider to both the letter and spirit of its contracts.