

Chair

Cabinet Committee on State Sector Reform and Expenditure Control

Proposed Directions under the Crown Entities Act 2004 to support a whole of government approach for Procurement, ICT and Property Functional Leadership

Paper 3 of 4: ICT Functional Leadership

Proposal

- 1 This paper proposes extending ICT functional leadership, of which ICT assurance is an important part, to relevant entities in the wider State Services by commencing the process for issuing a direction under section 107 of the Crown Entities Act 2004. It also invites the Ministers of Finance and State Services to report back on the outcome of the consultation process.
- 2 This is the third in a suite of four papers concerning whole of government directions for the three functional leadership areas. The first in the suite, *Proposed Directions under the Crown Entities Act 2004 to support a whole of government approach for Procurement, ICT and Property Functional Leadership: Paper 1 of 4 – Overview*, explains the scope, purposes and processes for issuing section 107 directions. The *Overview* paper seeks Cabinet approval to consult on the directions.

Executive Summary

- 3 In October 2012, Cabinet agreed that the Government Chief Information Officer (GCIO) would assume the role of functional leader of government ICT [CAB Min (12) 35/4C].
- 4 As part of the approval of the *Government ICT Strategy and Action Plan to 2017*, Cabinet directed Public Service departments and four Non-Public Service departments to align their ICT and business strategies with the *Strategy and Action Plan* [CAB Min (13) 20/12]. Cabinet noted that upcoming changes to the Crown Entities Act 2004 would permit the issuing of a section 107 direction to appropriate entities in the wider State Services, directing that they adopt common ICT capabilities and other initiatives within the *Strategy and Action Plan*.
- 5 Cabinet also noted separately that changes to the Act would permit the issuing of a section 107 direction to the same entities to give effect to the GCIO assurance role [CAB Min (13) 20/13], including subsequent cloud computing decisions. The GCIO was directed to work with the State Services Commission to prepare a whole of government direction to Crown entities.
- 6 The proposed direction would require that relevant entities:
 - secure the GCIO's agreement to strategic ICT plans and investment intentions, prior to finalising or implementing them;
 - adopt current and upcoming mandatory common ICT capabilities, including RealMe¹;
 - provide ICT assurance information to the GCIO upon request;
 - work directly with the GCIO on ICT assurance issues where issues of concern related to ICT assurance are raised; and

¹ RealMe is New Zealand's official online authentication and identity verification service, which was rebranded from 'igovt' and re-launched on 1 July 2013.

- use the Technical Quality Assurance and Independent Quality Assurance panel, and the ICT security panel, as directed by the GCIO [SEC Min (13) 2/6].
- 7 In addition, the GCIO and Head of State Services would jointly specify new mandatory common ICT capabilities [CAB Min (12) 35/4C].
 - 8 It is intended that the direction apply to a selected group of Crown agents, comprising the Accident Compensation Corporation, district health boards, the Earthquake Commission, the Housing New Zealand Corporation, the New Zealand Qualifications Authority, the New Zealand Transport Agency, New Zealand Trade and Enterprise, and the Tertiary Education Commission.

Background

- 9 On 1 October 2012, Cabinet agreed that the GCIO would assume the role of functional leader of government ICT. Under this model government ICT is to be centrally led and collaboratively delivered, with the GCIO setting direction through a combination of mandates and influence, assisted by the Head of State Services [CAB Min (12) 35/4C].
- 10 On 17 June 2013, Cabinet adopted the *Government ICT Strategy and Action Plan to 2017* [CAB Min (13) 20/12], which sets out how government's use of ICT will be transformed by 2017. At the same time Cabinet agreed to a strengthened approach to system-wide ICT assurance across the State Services, and to provide the GCIO with the mandates to implement that approach [CAB Min (13) 20/13]. Currently, these mandated requirements apply to all departments within the State Services. On 29 October 2013 Cabinet agreed to a risk and assurance framework for cloud computing and noted that government cloud computing decisions are to be made within the system-wide ICT assurance process [CAB Min (13) 37/6B].
- 11 Cabinet directed the GCIO to work with the State Services Commission to prepare a draft direction to Crown entities, in preparation for the enactment of the *State Sector and Public Finance Reform Bill* [CAB Min (13) 20/12]. The provisions for section 107 directions under the Crown Entities Act were recently amended to increase the range of purposes for which a direction can be used, and allow the government to be more selective about the Crown entities to which a direction applies. The legislative amendments came into force on 18 July 2013.
- 12 The direction would support a wider approach to ICT functional leadership, sending a strong signal that relevant Crown entities are expected to cooperate with the new assurance framework and the implementation of the *Strategy and Action Plan*.
- 13 The GCIO wrote to State Services agencies on 26 September 2013 to draw their attention to work on ICT functional leadership that is underway and the intention to issue a whole of government direction.

Scope and interim wording

- 14 It is intended that the direction apply to a select group of Crown agents, comprising the Accident Compensation Corporation, district health boards, the Earthquake Commission, the Housing New Zealand Corporation, the New Zealand Qualifications Authority, New Zealand Trade and Enterprise, the New Zealand Transport Agency, and the Tertiary Education Commission.
- 15 Under section 107 of the Crown Entities Act, as recently amended, a direction can be applied to a group of Crown entities if:
 - i) the group is made up of at least three Crown entities; and

- ii) the entities in the group have in common at least one significant characteristic that relates to the direction.
- 16 The above Crown agents have in common significant ICT business transactions and investment, which is the reason they have been chosen for application of the proposed direction.
- 17 Relevant entities would be consulted on the following draft direction:
- In relation to the Government Chief Information Officer's (GCIO) functional leadership mandate:*
- (a) entities are to secure the GCIO's agreement to strategic ICT plans and investment intentions prior to finalising or implementing them;
 - (b) entities are to adopt the mandatory common ICT capabilities, including RealMe;
 - (c) the GCIO and Head of State Services are to specify jointly new mandatory common ICT capabilities, as well as when entities must adopt these new capabilities; and
 - (d) entities may, with the agreement of the GCIO, and failing that the Head of State Services, opt-out of common ICT capabilities on a case-by-case basis.
- In relation to the GCIO's ICT assurance function:*
- (e) entities are to provide any information for the purpose of ICT assurance to the GCIO upon request;
 - (f) entities are to work directly with the GCIO on ICT assurance issues where issues of concern related to ICT assurance are raised; and
 - (g) entities are to use the Technical Quality Assurance and Independent Quality Assurance panel, and the ICT security panel, as directed by the GCIO.
- 18 Certain terms within this direction would be defined, as follows:
- "ICT" includes information management, technology infrastructure, and technology-enabled business processes and services.
 - "entities" are a select group of Crown agents, including the Accident Compensation Corporation, district health boards, the Earthquake Commission, the Housing New Zealand Corporation, the New Zealand Qualifications Authority, the New Zealand Transport Agency, New Zealand Trade and Enterprise, and the Tertiary Education Commission.
 - "Technical Quality Assurance and Independent Quality Assurance panel" means the independent panel of providers established by the GCIO as agreed by Cabinet on 17 June 2013 [CAB Min (13) 20/13 refers].
 - "ICT security panel" means the panel of privacy and security expertise, agreed to by Cabinet on 26 February 2013 as part of its consideration of the Review of Publicly Accessible Information Systems [SEC Min (13) 2/6].
- 19 In addition, this direction would replace the all-of-government direction issued in July 2008, requiring Crown agents to use shared authentication services (i.e. the RealMe services), for the selected entities subject to this direction only. The direction issued in July 2008 would still apply to Crown agents not subject to this direction.

Benefits of the proposed direction

- 20 A widened approach to ICT functional leadership would achieve greater standardisation and integration of government ICT, enabling greater coherence and more effective leadership from the GCIO. The GCIO's system-wide view will drive citizen and business-centric service delivery improvements and system efficiencies.

- 21 Similarly, all-of-government ICT assurance conducted by the GCIO will provide Ministers with a comprehensive view of the risks associated with the government's investment in ICT, and confidence that these risks have been systematically identified and are being proactively managed. ICT assurance, along with the infrastructure and support provided to entities under functional leadership, will enable these entities to focus on achieving their business objectives.
- 22 The *Strategy and Action Plan* focuses on the use of ICT to deliver better services. It aims for a future state where government is more integrated and uses information more effectively, particularly to deliver customer-centric digital services (while maintaining appropriate privacy and security controls). Fulfilling that future state requires the consolidation of technology platforms, enhanced management of information assets and integration of business processes at either an all-of-government or sector/cluster level. A direction to extend functional leadership to the above group of Crown agents would help achieve this future state.
- 23 A direction to extend functional leadership would also contribute to achieving the ICT functional leadership goal of delivering sustainable business savings of \$100 million per year by 2017.
- 24 The GCIO has committed to providing ongoing reporting to Ministers on the tracking and realisation of benefits from ICT functional leadership at a frequency agreed by those Ministers, as directed by Cabinet. This reporting would be expanded to include benefits achieved from a wider application of the functional leadership and assurance mandates.

Risks of the proposed direction

- 25 There is a risk that the proposed direction could be perceived as impinging on the statutorily independent functions of entities. However, section 113 of the Crown Entities Act specifies that a direction cannot relate to an entity's statutorily independent functions or change how these functions are carried out, or require action in respect of a particular person or persons. Consultation on the direction with entities would also ensure that it is developed and implemented in a way that supports this provision.
- 26 The size and scope of the mandate that was originally envisioned has been narrowed to ensure that resources are focused on the group of Crown agents with substantial ICT business transactions and investments, and that the Department of Internal Affairs' (the Department) limited capacity is not spread too thinly. The Department is currently building its capacity and capability to meet the remaining demands using funding that the government has invested in this function. For example, the GCIO is also working with the Health IT Board, which will support the GCIO in implementation of the mandates across district health boards.
- 27 There is a risk in not extending ICT assurance to cover a wider breadth of State Services agencies, as without reporting and formal engagement issues are likely to be missed or not recognised in a timely manner. However, entities outside the mandates that seek assistance from the GCIO will be provided with advice and guidance as resources allow. The GCIO is working with the transport sector on a new operating model to pilot clustering, and with 70 agencies across the State sector on the response to the GCIO review of publicly accessible systems. In addition, good practice guidance is being developed and this will be shared widely.
- 28 Information provided by entities during the consultation process on the direction will also be useful in getting a better understanding of the future assistance and intervention requirements.

Consultation on the use of a whole of government direction

- 29 Subject to Cabinet approval, consultation will occur with the entities to which the direction is proposed to apply, and with others the Ministers of Finance and State Services consider represent the interests of those likely to be substantially affected (section 108(1) of the Act).
- 30 The Department maintains a website (ict.govt.nz) where information on mandated and non-mandated common ICT capabilities can be found. This will provide guidance to all agencies, whether they fall within the mandate or not.
- 31 The consultation processes for the three areas of functional leadership will be a coordinated effort involving the three lead agencies and the State Services Commission. The Head of State Services will put in place a process for coordinated consultation on the proposed directions. Officials anticipate that this will include a range of measures to ensure effective consultation.
- 32 The process of engagement and formal consultation with entities will be initiated in December 2013. It is expected to continue over the early stages of 2014 to ensure that entities have sufficient opportunity to consider what is proposed and respond. The Department will contribute to the report back on the consultation from the Ministers of Finance and State Services.

Next steps

- 33 In accordance with the Crown Entities Act, and subject to the outcome of the consultation process, the Department will prepare a paper for the Ministers of Finance and State Services to submit to Cabinet:
 - reporting on the outcome of the consultation process, including a summary of submissions and any requests to be exempt from the effect of the direction;
 - seeking Cabinet's agreement to issue a direction, notify entities, and present the direction and associated explanatory material to the House of Representatives; and
 - asking Cabinet to approve the text of a direction and to note any explanatory material that will be annexed to the Cabinet paper.
- 34 The direction comes into force 15 sitting days after it is presented to the House, unless the House resolves not to apply it.

Consultation on this paper

- 35 This paper has been prepared by the Department of Internal Affairs in consultation with the Ministry of Business, Innovation and Employment, the Property Management Centre of Expertise, the State Services Commission, and the Treasury. The Department of the Prime Minister and Cabinet has been informed. There has been no consultation on this paper with Crown entities, although their monitoring departments have been informed.

Financial implications

- 36 The costs of the proposed consultation process required by section 108 of the Crown Entities Act will be funded from within the Vote Internal Affairs baseline. The cost of implementing the direction will be met from within the administrative budget allocated to the GCIO.
- 37 The costs to entities of implementing the direction will depend on the individual agency's circumstances. The consultation package will ask agencies about their

existing capability and the financial implications they foresee in carrying out their obligations under the direction. Responses will be included in the report back to Ministers following the consultation period.

Legal Advice

38 See *Overview* paper.

Human rights, gender and disability implications

39 See *Overview* paper.

Legislative implications

40 See *Overview* paper.

Regulatory impact and compliance cost statement

41 See *Overview* paper.

Publicity

42 See *Overview* paper.

Recommendations

43 The Minister of Internal Affairs recommends that the Cabinet Committee on State Sector Reform and Expenditure Control:


- 1 **note** the proposal to commence consultation on the proposed use of a direction under section 107 of the Crown Entities Act 2004 in order to support an all-of-government approach to ICT functional leadership, including ICT assurance;
- 2 **note** that a direction to support an all-of-government approach would improve the efficiency and effectiveness of government ICT by enabling greater coherence and more directive leadership from the GCIO and better visibility and management of risks associated with government ICT plans and investment;
- 3 **note** that the proposed direction under section 107 would apply to a select group of Crown agents, comprising the Accident Compensation Corporation, district health boards, the Earthquake Commission, the Housing New Zealand Corporation, the New Zealand Qualifications Authority, New Zealand Trade and Enterprise, the New Zealand Transport Agency, and the Tertiary Education Commission;
- 4 **note** that the proposed wording of the direction is as follows:

In relation to the Government Chief Information Officer's (GCIO) functional leadership mandate:

- (a) *entities are to secure the GCIO's agreement to strategic ICT plans and investment intentions prior to finalising or implementing them;*
- (b) *entities are to adopt the mandatory common ICT capabilities, including RealMe;*
- (c) *the GCIO and Head of State Services are to specify jointly new mandatory common ICT capabilities, as well as when entities must adopt these new capabilities; and*
- (d) *entities may, with the agreement of the GCIO, and failing that the Head of State Services, opt-out of common ICT capabilities on a case-by-case basis.*

In relation to the GCIO's ICT assurance function:

- (e) entities are to provide any information for the purpose of ICT assurance to the GCIO upon request;*
 - (f) entities are to work directly with the GCIO on ICT assurance issues where issues of concern related to ICT assurance are raised; and*
 - (g) entities are to use the Technical Quality Assurance and Independent Quality Assurance panel, and the ICT security panel, as directed by the GCIO;*
- 5 **invite** the Ministers of State Services and Finance to report back on the outcome of the consultation process once consultation is complete;
- 6 **note** that the proposed direction would replace the all-of-government direction issued in July 2008, requiring Crown agents to use shared authentication services, for the Crown agents that are covered by this direction; and
- 7 **note** that the all-of-government direction issued in July 2008 would remain in effect for the Crown agents that are not covered by the proposed direction.



Hon Chris Tremain
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