

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 leaderships

Paper 4 of 4 - functional leadership for property

Proposal

- 1 This paper proposes extending the functional leadership for property mandate to apply to all Crown agents (except District Health Boards) using a section 107 direction under the Crown Entities Act 2004 to support a whole of government approach.
- 2 It also invites the Ministers of State Services and Finance to report back following consultation on the proposed direction.

Executive Summary

- 3 In October 2012 the functional leadership for property mandate was recorded in CAB Min (12) 35/4B. The mandate requires the Property Management Centre of Expertise (PMCoE) to achieve capability, effectiveness and efficiency improvements across departments, undertake property-related procurement and generally support agencies.
- 4 The mandate applies to all Public Service departments and the New Zealand Defence Force, the New Zealand Police, the New Zealand Intelligence Service and the Parliamentary Counsel Office. The mandate is binding and enforceable.
- 5 The scope of the mandate includes office accommodation, public interface and service delivery space. It does not include operational sites such as hospitals, prisons and courts.
- 6 Crown agents are not bound by the mandate. There are benefits to Government, Crown agents and the public through Crown agents using the policies, strategies, standards and tools that PMCoE has developed for departments.
- 7 These benefits include:
 - i. Crown agents benefiting from economies and efficiencies through:
 - i. Procurement and project cost efficiencies,
 - ii. economies of scale in all-of-government sourcing,
 - iii. consistency and quality of approach to market,
 - iv. the data, information and cross-agency view the PMCoE has, enabling aligning Crown agents with collective opportunities,
 - v. established property-related business case processes with Treasury,
 - vi. market acceptance of standardised contract documentation; and
 - ii. Crown agents' expertise and capability improving through participation in the PMCoE's capability maturity modelling and building, and their ability to use the PMCoE's education programme.

Background

Property functional leadership

- 8 In October 2012 the functional leadership for property mandate was recorded in CAB Min (12) 35/4B. The development of the functional leadership approach for property recognised opportunities for benefits from a cross-department approach to strategy, procurement, standards and processes.
- 9 The mandate requires the Property Management Centre of Expertise (PMCoE) to achieve capability, effectiveness and efficiency improvements across Public Service departments and some non-Public Service departments (New Zealand Defence Force, New Zealand Police, New Zealand Security Intelligence Service and Parliamentary Counsel Office).
- 10 In addition, the responsible ministers for each Crown agent (except District Health Boards) were invited to convey their expectations that the Crown agent comply with the mandate.

Section 107 directions

- 11 A direction to support a whole of government approach under section 107 of the Act can be used where the government has decided on a multi-agency or system-wide approach to an activity, and there are benefits from applying this to some or all Crown entities and/or companies listed in Schedule 4A of the Public Finance Act 1989.
- 12 The provisions for section 107 directions under the 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.
- 13 Under amendments made to the Act in 2013, the Ministers of Finance and State Services may jointly direct Crown entities to support a whole of government approach by complying with specified requirements for any of the following purposes:
 - (a) to improve (directly or indirectly) public services;
 - (b) to secure economies or efficiencies;
 - (c) to develop expertise and capability;
 - (d) to ensure business continuity;
 - (e) to manage risks to the government's financial position.

Previous decisions – Procurement and ICT

- 14 The Government has decided on a whole of government approach to functional leadership for ICT, Procurement, and Property. The ICT and Procurement Functional Leaders have already been directed to develop section 107 directions [CAB Min (13) 20/12, CAB Min (13) 20/13 and CAB Min (13) 10/4A refer].
- 15 Extending the Functional Leadership mandates beyond core Public Service departments is desirable to secure economies of scale, improve operational efficiency, build capability, and improve service delivery.

Draft text of proposed functional leadership for property direction

- 16 Crown agents will be consulted on the following draft direction, which is based on the obligations that Public Service departments currently face:

Pursuant to section 107 of the Crown Entities Act 2004, the Minister of Finance and the Minister of State Services, directs all Crown agents (except District Health Boards) subject to a direction under section 107(2)(c) to support a whole of government approach in relation to the functional leadership for property mandate with effect from 1 July 2014, as follows:

In order to secure economies and efficiencies and to further develop relevant expertise and capacity, all Crown agents (except District

Health Boards) are directed to follow the mandate of the Functional Leader for Property, acting through the Property Management Centre of Expertise (PMCoE), as it applies to public service departments.

From the full functional leadership for property mandate contained in CAB Min (12) 35/4B¹, this direction will have the following operative effect on the Crown agents:

- *Crown agents will cooperate with the PMCoE, as agent of the functional leader for property, to develop property strategies, principles, standards, tools and processes that will prescribe how Crown agents will develop and manage their individual property strategies*
- *Crown agents will need to obtain the approval of the functional leader for property prior to entering into contracts for acquisition or disposal (in part or full) of leased or owned office accommodation or public interface accommodation, and for any decisions on acquisition, disposal or procurement of any property-related goods or services, pending approval of the principles, tools and standards expected in 2014*
- *Crown agents will be required to comply with the detailed standards, tools and process and standards for property-related products and services, once these have been approved by Ministers*
- *Crown agents will be responsible for developing biennial Agency Strategic Property Plans for approval by the PMCoE, that adhere to the principles, standards and strategies established by the functional leader for property*
- *Crown agents will adopt the integrated workplace management system "Archibus"², procured by the Ministry of Social Development, on a cost recovery basis*
- *Crown agents will take up all-of-government contracts for property-related goods and services, as existing contractual commitments allow*
- *Crown agents will contribute to the costs of the PMCoE on a cost-recovery basis as it applies to public service departments.*

In addition, Crown agents may elect to transfer property management functions to the PMCoE (or procured outsourced providers) on a cost-recovery basis.

Benefits of the proposed direction

- 17 While the majority of Crown agents currently act in accordance with the functional leader, this does not guarantee future cooperation.
- 18 Current functional leadership savings targets of \$9m (2013/14), \$60m (2014/15), \$95m (2015/16) and \$110m (2016/17 plus outyears) already include savings from the Crown agents proposed in this direction so no variance to targets would occur as a result of this direction. However, relying on voluntary cooperation represents a delivery risk to potential forecast savings if cooperation decreases.
- 19 Consistent, efficient and reliable ongoing implementation of functional leadership for property goals can be maximised by extending the mandate to apply to all Crown agents (except District Health Boards). The practical effect of this direction will be to apply the same mandate applicable to the departments, to the Crown agents. These are highlighted in Appendix 1 – Mandate and direction scope.

¹ Cab Min (12) 35/4B available at <http://www.ssc.govt.nz/bps-cab-papers-minutes>

² Known as Government Property Portal, or GPP

Risks and impacts

- 20 New costs associated with this direction for the applicable Crown agents are considered negligible.
- 21 The majority of the internal cost for Crown agents comes from time spent on the development of the Agency Strategic Property Plans. However, this is already being undertaken by the majority of Crown agents, and good practice suggests it is something all Crown agents with property portfolios should be undertaking anyway.
- 22 The mandate currently requires 95% of savings realised to be retained within the Crown agents, as is the case for departments.
- 23 There are no concerns with the capability or capacity required of the Crown agents to implement the direction.

Compliance with the provisions of the Crown Entities Act 2004

- 24 The overview paper in this suite details the tests that these directions meet pursuant to the Crown Entities Act 2004 section 107(1)(2) and Cabinet Office Circular (13) 4.
- 25 This direction meets the test pursuant to section 107(2)(c)(i)(ii); the applicable Crown agents (of which there are more than three) have the common characteristic of owning or leasing office and/or public interface space as set out in the Functional Leadership mandate for Property.

Entities covered by the direction

- 26 Entities to be covered by the direction are Crown agents except District Health Boards. The reason for excluding District Health Boards, as was the case when the functional leadership for property mandate was established, is that their office accommodation and public interface property is considered integrated within their operational property. They are primarily hospitals, and not able to be subjected to strategy and policy relating only to office accommodation. District Health Boards can still opt to apply the standards, tools, etc that the PMCoE develops to the office accommodation areas within their operational sites as applicable and possible.
- 27 Other entities to which a section 107 direction can be applied (as set out in Appendix 1 of Paper 1: Overview) are not included in this direction. The departments currently mandated and the Crown agents that would be covered by this proposed direction constitute the majority of the large government office accommodation leases. Few additional economies of scale are envisaged by including additional entities, relative to the additional funding and resourcing such additions would require.

Next steps – Consultation process for proposed direction

- 28 Key elements of the process are:
 - i. The consultation process will commence as soon as practicable following the approval of this paper by Ministers.
 - ii. The Head of State Services will write to the Crown agents to introduce the directions from each functional lead area and the overall purpose, putting in place a process for consultation.
 - iii. The PMCoE will then engage with the property manager or equivalent, to get feedback on the proposed direction, initially through correspondence and offering to meet if discussion is required. This will be coordinated with other functional leaders where the Crown agents representative is common to more than one functional leader.
 - iv. Concerns raised during consultation will be considered and resolved, or addressed in the report-back to Ministers.

- v. The direction is proposed to apply from 1 July 2014. As this direction has no expiry date it will be reviewed 5 years after the direction is given.
- vi. Periodic monitoring of compliance with the direction to ensure continuing effective application will be undertaken. The PMCoE will be responsible for this, and will report benefits through the functional leadership for property quarterly reporting process to Cabinet State Sector Reform and Expenditure Control Committee.

Consultation on this proposal

- 29 This paper has been prepared by the Property Management Centre of Expertise in the Ministry of Social Development collaboratively with the State Services Commission, Treasury, Department of Internal Affairs and the Ministry of Business, Innovation and Employment. The Department of the Prime Minister and Cabinet has been informed.
- 30 There has been no consultation with Crown agents as they will be consulted in the next stage of the process. The monitoring departments of the Crown agents have been advised on the consultation approach.

Financial, Human Rights and Legislative implications

- 31 Refer to the overview paper of this suite of papers.

Regulatory impact analysis

- 32 Refer to the overview paper of this suite of papers.

Publicity

- 33 Refer to the overview paper of this suite of papers.

Recommendation

- 34 It is recommended that the Cabinet Committee on State Sector Reform and Expenditure Control:

- 1 **Note** that the functional leadership for property is proposing the direction to ensure consistent, efficient and reliable ongoing implementation and manage the risks associated with the current level of cooperation decreasing.

- 2 **Note** the proposed text of the direction for consultation, as follows:

In order to secure economies and efficiencies and to further develop relevant expertise and capacity, all Crown agents (except District Health Boards) are directed to follow the mandate of the Functional Leader for Property, acting through the Property Management Centre of Expertise (PMCoE), as it applies to public service departments.

From the full functional leadership for property mandate contained in CAB Min (12) 35/4B³, this direction will have the following operative effect on the Crown agents:

- *Crown agents will cooperate with the PMCoE, as agent of the functional leader for property, to develop property strategies, principles, standards, tools and processes that will prescribe how Crown agents will develop and manage their individual property strategies*
- *Crown agents will need to obtain the approval of the functional leader for property prior to entering into contracts for acquisition or disposal (in part or full) of leased or owned office accommodation or public interface*

³ Cab Min (12) 35/4B available at <http://www.ssc.govt.nz/bps-cab-papers-minutes>

accommodation, and for any decisions on acquisition, disposal or procurement of any property-related goods or services, pending approval of the principles, tools and standards expected in 2014

- *Crown agents will be required to comply with the detailed standards, tools and process and standards for property-related products and services, once these have been approved by Ministers*
- *Crown agents will be responsible for developing biennial Agency Strategic Property Plans for approval by the PMCoE, that adhere to the principles, standards and strategies established by the functional leader for property*
- *Crown agents will adopt the integrated workplace management system "Archibus", procured by the Ministry of Social Development, on a cost recovery basis*
- *Crown agents will take up all-of-government contracts for property-related goods and services, as existing contractual commitments allow*
- *Crown agents will contribute to the costs of the PMCoE on a cost-recovery basis as it applies to public service departments.*

In addition, Crown agents may elect to transfer property management functions to the PMCoE (or procured outsourced providers) on a cost-recovery basis.

3 Invite the Ministers of State Services and Finance to report back on the outcome of the consultation once the process is completed, estimated to be April 2014.



Hon Dr Jonathan Coleman
Minister of State Services

Date: 21. 4. 13

Appendix 1 – Mandate and direction scope

Departments currently mandated

Public Service Departments

Canterbury Earthquake Recovery Authority
Department of Conservation
Department of Corrections
Crown Law Office
Ministry of Business, Innovation and Employment
Ministry for Culture and Heritage
Ministry of Defence
Ministry of Education
Education Review Office
Ministry for the Environment
Ministry of Foreign Affairs and Trade
Government Communications Security Bureau
Ministry of Health
Inland Revenue Department
Department of Internal Affairs
Ministry of Justice
Land Information New Zealand
Ministry of Maori Development
New Zealand Customs Service
Ministry of Pacific Island Affairs
Ministry for Primary Industries
Department of the Prime Minister and Cabinet
Serious Fraud Office
Ministry of Social Development
State Services Commission
Statistics New Zealand
Ministry of Transport
The Treasury
Ministry of Women's Affairs

Non-Public Service Departments

New Zealand Defence Force
New Zealand Police
New Zealand Security Intelligence Service
Parliamentary Counsel Office

Crown agents the responsible Minister has been invited to convey the expectation to comply. The direction would extend the mandate to these Crown agents.

Accident Compensation Corporation
Callaghan Innovation
Careers New Zealand
Civil Aviation Authority of New Zealand
Earthquake Commission
Education New Zealand
Energy Efficiency and Conservation Authority
Environmental Protection Authority
Health Promotion Agency
Health Quality and Safety Commission
Health Research Council of New Zealand
Housing New Zealand Corporation
Maritime New Zealand
New Zealand Antarctic Institute
New Zealand Blood Service
New Zealand Fire Service Commission
New Zealand Qualifications Authority
New Zealand Tourism Board
New Zealand Trade and Enterprise
New Zealand Transport Agency
New Zealand Walking Access Commission
Pharmaceutical Management Agency
Real Estate Agents Authority
Social Workers Registration Board
Sport and Recreation New Zealand
Tertiary Education Commission