

NABARRO NATHANSON

**RESPONSE TO THE CONSULTATION
DOCUMENTATION “TRANSFORMATIONAL
GOVERNMENT ENABLED BY TECHNOLOGY”**



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1. INTRODUCTION

- 1.1 As one of the leading public sector law firms in the UK, we welcome the opportunity to respond to this important consultation exercise being conducted by the Cabinet Office. We have acted on a number of major local government IT projects (as set out in more detail in section 7) and are therefore ideally placed to comment on the Strategy with the benefit of lessons learnt from both successful and less successful projects.
- 1.2 We welcome the Strategy and have set out below our detailed comments on specific sections of the Strategy as well as an Executive Summary setting out our more general comments. In addition we have included a section detailing the legal considerations which will need to be taken into account in developing the Strategy and we hope that you will find this section helpful.

We would be happy to discuss any queries you may have regarding the contents of our response.



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1. CITIZEN AND BUSINESS CENTRED SERVICES

- 1.1 **Engaging with Citizens and Businesses** - The Strategy refers to the need for central government services to be designed around citizens and businesses. This approach may be appropriate for some central government departments which deliver services directly to the public. It will not apply to departments such as HM Treasury which do not directly deliver services to the public. Further guidance and examples are therefore required in order to clarify which services and which specific departments the Strategy is referring to. In relation to departments which do not deliver services directly to the public clarity is required as to how it is intended that those departments will be transformed in line with the Strategy, perhaps by reference to their “internal customers”.
- 1.2 While the local e-government agenda focussed on the way in which services are delivered to the public, this policy does not translate for every central government department. Whether services are directed internally or externally, a key factor is having effective stakeholder consultation and communication protocols in place. Expectations on all levels will need careful handling.
- 1.3 **Customer Group Directors** – There is a risk that the approach of appointing Customer Group Directors to represent Customer Groups will result in the delivery of services which are not flexible enough to accommodate the fact that individuals often associate themselves with different groups (as recognised in paragraph 25). The Strategy is more likely to succeed if it focuses on providing services in a joined up manner to people recognising that they straddle a number of Customer Groups. It would also be helpful to know who will be appointed as the Customer Group Directors.
- 1.4 **Service Transformation Board** – In order to provide an effective steer and to co-ordinate the work of the Customer Group Directors we believe that the Service Transformation Board will need to receive input from the each government department in advance of setting the service design principles.
- 1.5 We would suggest that one way in which this could be achieved would be for each department to submit a report similar to those submitted under the Gershon agenda. Input should be received in advance of formulating the detailed Strategy and setting the service design principles to ensure that the Strategy reflects each department’s requirements and aspirations.
- 1.6 It would be useful to see further information about the make-up and structure of the Service Transformation Board.

2. SHARED SERVICES

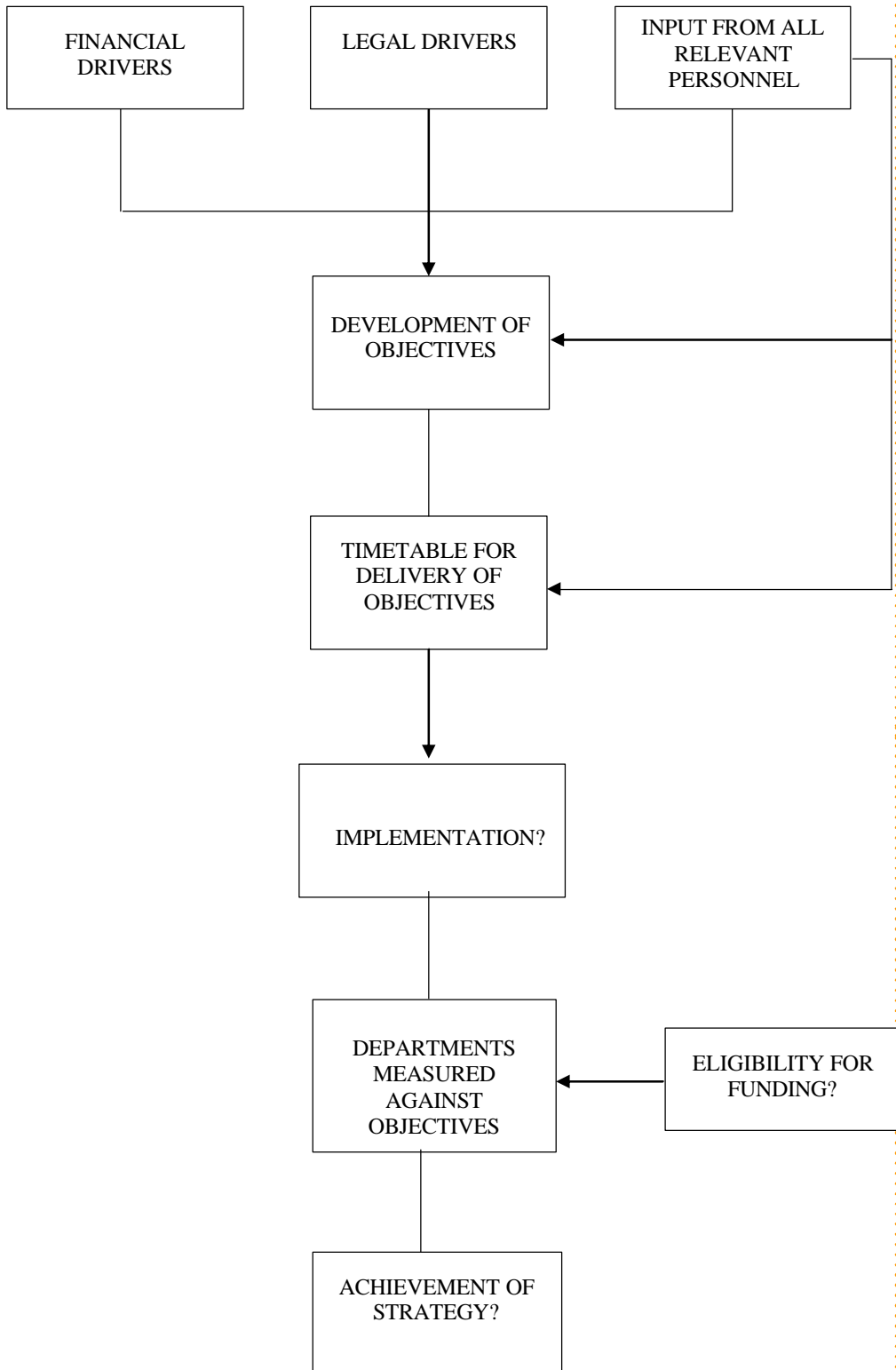
- 2.1 Further guidance is required as to how shared services will be developed. For example will departments be expected to undertake joint purchasing of services or be expected to buy into other departments' established services? This also raises queries about how services will be procured. For example, will departments be expected to undertake joint procurements whilst maintaining their strategic roles, for example under framework agreements?
- 2.2 The Strategy provides a number of examples of services which may be shared, for example Customer Service Centres and Human Resources, Finance and other corporate services. However, decisions will need to be made as to which services will be prioritised.
- 2.3 Paragraph 40(5) states that each government organisation should set out clear policies for sharing for services and assets that it needs or can provide to others. Whilst we agree that development of the Strategy should be informed by early input from each department, we would expect government organisations to be informed by the Strategy as to which services to prioritise. In order for the Strategy to be effective it needs to set out clear requirements and objectives to be attained by each government department within a specified timetable. Ongoing input will be required from government departments to ensure that the Strategy evolves and develops in line with their requirements.
- 2.4 Guidance is also required as to how the Shared Services objectives will be achieved. For example, is the financial incentive for departments the achievement of the Gershon Agenda efficiency savings, will there be financial penalties imposed where departments fail to meet certain objectives and will eligibility for funding depend on meeting the Strategy's objectives?
- 2.5 Under the local e-government agenda funding was made available to authorities as a catalyst for change. Will similar funding be made available under this Strategy? Put simply, how will the Service Transformation Board ensure that Shared Services become a reality?

3. PROFESSIONALISM

- 3.1 We welcome the Cabinet Office's recognition that a focus on Professionalism is essential and that the implementation of a strategy on this scale is likely to require the training of additional staff with appropriate skills. This approach will be complimented by Intellect's Professionalism Programme being developed in conjunction with the eGovernment Unit, to ensure that IT Professionalism is embedded within all aspects of the supply chain.
- 3.2 We are concerned to see that the putting in place of key roles and structures to lead the transformations needed beyond 2006 is listed under the 'Timetable for Change' on page 18 as one of a number of issues to be addressed in the coming 18 months. If the Strategy is to be effectively developed, it is essential that input is received from the right people from its inception. It is our experience that one of the main causes behind unsuccessful IT projects is a failure to involve or retain the appropriate staff from a projects' inception and throughout its ongoing management.
- 3.3 In order to ensure that the Strategy is effectively delivered, a clear organisational structure needs to be developed as soon as possible which ensures that input is received from the right people from the outset. This should include the front-line staff who will ultimately be using the technology to deliver services to citizens and businesses as well as those involved in transforming back office functions.
- 3.4 Paragraph 42 acknowledges the need to develop a clear organisational structure and joined-up leadership. However, the Strategy refers to a number of different organisations, namely, the Service Transformation Board, Customer Group Directors, the Common Infrastructure Board, the Geographical Information Panel and the Shared Service Director. Paragraph 43 states that a full governance structure will be developed in due course. However guidance is needed as soon as possible as to who will sit on each board, what role that board will play and an explanation of the interface between various boards. This will help ensure that the correct people are supporting the Strategy and that each entity understands both its own and others' remit. We would suggest that a diagram setting out this information is included in the final guidance.
- 3.5 The implementation of the Strategy will inevitably result in job losses. Early consultation with affected employees and Trade Unions should start as soon as possible in order to manage the process in the best possible way.

4. EXECUTIVE SUMMARY

- 4.1 We believe that in order to ensure that the Strategy is effective and can be implemented in the most efficient manner, the following key drivers need to be factored into its development and also on an on-going basis to ensure that the Strategy evolves to reflect the changing legislative and financial landscape.
- 4.2 **Financial** – in paragraph 3.4 we queried whether funding will be made available to assist departments in implementing the strategy. The prioritisation of policies and objectives under the strategy will need to be shaped by the financial framework in which departments will be operating.
- 4.3 **Legal** – There are a number of legal constraints and challenges which will need to be taken into account in developing the detailed Strategy including the appropriate procurement route. For example, the extent to which departments are able to deliver shared services will be influenced by the extent to which they are actually able to share personal data. Similarly, the rationalisation of the current 2,500 government websites will be dependent on one organisation taking responsibility for the content of each website. Please refer to section 6 for more detail.
- 4.4 **Involvement of appropriate staff** – as set out in further detail in section 4 the detailed Strategy must be informed by input from the appropriate personnel as early as possible. This will help ensure that the objectives are deliverable.
- 4.5 **Structure** – From reviewing the draft Strategy it is apparent that there are a number of different entities which will be involved in its delivery and implementation. As suggested at paragraph 4.5 the strategy should include a diagram setting out the hierarchy of and interface between these various entities. A Communication Strategy should also be put in place to ensure that each entity fully understands its responsibilities and ambit as well as that of the other relevant entities. A clear explanation of the make up of each Board and the positions within the Board will help ensure that input to the Strategy is received from all of the relevant people.
- 4.6 **Objectives** – In order to achieve the aspiration of the UK entering the global vanguard of those governments who achieve excellence through electronic service delivery identified at paragraph 19, the Strategy needs to clearly set out the objectives to be achieved by central government, and the timetable by which those objectives must be achieved. The local e-government agenda had a clear target of the attainment of 100% delivery of priority services electronically by December 2005. This clearly stated objective gave local authorities a target against which their performance could be measured, as well as a measure for determining the allocation of funding. At present, the Strategy contains no prioritised objectives and without this, lacks the “carrot and stick” which are required to drive the Strategy forwards.
- 4.7 Although the current Strategy does contain some specific objectives, for example, the rationalisation of Government call centres, there needs to be a comprehensive list of prioritised objectives accompanied by a timetable for the implementation of those objectives if the Strategy is to succeed.
- 4.8 Please refer to the diagram below which sets out our understanding of how the strategy should be developed and implemented.



5. LEGISLATIVE FRAMEWORK

- 5.1 The objectives of the Strategy will need to be developed with an understanding of legal framework in which they will be implemented. We set out below the key legal considerations which will need to be taken into account in developing the Strategy – some of which will be familiar issues.
- 5.2 **Data Protection Act** – The extent to which shared services can be delivered will depend on the extent to which government departments are able to share data. As the Cabinet Office will be aware, the Data Protection Act imposes an obligation on data processors to process data fairly which includes an obligation to only use the data for the specified and lawful purpose for which it was first obtained. The Strategy will therefore need to reflect whether for example, information collected by the Home Office can be shared with the DfES.
- 5.3 **Computer Misuse Act** – Paragraph 19 of the Strategy refers to the fact that there are new information assurance risks such as terrorists, organised criminals and hackers who threaten information and services. The current legislation contained in the Computer Misuse Act 1990 is out of date and has been plagued with failed prosecutions. The result is that the Act is failing to protect online business from the impact of hackers. A private members bill has been tabled to amend the Act and is due to have a second hearing this year.
- 5.4 **Identity Management** – Paragraph 39(7) of the Strategy recognises that the approach to biometric identity cards will need to consider the practical and legal issues of making wider use of national insurance numbers to index citizen records.
- 5.5 The approach adopted by the Strategy will need to consider the impact of the European Convention on Human Rights, in particular Article 8 which protects the right to respect for a person's private life including the collection and storage of biometric information. The Strategy will therefore need to reflect the fact that public authorities can only interfere with this right where it is in the interests of national security, public safety, the economic well-being of the country or for the prevention of crime or the protection of the rights of others.
- 5.6 Freely passing biometric information between government departments is therefore unlikely to be possible and we would be happy to advise on how and the extent to which such information could be shared.
- 5.7 **Website Content** – as previously mentioned the Strategy refers to the intention to rationalise the 2500 government websites currently in existence. This will inevitably result in the creation of websites which contain information relating to a number of different government organisations. Care will therefore need to be taken to ensure that the correct person/organisation takes responsibility for updating the contents of the website and that appropriate disclaimers are included on the websites.
- 5.8 **Procurement strategy** – implicit in the strategy will be the need to include overall procurement objectives to deliver successful transformations.

6. OUR EXPERIENCE

- 6.1 Nabarro Nathanson has one of the largest Public Sector teams in the country working on a fully integrated basis across our London and Sheffield offices. We have and are advising both local authorities and the private sector on a large number of IT projects including major outsourcings and strategic partnerships.
- 6.2 We set out below a few of the projects we have advised on together with a brief summary of some of the issues which have arisen on these projects.
- Advised the Metropolitan Police Authority on its £350 million second generation ICT outsourcing. From our involvement in this project we gained experience from the benefits of drawing up service specifications as early as possible to ensure that the commercial negotiations are informed by agreed outputs. We also gained a valuable insight into the importance of ensuring that the authority has a full understanding of how the contract will be managed following contract signature.
 - Advised Peterborough City Council on a 10 year Strategic Partnership, including ICT Services which failed to complete partly due to an ambitious programme which raised considerable issues on affordability.
 - Advised Surrey County Council on its ERP deal with IBM, including the implementation of an ERP Solution and managed services post implementation.
 - Advised Bracknell Forest Borough Council on the extension of its Smartcard project to a regional basis. This involved co-ordinating the requirements of 12 local authorities across counties and districts and ensuring that the contract enabled all participants' objectives to be met within a framework agreement with the appointed ICT supplier.
 - Advised Medway Council on its First Point of Contact Project for one-step technical infrastructure and GRM applications.
 - Advising Breckland District Council on a wide range of service delivery issues and potential ICT solutions, particularly in respect of service delivery to a rural area.
 - Advising a County Council on issues of performance in respect of its ICT partnership.

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