

Better Public Services

DRAFT ISSUES PAPER:

Decision-rights for Achieving Improved Performance

November 2011

Every day, thousands of decisions are made that affect the performance of the state services provided to New Zealanders.

Many of these are small, operational decisions made by the people at the “front line”; but others are bigger decisions about how an operation will be organised; and still others are the really big, strategic decisions about policy design and the level of resources devoted to any particular policy. A great state service model is one where every decision is made by the right people, informed by the best possible information, including feedback from service users.

This paper sets out the Secretariat for State Sector Reform’s thinking about some of the important issues around how these decisions are made, including offering some options for how the current system could be made more flexible and better able to cope with cross-agency decision-making.

This paper is part of a series of background papers prepared by the Secretariat for State Sector Reform to support the work of the Better Public Services Advisory Group.

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Executive summary

Every day, decisions are made that impact on the performance of state services. Having good decisions being made by the right people, at the right time, is vital. This paper looks at where the authority to make decisions currently lies, some challenges that have arisen under the existing framework and suggests some options for change designed, in particular, to create fewer and less negotiable decision-points across agency boundaries.

The current legislative settings devolve most operational decision-making to chief executives of departments and Boards of Crown entities. This is because it was assumed that they would be closest to the “action” and have both the most information and the greatest incentive to make the best decisions based on that information, and they could be held accountable for their decisions. However, experience has shown that this is not always the case. The highly devolved decision-making framework, combined with a large number of agencies has, at times, made coordination across the state service difficult. This is particularly important when:

- there are potential gains from consolidating across agencies such as through coordinated interventions across a “pipeline” of activity or through efforts to leverage economies of scale
- there are potential risks from not coordinating across the whole of the service, particularly where decisions which may seem small to one agency in fact have significant ramifications across the whole of the state service, and
- there are gains to be made where the centre has better information – either because it has a fuller picture of the whole, or because the activity is not core to any particular agency’s business so that they do not have a critical mass of knowledge and expertise.

We do not want to go back to the rigidity and bureaucracy of central controls, particularly as the flexibility and focused accountability of the current arrangements have raised the New Zealand state service to being one of the best in the world. But there are options to introduce greater consolidation of decision-points across the state sector, which might be used where there are likely to be clear gains from doing so. These options could cover a wider range of levels of:

- **compulsion and discretion** – including opt-in, opt-out and mandatory
- **activity** – including at the level of individual programmes, a few agencies, a sector and across the whole of the state service, and
- **decision-makers** – at the level of chief executive, sector leader, Central Agency and the whole of state sector which could be established in a number of ways to achieve an authorised and accountable decision-maker on operational and stewardship issues across the state sector.

This paper explores ideas around:

- **re-conceiving the role of “the centre”** – considering where it would be desirable to strengthen the leadership across the whole of the state services and the options around how this might be done
- **re-shaping the “centre” of the state service.** There are a number of options for doing this including clarifying and widening the powers of the

existing Central Agencies, or formally appointing the State Services Commissioner as Head of State Services, or using a stewardship board consisting of a range of leaders to enable decisions to be made that effect the whole, or a significant part, of the state service

- ***defining new options that could be used to provide leadership where it is needed*** including centres of expertise, heads of profession, functional leader and officials committees with formal responsibilities, and
- ***reducing the barriers to cross-agency coordination and “purchases” by one agency from another*** including revising appropriations and documentation and devising new options that agencies could use such as an equivalent to a joint-venture structure within the state services.

Together, these types of measures could add further flexibility and options to the current operations of the state services, providing for a variety of different approaches so that solutions can be better matched to problems. This approach is worth exploring because:

- while the current devolved decision-rights (and accountability) framework has delivered significant gains by moving decision-making closer to the “action”, sometimes the centre of the “action” is really at a sector or system level, and the current decision-rights options may not adequately reflect this reality
- while centralising decision-rights raises the risk of bureaucratic red-tape and unresponsiveness, measures could be made available to counter that risk by, for example, the Government maintaining a range of options to it including voluntary involvement, opt-in and opt-out arrangements so that contestable pressures can provide incentives for high performance, where appropriate. This suggests that preference should be given to using the lowest level of compulsion justified by the reason for the coordination, and
- clear decision-rights matter for good decision-making and in order to maintain lines of accountability. Introducing new processes will require careful specification of who has the right to make what decision.

Introduction

Decisions matter

Great state services don't just happen. They are the result of a myriad of individual decisions made on a daily basis. Many of these are small, operational decisions made by the people on the front line of service delivery; others are bigger decisions about how the service will be organised; and still others are the really big, strategic decisions about the overall policy and the amount of resources that will be devoted to it.

This issues paper is part of a series prepared by the Secretariat for State Sector Reform as background to the work of the Better Public Services Advisory Group. It considers who has the responsibility to make decisions now and asks whether the current web of decision-making rights is the best set for delivering world-class state services.

Changing where decision-rights are held is a powerful potential tool but the effectiveness of change will be determined by the environment in which the change is made. To have the most impact, changing where decision-rights are held would need to be accompanied by the setting of clear expectations around the way decisions are made and the effectiveness of incentives in place for decision-makers.

The areas covered by this issues paper are:

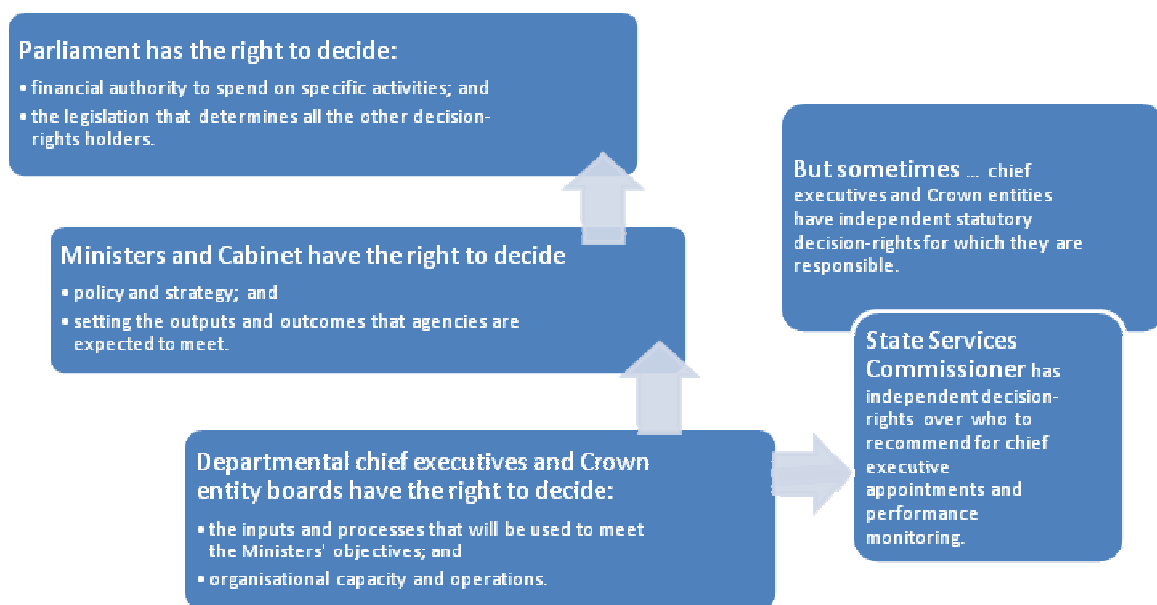
1. ***The performance of the current fundamental building block of decision-rights and whether it is adequate in today's world.***
2. ***How to introduce flexible new decision-rights levels where needed.*** This moves beyond the concept of "one size fits all" to pragmatic solutions to specific situations.
3. ***What value there may be in reconceiving the role of "the centre" –*** extending the definition of what the centre is to beyond the formal Central Agencies, and rethinking the centre's role in assisting the system as a whole to operate more effectively.
4. ***Whether there are options for reshaping the central decision-rights holders*** – so that ongoing decisions on coordination and cooperation can be made without cluttering the Cabinet with lower-level decisions.
5. ***Whether the power of providing better information would improve decision-making*** by the state services, its customers, businesses and the public as a whole.

The case for change

The current allocation of decision-rights

Decision-rights in the state sector are set out by the State Sector, Public Finance and Crown Entities Acts.¹ The diagram below summarises the major decision-points. Parliament sets the framework and overall funding, Ministers (including collectively at Cabinet) decide the policy and strategy and what they expect from their agencies, and agency heads (either chief executives for departments or boards for Crown entities) hold the decision-rights for how their organisations are to be run to achieve Ministers’ expectations.

Major decision-points for decision-rights



Note: The arrows represent reporting or accountability lines.

The breakdown of decision-rights between Ministers and their agencies was initially based around the concept of Ministers acting as the “principals” of an organisation – akin to owners of a company – and, as such, they set the overarching policy and goals. On the other hand, the heads of agencies were seen as being akin to their “agents” – carrying out their wishes, but with a great deal of freedom to determine how to do this.

In practice, the system has worked in a less prescriptive way. Both the setting of the direction and priorities, and the decisions on implementation, have tended to be more collegial between the Minister and the chief executive/Bboard with departments

¹ Throughout this issues paper we use the term “state services” to emphasise the need to start from a wide concept of state services to ensure that opportunities to improve performance are not overlooked. In practice, the concepts discussed in this issues paper are concerned more directly with the executive branch of the public sector, and not the judiciary or commercial activities. The analysis is also most readily applied to departments and after further consideration to some of Crown entities, particularly those that are Crown agents.

having an input into the development of their Minister’s objectives and the Minister expressing views about the implementation of the decision.

The current allocation of decision-rights provides many benefits. In particular:

- it strengthens the existence of a professional, politically neutral state service through separating clearly the decisions on policy and operational matters. This is an efficient way of using scarce state sector leadership talent in a small country
- it moves decision-rights for operational matters to the managers of the system, leading to significantly improved performance. As one commentator on the change wrote:

"New Zealand achieved a step-change in public sector performance in the 1980s when it shifted the focus of control from system-wide input controls to 'letting the managers manage' by making individual public organisations the focus of public management" (Institute of Policy Studies, Emerging Issues Programme, Future State: Overview)², and

- it encourages the development of a clear accountability framework and, while this has not always worked as well as intended, clarity about who is responsible for what is a cornerstone of having any real accountability.

These strengths should not be underestimated. Despite challenges that have emerged, New Zealand still rates as one of the most efficient and effective state services in the world, routinely outperforming Australia, Canada, the United Kingdom and the United States of America, and only being outperformed consistently by the Scandinavian countries and Singapore.³ An Australian study suggested this is because our routine administration systems are particularly efficient (such as the Companies Office’s systems for establishing companies), we are better at matching the right skills for the job (because of the hiring flexibility given to chief executives), and we have robust processes for financial accounting and transparency.⁴ The risk is that we under value where performance is already good, because these areas do not cause us problems.

An example of the gains from the 1980s

Jonathan Karp, from the US Securities and Exchange Commission (SEC), spent seven months studying the Kiwi model of company regulation and financial disclosure.

"New Zealand was ranked close to first in the world for its accessible regime," he said. "In comparison, the US system was complex and costly. You see the [NZ] Companies Office facilitating economic development."

"New Zealand's clear separation between policy and service delivery was something else the US should aspire to," Karp said. "Kiwis had been used to this since the 1980s."

From the *Dominion Post*, 31 August 2011

² Victoria University of Wellington. <http://ips.ac.nz/events/completed-activities/Emerging%20Issues%20Programme/EIP%20FS2%20Overview%20paper%206.pdf>, p.1.

³ Some recent examples would be the comparators prepared by the World Bank, Bertelsmann and IMD World Competitiveness Index.

⁴ Drawn from the New Zealand results in the KPMG report commissioned by the Australian Department of Prime Minister and Cabinet, *Benchmarking Australian Government Performance*, November 2009.

Issues with the current arrangements

But good performance compared to others does not mean that we are achieving the best performance possible. Ever since it was introduced, there have been some significant downsides identified with the system. In particular:

- the current arrangements are seen as too “vertical”, encouraging agencies to act in isolation from each other to the detriment of the performance of the state services as a whole. This is now a pressing issue because many of the complex and difficult issues facing the country fall across agency lines. The pattern in recent years of ad hoc arrangements (such as ministerial committees, officials committees, task groups) also points to a lack of adequate inbuilt coordination options
- there is a lack of system leadership from “the centre”, particularly around longer-term directions and around mechanisms for resolving issues across agencies. This means that many issues have to be elevated to joint Ministers and/or Cabinet, even when the decisions involved are too small or too operational to really justify it, simply because there is no “lower” decision-point. This crowds “the top” of the system with a clutter of insignificant decisions
- when agencies do try to coordinate their activities, they have, at times, found it to be a slow, time-consuming and frustrating process. Because it is voluntary (unless the issue is taken to Cabinet) any coordination essentially proceeds at the rate of the slowest to agree. Potentially this could create a perverse incentive to be the slowest in the hope of gaining an undue share of the advantages of coordination (such as not having to provide as much resource or to give up as much autonomy as the other players), and
- the accountability regime has never seemed to provide adequate consequences for failure, nor probably adequate recognition for success. The result has been that there are not incentives for managers to stretch the boundaries and take risks in the hope of getting greater success. Instead, the incentives in the system are for leaders to focus on doing their current business well, and to downplay the potential gains from change, including change involving working with others.

To some extent, the current problems probably reflect the focus of the time that the current decision-rights arrangements were developed. The high level of centralisation, with the resulting visible evidence of the dead-hand of bureaucracy and the rigidity of centralisation, made it seem desirable to preference moving decision-rights from the centre to individual agencies. New Zealand was not alone in making this judgement; many of the state sector reforms overseas since, including those underway now, have focused on moving decision-rights to the “front line” based on similar reasoning.

However, New Zealand has now had enough practical experience to recognise that, while moving most decisions and accountability to chief executives (and boards for Crown entities) was the right choice overall, this is not always the case. This is because the underlying assumptions behind the 1980s reforms are not always valid. In particular, it was assumed that, by being closer to the business of their agency, they would have the information, the incentives and the experience to make the best decisions, but experience has taught us that this is not always the case.

The experience has been that agency decision-makers in some situations do not adequately take into account the benefits to the wider whole, nor the risks to the rest of the system, because they themselves do not capture the benefits nor face the

risks. Further, in cases when the agency’s activity is a minor part of a wider operation, the agency may have neither the knowledge nor the experience to adequately manage the activity in the best way possible.

This means that, while the current settings in general have the decision-rights in the best place, in some specific situations a more central decision-maker may be a better decision-maker because they face the total consequences of the decision or have the critical mass to better deal with an issue than an individual agency chief executive.

The following table summarises these points and gives some examples of them.

	It was thought that chief executives and boards would...	But we have found that sometimes...	Some examples...
Coordination	Make decisions that were the most beneficial because they were held accountable.	When there are clear external benefits that are not fully captured by a particular agency, chief executives do not always sufficiently take into account potential benefits available to the system as a whole.	When there are economies of scale, such as through bulk purchasing, or economies of operations elsewhere in the system by having ICT systems that can ‘talk’ to each other efficiently.
System-wide risks	Make decisions that took into account all the costs.	When a decision has knock-on effects such as implications further down the pipeline beyond an individual agency’s remit or wider across the state service, these costs are also likely to be undervalued in their decision.	Decisions around how to deal with truants in the education system may have significant flow-on effects into the justice and benefit areas, well beyond education’s remit.
Information	Have the best understanding of the situation and therefore make the best decisions.	When something is infrequent, the agency may not have the expertise to deal with it, or the expertise to outsource it. Consolidating these activities gives the opportunity for scarce expertise to be used wisely. Sometimes the customer of a service knows their needs best and, unless they can convey their needs in a way that alters the service, services can be structured in a sub-optimal way.	Some aspects of procurement and property management have proven to benefit from expert intervention. In some areas there may be a case for having “Government Inc” settings (eg, the quality and quantity of office accommodation). For example, overseas evidence suggests that attendance at hospital outpatient clinics increases if people can choose the time because it is more likely to suit them.

What could an improved system of decision-rights look like?

Experience with the “command and control” system before the 1980s reforms strongly suggests that returning to that approach would be an unwarranted backward step.

However, experience with the current devolved system suggests that it too could be improved. This suggests that, rather than having a major system change, the better option would be to consider a range of opportunities to vary the current default decision-rights where needed.

These opportunities could have flexibility so that they can address the different types of problems that arise. It would seem likely that solutions to problems around coordination will be different from those where having devolved decision-rights imposes risks on the whole of the state services, and a different solution again is likely to be needed where the core issue is an information gap. This suggests that there could be a variety of options by exploring:

- ***a range of levels of compulsion or discretion.*** Not everything needs the heavy hand of compulsion; and not everything needs the time-consuming path of voluntary involvement
- ***a range of levels of centralisation and decentralisation.*** Coordination does not always have to be across the entire state services for every issue, neither does it always involve all of an agency's business, and
- ***a range of decision-makers who can make these choices,*** with clear decision-rights and accountability, so that not everything has to go to "the top" regardless of its size and importance. This means a rethinking of the role of the Central Agencies.

A range of compulsion and discretion

There are many options available that would fall between either continuing with the current agency autonomy or moving to central control. These options vary with the amount of compulsion involved, and also with the extent to which an agency has any control. The key options in the continuum are:

- ***totally voluntary participation***
- ***opt-in arrangements*** – where something is established but agencies choose whether to join. This can be either a "club" arrangement between agencies or, more formally, some designated "expert" with an expectation but not compulsion to join
- ***opt-out arrangements*** – where agencies have to join with others but have the choice to try to persuade others that they should not be involved, and
- ***mandatory arrangements*** – which can be mandatory in terms of preset standards, predetermined suppliers, a set operation that has to be done or a centrally-supplied service that has to be used.

There is a range of different approaches that can be taken within these different options and the following table shows more fully the range of potential options, and gives an overview of the benefits and risks of each of these and some examples of where they are already used now.

DRAFT Secretariat issues paper – not Government policy

Option	Strengths	Weaknesses		Description	Current example
Autonomy	<ul style="list-style-type: none"> • Clear accountability • Flexibility to meet needs • Adopts new approaches quickly 	Difficulty of getting any coordination	1	Individual agencies make all decisions, within policy and funding framework set across the whole of the state services	HR management
Opt-in	<ul style="list-style-type: none"> • Clear accountability • Flexibility to meet agency needs • Ability to adapt and adopt new approaches quickly 	Coordination has proven to be: <ul style="list-style-type: none"> • slow • time-consuming, and • liable to be dependent on the individuals concerned 	2	Collaboration: agencies club together voluntarily to pool resources, work together	Leadership Development Centre
			3	Centre of expertise: one agency builds critical mass and expertise in a function and then everyone has an expectation to use their advice and support	Property Management Centre of Expertise
			4	Provider selection – “preferred provider” or “panel of providers” – but agencies have a choice about whether they use them	Some parts of the Procurement reform
Opt-out	<ul style="list-style-type: none"> • Coordination is quicker • Maintains some pressure on those running it to be responsive to agency needs 	<ul style="list-style-type: none"> • Opt-out rules needs to be carefully defined otherwise it could be abused by either the centre or the agencies 	5	Mandated system leadership: an agency is nominated to set standards, determine process, set priorities and lead programme of work. Agencies must make an argument to be able to opt-out	Directions and Priorities for Government ICT
			6	Provider selection – “preferred provider” or “panel of providers” – agencies still make the decisions around requirements, but must use the selected provider(s) unless they have a good reason not to	One.govt ICT network provider for the Wider Area Network
Mandatory	<ul style="list-style-type: none"> • Quickest and easiest way to implement across many agencies • Accountability at the centre, but it undermines accountability at agency level 	<ul style="list-style-type: none"> • Little incentive to ensure agency needs are met or to innovate and improve the system since they are guaranteed their participants’ autonomy 	7	Standard setting: “centre” sets standards that agencies must comply with but agencies still determine the process and make the decisions	Accountancy rules
			8	Mandatory process: “centre” determines the process that must be followed; agencies still make the actual decisions	Regulatory impact assessments
			9	Provider selection – “preferred provider” or “panel of providers” processes conducted on behalf of multiple agencies – agencies still make the business decisions to determine requirements but must use the selected provider(s)	Use of Westpac as the Government bank for core transactional services
			10	Central decision-making: decisions must be made or confirmed by a nominated agency; then implemented by the “line” agency	Project assurance requirements
			11	Central provision (1) – an agency delivers the service for, or on behalf of, other agencies; the other agencies still determine requirements	Parliamentary Counsel Office; Crown Law Office
			12	Central provision (2) – an agency determines the requirements, and provides the service for other agencies	Debt Management Office, Teachers’ payroll

A range of centralisation and decentralisation options

Centralisation is a way of getting system-wide leadership, but not all centralisation needs to happen at “the centre” in terms of being under the direct control of Central Agencies, nor does centralisation need to always encompass the entire state service. Indeed, given the fact that state service activity constitutes about a third of the total activity of the economy, it would be surprising if it were common that coordination was best across the whole of the state service.

This means there could be a number of levels at which centralisation could take place, and its adoption would gain greater flexibility where coordination could be initiated by chief executives or by Ministers (depending on the issue). This suggests a range of potential options that could be used depending on the type and scope of the proposed coordination.

It may be useful to explore a range of options at the level of:

- **individual issues**, using mechanisms such as centres of expertise with stronger decision-rights over prescribed processes that must be followed; policy hubs to coordinate policy development; heads of profession that set compulsory or voluntary standards; functional leaders with delegated powers and reporting rights to Ministers (such as with ICT); or an officials committee with delegated decision-rights, reporting rights and accountability. None of these need to be held by the Central Agencies. Some further details of these options are given in Annex 1
- **at agency level** – where two or more agencies establish a common activity (such as back office services). This could be achieved by a delegation across agency boundaries, formal agency partnerships on issues or, for larger issues, a cross-agency governance board, or a joint venture arrangement. Some further details of these options are given in Annex 1
- **at sector level**, using the proposed results-based sectors. This option is covered more fully in the “Sectors: Organisational Arrangements to Deliver Results” issues paper, and
- **at the centre** – which is covered further in the next section

At issue and at agency level, coordination might be easier if there were standardised and contract-like arrangements made available for agencies to use. The current Memorandum of Understanding (MoU) approach requires agencies to reinvent basic documentation and, for many reasons, the department-to-department appropriations that are designed to be used in this situation seem to be called upon infrequently. Streamlining these processes – and developing new options – could potentially reduce the barriers to coordinating activities. Some potential options in this area include (more detail is provided in Annex 1):

The centre does not need to be Central Agencies

A number of decisions have made other agencies “the centre” for specific activities. For instance, the Government Chief Information Officer is a “centre” that is located in the Department of Internal Affairs.

Joint ventures

In the private sector, a joint venture takes place when two parties come together to take on one project. In a joint venture, the parties commit to the project in terms of money, time and effort. The venture can be for one specific project only (when it is referred to more correctly as a consortium (eg, the building of the Channel Tunnel) – or a continuing business relationship.

Contracting across departments

Because all departments are arms of the Crown, they cannot sign contracts with each other as they would with an external provider.

For this reason, departments use other mechanisms such as MoUs – but these may not be as enforceable as a private sector contract.

- developing a model MoU for straight forward purchases of services from other departments
- creating a “caveat” option against an appropriation when cross-departmental purchases are agreed so that the supplying department has a guarantee of funding from the purchaser for the term of the “contract”, and
- developing the option of “double-key” appropriations – where the release of the appropriation requires the sign-off of both departments engaged in an activity.

Caveats

A caveat on a land title indicates an interest that is less than full ownership. The caveat holder has to agree before anything happens to the title. On an appropriation, a caveat could be used to indicate that a commitment has been made but the other agency has to agree the commitment has been honoured before the funding is released.

Double-key appropriations

In Britain these are used when two agencies both have an interest in an area. Both must agree (“turn the key”) before the money is unlocked. Agreement can be either at Minister or chief executive level.

In some places, double-key appropriations could either support or replace joint ventures.

A range of decision-makers

Associated with the wider range of options for where coordination is focused, there is a case for a wider range of decision-makers. In addition to providing for a reduction in the time spent by Cabinet on a myriad of small decisions, this could also be set up to act as an incentive for the “club” model to be more effective, by providing the option of compulsion if the “club” is taking too long to agree.

If the state services do move towards a greater focus on sectors, rather than individual agencies, then having a lead agency could provide another opportunity to consider when and how they would have the decision-rights to coordinate across the sector. This will be covered in the “Results” issues paper.

However, the whole of the state service may also benefit from having stronger system leadership at the centre, including mechanisms for making calls on coordinating activities that are more operational and at a level lower than Cabinet.

The current arrangement sets the three Central Agencies collectively as the centre, being the employer of the chief executives, the support for the Government’s financial process (including the Budget and accountability), and as advisers to the Prime Minister across the Government on policy issues. But collectively they have been weaker than the centres of many other countries as a tool for coordination across state services as a whole. This weakness has been reinforced by clear legislative mandates of departmental chief executives and Crown

An example of an issue a central decision-maker might consider: sorting out geographic boundaries

Sometimes the mish-mash of boundaries can make it difficult to get the most effective service.

For example, some social service organisations in Taumarunui have contact with government funders based in five different cities – Wellington, Whanganui, New Plymouth, Hamilton and Rotorua.

This can result in difficulties in coordinating operations across the different funders including in meeting their often different accountability requirements.

entity boards to manage their own business. This may have made Central Agencies reluctant to act as a coordinating point because of the risk of cutting across these clear accountabilities.

Creating a better “centre” could risk clouding current accountability arrangements and divorcing decision-making from the knowledge and experience of the agencies. If it is truly going to be better, then it needs to be shaped in a way that addresses the problems, rather than just imposes change. There is a range of options for change, each with its own strengths and weaknesses, and the choice between them will reflect more on the goals that are the highest priority rather than one option being “right” and another “wrong”.

The main options for strengthening decision-making at the “centre” are:

- ***strengthening the current arrangements***, by giving each of the Central Agencies clearer areas where they can make decisions that run across the state service. This would be the least disruptive and most organic option, but it risks being too modest a change to achieve real gain, and clouding the accountability of the other departmental leaders
- ***establishing the State Services Commissioner as Head of State Services***, with decision-rights over not just departments but also over aspects of Crown entities’ operations (though there may be some, such as tertiary education institutions, for which this is not appropriate). This option’s strength is that it provides clear accountability for the performance of the state sector by the State Services Commissioner and a stronger leadership mandate across the whole of the state service. However, it would require significant expertise at the State Services Commission and a considerable willingness by the Commissioner to listen to and value appropriately the concerns of the leaders of the other, more operational, agencies. Without this culture, it could result in undue centralisation, and a return to the dead hand of command and control, and
- ***using a State Sector Stewardship Board*** made up of a number of leaders who can make decisions collectively. In essence, this could be seen as equivalent to the group executive teams in many larger companies. The main advantage of using such a Board is that it would draw expertise into central decision-making beyond that available to the Central Agencies alone, including the knowledge and expertise of operational leaders, and possibly leaders from outside of the state service. The main disadvantage is that accountability is not as clear as when there is one decision-maker who can be held responsible for the outcome. There are a number of options for how such a board could operate including its:
 - ***status*** could range from being an advisory group to the current Central Agencies or a Head of State Services as discussed above, to reporting separately to Ministers or Cabinet, through to having delegated decision-rights in certain areas of state services activity, with accountability for their performance in those areas
 - ***membership*** could either be fixed, or could change as the environment changes, or change depending on the issues being decided, and
 - ***area of operation***, which could include mandated leadership in particular areas. This could range from practical advice on cross-agency issues (eg, back office consolidation or rationalising geographic boundaries) to responsibility for maintaining the longer-term capability of the state service (eg, senior talent development).

Putting the “why”, “where” and “who” together

To this point, the issues of why decision-rights might be moved, where they might move to and who has the right to decide both that this happens and where the rights will subsequently lie, have been addressed as separate issues. But, of course, they are not. If a decision is made to pull decision-rights away from chief executives because their choices could expose the whole of the state service to risks, then that decision would need to be made at the centre and not give chief executives the option of whether to opt-out.

So, in reality, there are options that work together and options that do not, and the table below pulls these together.

Objective	Voluntary	Opt-in	Opt-out	Mandatory
Would this be useful for:				
Coordination	Yes	Yes	Yes (though if a critical mass is needed to get it going, then it might be after an initial period)	No (or no after a start-up period) – because they should be willing to stay in if there truly are benefits
Risk management	No	No	Possibly – the agency doesn’t hold the decision rights, but can try to convince the show they are not an issue	Yes
When an agency doesn’t have all the information needed	Possibly if an agency realises it lacks the needed information	Possibly	Probably – as the issue is likely to be finely balanced in many cases	Probably – especially for agencies for which this activity is small
Who holds the key decision - rights on whether to participate	Agency	Agency, but with someone trying to persuade them	External decision-maker – either sector, centre or functional leader depending on the issue	Sector, functional leader or centre

Conclusion

In summary, the main conclusions of this issues paper are:

- ***The gains from devolved decision-making have been significant, but they are not universal.*** Because the significant level of devolution of decision-making in New Zealand's state services has, in general, worked to produce a high performing state sector. This means there is no compelling reason for changing the current Minister/chief executive and board accountability arrangements in many areas. But there are some areas where more centralised decision-making improve performance further.
- ***Moving to a more strategic use of centralised decision-making would enable a step change in performance.*** This is particularly so when issues cross agency boundaries, or where there are economies of scale, or an agencies decisions may impact more widely across the state service, either positively because of spill-over benefits, or negatively because of spill-over costs. Reducing the independent decision-rights of agencies may improve overall performance in these circumstances.
- ***But moving to more centralised decision-making needs to be done through a layering of decision-rights, so there are choices that still keep decisions as close to the action as possible even when they are across agency boundaries.*** Because the risk of rigidity and lack of accountability increases with distance from the activity, any coordination may be best handled as close to "the action" as possible. This suggests a layering of decision-rights options so that there are choices to match different circumstances, so that:
 - when an issue is only a small part of each agency's business, coordination may be best handled by a management committee with decision-rights or a functional leader. These can be established either by chief executives establishing suitable delegations, or by independent decision-rights being established modelled on the statutory functions that some chief executives now have for deciding particular issues independently of their Minister, and
 - coordination that is required over only one sector may be best handled by that sector's joint leadership board – and options here will be addressed in the "Sectors: organisational arrangements to deliver results" issues paper.
- ***It also suggests being strategic about when to use compulsion, particularly as semi-voluntary approaches (such as opt-in or opt-out), place incentives on providers to "get it right" and reduce the risk of returning to the dead hand of bureaucratic controls.*** In particular, compulsory coordination would be best confined to areas where coordination is justified by the need to contain spill-over costs and benefits or where system-wide consistency is important, but even in these circumstances the value of opt-out models should be considered. If the rationale is that the agencies should benefit (eg, economies of scale or central expertise) then the agencies should be able to opt-in or (if necessary to get established after a short period of compulsion) opt-out so that the agencies are not trapped if the claimed benefits are not realised.

Annex 1: Further details on options for achieving coordinated decision-rights

	When might this approach be useful?	Options around the level of decision-rights that could be appropriate	Risks
Centres of expertise	When an issue is not core to most agencies' business, but requires specialist knowledge or skills	<ul style="list-style-type: none"> • Advisory guidance and/or oversight • Mandatory guidance • Mandatory oversight • Mandatory that the activity be handled centrally 	<ul style="list-style-type: none"> • Use of mandatory guidance, oversight or central handling may mean that agency needs are not valued sufficiently
Heads of profession	When skills and/or standards are an essential element of the value of an occupational group	<ul style="list-style-type: none"> • Advisory guidance • Mandatory guidance • Advisory oversight of performance evaluation 	<ul style="list-style-type: none"> • May act as a barrier to the innovative use of specific skills
Functional leader	When an issue crosses agency boundaries but is tangential to the core business of all of the agencies involved	<ul style="list-style-type: none"> • Coordination oversight • Independent reporting rights to Ministers • Delegated authority from each agency chief executive 	<ul style="list-style-type: none"> • Could lead to conflict with the existing agency decision-rights
One chief executive delegates to another chief executive in another agency	When an issue is more central to one agency than another, but the second needs to be involved	<ul style="list-style-type: none"> • Delegation would establish decision-rights and reporting requirements 	<ul style="list-style-type: none"> • Could lead to conflict with the existing agency decision-rights • While decisions can be delegated, accountability generally cannot, so the first chief executive would need to retain some control
Officials committees with decision-rights	When an issue crosses agency boundaries and is a significant issue requiring high levels of cooperation	<ul style="list-style-type: none"> • Independent reporting rights to Ministers • Delegated authority from chief executives • Delegated authority from Cabinet 	<ul style="list-style-type: none"> • Could lead to conflict with the existing agency decision-rights
Agency partnerships	When two or more agencies wish to coordinate, and are willing to do so	<ul style="list-style-type: none"> • Clear documentation of expectations • Appropriations clearly tagged as being jointly operated (eg, caveats or double-key) 	<ul style="list-style-type: none"> • Lower-level coordination which risks coming apart with changing personnel or circumstances

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<p>Joint ventures</p>	<p>When the activity is large, and requires active management because circumstances may change</p>	<ul style="list-style-type: none"> • A formal joint venture decision-making board • Appropriations clearly tagged as being jointly operated (eg, caveats or double-key) 	<ul style="list-style-type: none"> • Greater commitment – but this may limit subsequent policy flexibility
<p>“Caveats” on appropriations</p>	<p>When one agency is prepared to do an activity for another, but this requires a multi-year commitment because of capital or other costs</p>	<ul style="list-style-type: none"> • Tagging the appropriation of one department so that the second knows that it must be paid across unless they fail to meet their obligations. Limits the risk of personnel change 	<ul style="list-style-type: none"> • Reduces ministerial flexibility for the length of the contract (though this is no different from any contract with the private sector)
<p>Double key appropriation (Similar to joint Ministers except it can be at chief executive level, and not involve the Minister of Finance)</p>	<p>This is the concept of making the spending of an appropriation requires the agreement of two or more parties (either Ministers or chief executives depending on the circumstances)</p> <p>Particularly useful when a particular activity could be addressed in different ways but the choice involves aligning decisions across different agencies (eg, some pipeline-type issues)</p>	<ul style="list-style-type: none"> • Because access is dependent on both agreeing, there is an incentive to be reasonable when considering options 	<ul style="list-style-type: none"> • Inappropriate bargaining could lead to sub-optimal outcomes (eg, you have it this year; I get it next regardless of what is best)