

PROCUREMENT AND MANAGEMENT OF ICT SERVICES IN THE NSW PUBLIC SECTOR

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SUBMISSION

Procurement and management of ICT services in the NSW public sector

Public Accounts Committee
NSW Legislative Assembly

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Submitted by

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introduction

This submission has been prepared in response to the call for submissions by the Public Accounts Committee of NSW Parliamentary for the Inquiry – “Procurement and Management of Information and Communication Technology (ICT) by NSW Government Agencies”.

The Terms of Reference for the Inquiry is part of the New South Wales Parliament’s response to the recommendations of the New South Wales Auditor General¹.

Our submission focuses on the policy instruments and operating frameworks of government which act contrary to the concerns of the Committee. Any change that occurs within the current frameworks and dynamics will have limited impact given the limitations in the present business of government.

The contract frameworks under GISC and Australian Standards are generally sound and have been operating in Australia for over 20 years. The continuing struggle for effective delivery under these contract frameworks and the disappointing experience across government projects and service, points to a more fundamental and structural issue for government.

The submission looks at the role confusion of Parliament, the Executive and the public service and whether this is a significant contributor to ongoing project and service failures. In exploring this confusion we will also consider the immediate observable cause for projects being abandoned, for project failures and for service failures.

We consider that the matters raised in this submission to have wider application across government.

project oversight

There are aspects of public service oversight that need to be considered in addition to ICT. This is important given the increasing adoption of technology based solutions and services. Like all purchases by the government, ICT is made by public servants acting according to a number of laws, policy instruments and operating frameworks.

ICT is just one facet of government procurement and project management and ICT projects are not alone in creating problems and anxiety for governments. However, ICT projects will become more significant as technology changes and increases its transformational capacity. The smallest software glitch can create havoc across whole service areas.

The problems encountered with services and projects, including ICT, pose a fundamental challenge for government, just as for any business. Cost blow outs or low cost estimates, undermine the ability of government to manage government finances with certainty, to maintain continuity of services to the public and to provide a stable financial base.

Government can be seen as a “bottomless pit” of funds to prop up or promote project failures and allowing redundant activities to continue. The size and complexity of the public service, changes by government and lack of risk oversight contribute to over budget and over time projects and inefficient service delivery.

¹ New South Wales Auditor-General’s Report Performance Audit Managing IT services contracts 1 February 2012.

contract administration

ICT and capital projects all have standard form contracts, documented procedures for risk, management and administration. Capital works and service areas programs all encounter similar issues.

While our prime interest lies with public service ethics, we consider that the administration of public service projects, including ICT, requires further consideration to determine the best course of action. In particular, the current arrangements for project delivery and service delivery, create significant tensions for public servants complying with their ethical obligations.

A more modern approach to governance is overdue. The current oversight model for the public service has a number of fundamental flaws that preclude effective oversight by the Parliament and the Executive. A shift to a better governance model requires changes to reporting arrangements, with independent oversight by and development of reporting metrics to Parliament.

external standard

Similar structural flaws have been identified in the corporate area. Where corporations were not been prepared to respond, laws and ASX Rules were changed to set a better governance model. Since these measures were taken, there are more institutions with appropriate checks and balances.

proposal

The current systemic flaws along with the political context, continue the conflict between public service ethics and working in the public service. This paper suggests some structural requirements that would promote public service effectiveness in project and service delivery. The suggestions also seek to align operational activities with public service ethics of efficiency and accountability.

In the private sector, the separation of the Chief Executive from the Board to create independence, the establishment of an independent Audit and Risk Committee to facilitate and enhance accountability and the institutionalisation of governance reporting and controls, have been key advances to address systemic flaws the private sector governance models. This approach is designed to protect shareholder funds.

This paper suggests that this evolution is overdue for the core public service to protect taxpayer money.

Adopting the Corporate analogy, the Director General of an Agency acts as an autonomous subsidiary where the Director General constitutes the roles of Board and Audit Committee. This autonomy of the Director General operates while the public servants in the agency have ethical obligations under the laws passed by Parliament. The current structure with inherent tension caused by overlapping obligations and interests, increases the likelihood of unethical behaviour within the agency.

The paper puts forward an effective framework for Parliament to oversee projects and service delivery, while balancing the need for agency performance against Parliament's prerogative of review.

The paper also acknowledges that some aspects of the public service are less amenable to this approach, specifically policy development functions. Similarly some of the skills required for policy development are not amenable to project delivery.

introduction

The recommendations in this paper look to enhance the professionalism of the public service through a more effective governance model. An effective governance model is considered a prudent strategy towards longer term improvement in the government delivery of service and projects and support ethical decision making by public servants.

The submission includes structural and governance systems change to address identified deficits.

1. Consideration should be given to aligning public service ethics across services and projects with structural and oversight arrangements of the Executive and Parliament.

This would acknowledge the majority of public service roles that provide services or manage projects can be delivered in an apolitical manner and place them within that operating environment.

Those aspects of policy development and dissemination of policy information would be subject to their own ethical obligations, acknowledging the manner in which policy is developed and implemented. The policy aspect of the public service is based on the expectation of professional “independence of advice”.

2. Consideration should be given to the formal appointment of an Auditor of “Systems and Process for Services and Projects” to compliment the Auditor General for “Financial Management and Performance”.

This would provide standing review of agency performance of services and projects in a structured and programmed way on an ongoing basis, rather than as an ad hoc approach. An ongoing oversight of business units should enable the development of Whole of Government (WOG) strategies and responses. This would also assist with continuity of oversight during any Machinery of Government (MOG) changes and for reporting to Parliamentary Committees.

There are two options, either to enhance the present powers and resources of the Auditor General, beyond “performance audits” or create a separate role that encompasses the “performance audit”. This would provide the platform for savings from efficiency gains, reduction in cost and project overruns, with better correlation between budget and actual costs.

3. Consideration should be given to the formalisation of an independent Internal Audit Committee for each agency, reporting to Premier's Department (as the nominal owner) to provide continuity of oversight of projects and services.

The establishment of a truly independent Internal Audit Committee would enhance the delineation between the Director General's role of policy oversight and the role of CEO of the business. The Internal Audit Committee would provide oversight on projects and services. The Committee would review business unit performance of services and delivery of projects in a structured and programmed way. Having a standing arrangement and charter would assist with ongoing improvement, rather than the current ad hoc approach.

The Premier's Department and Auditor General would benefit from the reports generated for the benefit of the Internal Audit Committee, enhancing their contribution to oversight of the public projects and services by Parliament.

This would limit time spent on inter-agency committees, which have limited scope to make change. The Audit Committees might start off on a one to one ratio with Agencies, but the ratio could be increased as the Audit Committee matures and the Agency reporting aligns with the expectations of the Audit Committee.

4. Consideration should be given to providing a “continuity of approach” for service delivery and project delivery despite any WOG or MOG change.

Whether such change is through additional oversight or support is a matter for the government to determine. If such an approach was supported at a Parliamentary level, this could ensure that the systems and skills for service delivery and project delivery continued throughout any change in government, change in the party in power or where there is instability under a bicameral system.

A consistent and stable approach to service and project oversight would provide certainty for continuing projects and ensure performance metrics reflected service and project delivery.

This approach could also reduce timeline pressures created by political imperatives and business requirements. Collapsing timelines create a significant certain risk that costs will increase, the final solution will be defective and disputation will increase. As well the risk of absolute project failure becomes more certain.

5. Consideration should be given to ensuring “business” operations that are a service, retain their identity, irrespective of WOG or MOG changes.

While there are cultural issues with the leader of a public service business unit operating “independently”, retention of identity would enable the public to focus on the service. This would enable reliance on customer assessments to drive improvement in performance.

The ownership of websites, feedback and improvement strategy would move with the overseeing Agency under any MOG change. Internal Audit and the Auditor General could then be valuable tools in ensuring long run metrics are developed and applied to business units.

Such an arrangement would also ensure that non-performance would not be obscured by the way government is organised or the public service administered.

The Auditor General would be the ideal repository of longitudinal information on business unit performance to assist Internal Audit to maintain continuity of oversight of business units.

A similar approach could be used for long term ICT projects and infrastructure projects.

Private sector organisations function effectively with multiple reporting lines. A clear separation between the “doing” by the business and the “review” by the Agency would provide for long term improvement opportunities to be identified irrespective of the changing reporting and accountability lines under WOG initiatives or MOG changes.

6. Consideration should be given to a “renewals” program which for ICT includes Software, IT platforms and departmental software systems and for Hospitals includes a lifecycle approach to existing buildings.

It is assumed that the government has an auditable list of services provided by IT projects categorised by risk across hardware, software, maintenance and support to underpin a renewal plan. Just as for built assets, IT solutions have a functional life that needs to be monitored.

A renewal plan, monitored by the Audit Committee, would alert the Executive to the emerging needs for replacement of IT solutions and to facilitate systematic WOG solutions and savings. A renewal plan would inform Treasury, Procurement and CIO positions of long term planning for ICT solutions and might assist with overcoming inertia to change which can decrease the time available for project delivery.

This approach would provide a broader perspective to validate:

- Whole of government needs, not just across ICT projects
- Sequence and timing of change
- Significance and priority across government

- Potentially a broader range of options
- Consolidation of systems, with flexibility of service

This would promote the Executive's opportunity to consider additional changes to the ICT project, including:

- Changing laws
- Changing policy
- Negotiating with industry or unions
- Adjusting WOG procurement strategy
- Phasing out of redundant services and programs

7. Consideration should be given to Parliament focussing on ensuring systems and processes are in place to deliver the required outcome, rather than trying to oversee particular activities through the Auditor General.

This is particularly important given the asymmetric nature of the information available to Parliament and the political need to ensure the government is not embarrassed. Such an approach would rely on an independent Audit Committee taking a whole of government view, backed by an Internal Auditor and the Auditor General to ensure non-compliance and non-conformance are dealt with as they emerge.

In instances of ongoing non-compliance, this would be reported to Parliament, including where agency responses have been suboptimal, where concerns remain about agency activities and where systemic problems have been identified. Suitable reporting metrics could be developed for reporting performance to Parliament, without disclosing particular non-conformance issues or disclosing commercial detail. Such a process would also enhance the Executive and assist the Director General by providing early warning, leading to more effective review.

Case Example – Procurement

A business unit should be marked for review, if it has an elevated percentage or number of:

- procurement policy exemptions
- non-compliance with standard procurement processes

Procurement exemptions (and failure to disclose exemption applications) are clear risk markers that point to suboptimal management of risk. Exemptions from set procedures, policies and delegations for a business unit (whether procurement, project delivery or service delivery) could be affected by:

- Flawed project
- Flawed delivery strategy
- Decisions to defraud
- Inability to plan
- Dysfunctional decision making
- Poor project controls
- Lack of skill or competence
- Inefficiencies or poor performance
- Under resourcing
- Poor transition from approval to implementation
- Operational challenges

It would seem within the remit of the Estimate Committee to call for information based on metrics, in addition to the current process of questioning policy and decisions.

Having standard reporting would also ensure the Parliament had proper oversight of past projects and new projects.

8. Consideration should be given to Parliament establishing and sponsoring effective oversight by the Executive of service and project delivery.

Such an approach should not remove responsibility and accountability at the project level, but would introduce normative behaviours for projects and services to expedite the responses to project and service issues, to ensure:

- Oversight is strengthened through reporting to Parliament, based on agreed metrics.
- Cabinet is able to consider high level and strategic risks (rather than project risks) and is empowered to ensure continuity of service and effective project management
- Agency units remain responsible and accountable for delivery
- Agency units work co-operatively within an independent project management framework, utilisation of public sector skills from the key agencies
- Competency and capacity of the public service to deliver services and projects are enhanced through a consistent and stable structure and methodology
- That the consistent and stable structure and methodology be sufficiently robust and supported to be able to span government terms, changes in government and MOG and WOG changes

Principally, the greater the barrier to disclosure, the more likely a catastrophic risk will eventuate. The more significant the issue, the more likely it will become public and political.

Case Example – Project Initiation and Monitoring

In the example below, the service agency retains accountability and project responsibility for the project performance and other agencies have an “advisory” or information only role. Internal Audit has the monitoring and oversight roles and reports to the Audit Committee.

The example below is based on a “service” agency delivering new asset project, eg: Health, assuming the Agency retains the project in-house.

The allocation of responsibility would be:

- Premiers – validate the overall list of key risks and set reporting requirements for key risks that eventuate and confirm project need
- Treasury – validate and sign off on budget, risks, reporting metrics and reporting arrangements
- Auditor General – validate metrics and chart of accounts, systems and processes to ensure probity and to allow Internal Audit to effectively report on the project with power to refer issues to an agency, Premiers and Treasury where there is a significant change to or variation in:
 - o reporting parameters
 - o risks
 - o reporting metrics
- Public Works – sign off on Delivery Model, risks (including contingencies), performance metrics, reporting arrangements and project timelines
- Agency – delivery of an asset (built or ICT) that meets service standards drawing together requirements and resources for solution across:
 - o Built/Hardware
 - o ICT
 - o HR
 - o Organisational
 - o Service requirements
- Internal Audit and Audit Committee – monitoring and reporting agreed parameters
- Public Service Commission – independent facilitator to ensure that the project and risk decisions are made in a timely fashion

Once the project is established the same agencies would have continuity of input with the Internal Audit Committee having ongoing oversight.

focus of the **Inquiry**.

All large scale projects have a significant quantity of unknown problems. At some stage those problems may need to be addressed. No amount of planning can anticipate all problems. However this is never an excuse for not using planning, risk and project management tools to identify problems and determine their solution.

The investment in problem identification and solution scenarios has a number of benefits, including:

- Greater certainty of tasks and resources required, project timelines and budget forecasts
- Better reporting, metrics and oversight
- Greater confidence in project outcomes, timelines and costs
- Fewer surprises as the project team has the ability to respond to identified issues as they arise
- Less time required to respond to problems (as they have been anticipated, canvassed and solutions agreed as part of the project risk plan)
- Better documentation of the specification and better alignment of risks with contract arrangements
- Reduced reliance on contract, claims and litigation to ensure projects remain on track

specific issues the subject of the Inquiry:

i. Measures to improve ICT project and contract management in the public sector, in particular in relation to contract negotiation and on-going contract management

A balance needs to be struck between the accountability to government, project outcomes (agency level) and project tools. As this paper focuses on the issues of public service ethics, many of the issues to be addressed need to be addressed at the Parliamentary and Executive levels of government.

ii. The efficacy of central agency policies and strategies that guide ICT projects in the public sector

The balance cannot be struck in the current environment, considering the governance and oversight issues. The current dynamic in ICT is almost the reverse of the construction industry.

An Agency with limited experience with managing the ICT contracts will rely on the contract specification to reduce its exposure to increased costs. This is a somewhat risky strategy. Where the specification is deficient, external risks occur or the contract clauses must be invoked. The Agency ends up paying for variations, with those realised risk resulting in additional project funding.

In ICT, the supplier has greater capacity and experience concerning the nature of the project and the terms and administration of the contract. In this situation the agency relies on getting the “specification right” as its prime risk management strategy.

In many cases the Agency may not have the skills to get the “specification right” and relies on an external consultant to perform this function or continues to approve variations as the specification is progressively modified. There is limited utility in seeking compensation from a consultant in these circumstances.

Being “in dispute” while administering a project contract is a complex problem. In some cases, this is the first point, where a party realises that:

- Successful project completion is no longer possible
- The project, contract and negotiation power rests with the other party
- The contract provisions for:
 - o resolution – do not assist with the specific dispute
 - o liability – do not work in reality
 - o risk – do not align with the risk plan (if one exists)
 - o administration – have not been followed by the government

For example, in the construction industry smaller suppliers have limited resources and limited capacity to understand the Australian Standard contracts (as varied). Small suppliers rely on understanding and meeting the technical requirements of the specification contract schedule to ensure contract clauses are not invoked.

When a risk is realised or conflict between the parties arises, the government and the small supplier are in weak positions. Momentum, history, expectations and contract terms all mitigate against strong corrective action.

iii. The adequacy of risk management and corruption prevention strategies relating to ICT procurement and contract management

As identified in this paper, the current systems, processes and structures of government procurement preclude the effective oversight and scrutiny of contracts within the public service. Some of the strategies suggested in this paper would create an environment where breaches were more likely to be detected and remedied.

As with most systems, the assessing the risk of being caught is based the individual’s perception on their chance of being caught and the potential consequences that apply if caught.

iv. Long-term planning to meet the ICT needs of the public sector and ensure the best value for money in the procurement of government ICT products and services

In many cases there seems to be confusion about what ICT involves. The following premises have informed this paper.

The first premise is, what data is actually required by government? In many cases data is being created for no useful purpose. Whether that be because of a regulatory requirement to supply information, or because a public servant has decided that the information must be supplied. The end result is excessive time, money and software to acquire, maintain and archive data of questionable value to government and business. It is this form of red tape that is a menace for business as well as a waste of taxpayer money. Some systems have become self fulfilling and continue due to lack of oversight.

The second premise is those practices of government that create significant costs for the community that could be readily avoided. An example is the use of “office” style software covering word processing, spreadsheet and database.

The decision of government and in particular the Education Department (as a WOG decision) to adopt one software standard across word processing, spreadsheet and presentation, has created an expensive cost to government to maintain the software licences. This decision imposes a

significant cost to parents whose children attend public schools, as they are required to buy the same software for their children to ensure the child's work from home is compatible with the government's software or be experienced enough to find an alternative solution.

It seems curious that at the federal level there is an inquiry into the high software licence fees charged by overseas companies, while at the same time government policy forces all students to use those products, purchased at the high fees. While there may a few specialists in each agency that require the extensive capacity of the "office suite" of software, it is wasted on nearly all of government staff and school students.

There is a distinction between adopting the highest common denominator and choosing a fit for purpose solution. A lesser cost solution could be readily adopted to reduce the burden for parents, while still allowing high end government users access to the more sophisticated office products.

The third premise is, software platforms come and go, but valid software can mask invalid processes. In the past changes to public service arrangements could not be made because it was "too hard to change policy".

Now the response is that it's too "hard to change the IT system". Accordingly now that solutions have been "hardwired" into the software solution, the ability of government to adjust is further compromised. Where the "hardwiring" is flawed or outdated, the lack of review creates an area of waste in government.

Continued support for "too hard to change" response and the absence of an effective review of that attitude, undermines the effectiveness and responsiveness of government while limiting the ability of government ICT systems to support government, the community and business.

Consideration may need to be had to making this public service response, subject to a specific review and improvement process.

The fourth premise is that as ICT continues to evolve, more programs become at risk of being only able to run as legacy systems, using specialised staff and being unaccountable. The greater the number of these systems and the more integral they are to government doing business, the more at risk government is and the greater the potential for waste.

The fifth premise is that without effective management and archive of data, including review of the State's archiving requirements, the data held by an agency or created by staff will be meaningless. In other words all data irrespective of quality or value will be stored. Under this premise, storing, accessing and retrieving the data will be prohibitive.

The sixth premise is that just like built assets, all purpose built software and systems operating on license, need to be placed on a maintenance budget and on a renewals schedule. This is the only way to ensure customer services can continue to provide the required value.

scope

This paper is focussed on why services and projects fail within the context of government, the public service and public service ethics. This includes how the usual project failure modes are compounded by government being the proponent, owner or beneficiary.

The paper uses information technology and construction industry examples throughout, although the same principles and issues apply to service delivery as well project delivery.

This paper is focused on project and service delivery aspects of government. To the extent the paper touches on government policy (including laws and law enforcement), this will be in the context of the services or projects required to deliver on or implement the policy.

While much has been written on governance within the public service, very little has been written on governance of the public service by Parliament or the Executive. This paper seeks to explore the oversight at the Parliament and the Executive level.

While public servants are not generally subject to Parliamentary scrutiny, they can be required to attend an Estimates Committee under the Legislative Council "General Purpose Standing Committees Budget Estimates Manual 2012-2013" issued September 2012².

project

Project delivery failure is not confined to the Public Service. Project and cost overruns are inherent project risks that manifest on a regular basis. Many strong and mature companies have failed construction or IT projects in their pasts. There is much material available on why projects fails or services underperform. This information is readily available and accordingly is not referenced in this paper.

The consequence for significant failure in private enterprise is the potential for the business to fold. The consequence for significant failure for government there can be a change in government. However these failures also lead to extra expense, waste of time, reallocation of resources and priorities, and reduced government services. In many cases this goes unnoticed at an individual project level.

In a whole of government sense when the failures are aggregated, they lead to a noticeable reduction in the government forward spend and adjustment to government current spending, as the State's financial position deteriorates.

governance

The information presently available on governance within the public service suffers from a number of shortcomings from a structural and oversight perspective. For example it is acknowledged and accepted that the Director General of an Agency operates as both CEO and the Board. Even where there is an Agency Audit Committee, the independent members are effectively "advisory" as recommendations are not enforceable.

Accordingly we found little value in current reports on the public service, as the reports accepted either implicitly or explicitly that the current governance and accountability structures were acceptable or conducive to efficient delivery of services and projects. As discussed in this paper, the present governance and accountability structures do not serve Parliament well, given

² 6 The committees may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.

3.8 Although government officers normally appear voluntarily at initial and supplementary hearings, GPSCs have the power to send for and examine persons who are not members, including officers from departments, statutory bodies or corporations.

[http://www.parliament.nsw.gov.au/prod/web/common.nsf/cbe381f08171c2e8ca256fca007d6044/75be004b2bb61a53ca257a7f0000b6a2/\\$FILE/Manual.pdf](http://www.parliament.nsw.gov.au/prod/web/common.nsf/cbe381f08171c2e8ca256fca007d6044/75be004b2bb61a53ca257a7f0000b6a2/$FILE/Manual.pdf)

that Parliament is a permanent institution to which the public service is accountable, at a minimum, through the existing Estimates Committee.

It is acknowledged that the Westminster System of Ministerial Accountability may have previously prevented the consideration of the suggestions and recommendation in this submission. However it is clear that in Australia there is a no firm practice of a Minister resigning, where the Minister's has limited knowledge or involvement in a particular project or service. Especially where operational activities are escalated to the political level.

Neither of the Audit Reports into Queensland Health Payroll Implementation³ or Commonwealth Home Insulation Program⁴ dwelt upon the structural, systemic or oversight issues between the Parliament and the public service.

Adopting some of the recommendations in this paper may bring clarity to those decisions for which a Minister is accountable and on what the public service must deliver to comply with public service ethics.

current examples of public service ethics

Given that NSW public service ethics are currently being reviewed, extracts are provided from the jurisdictions that touch upon efficiency as part of the Public Service Ethics model.

- Commonwealth – “is openly accountable for its actions, within the framework of Ministerial responsibility to the Government, the Parliament and the Australian public”.
- Northern Territory – “Where responsible for incurring or authorising expenditure shall exercise due economy and ensure the efficient and economical use of government resources and facilities”.
- Victoria – “Excel in the delivery of world class public services” and “Support the government of the day in serving Victorians”.
- ACT – “avoid waste and extravagance in the use of the property of the Territory”.

Recent Commonwealth review “Ahead of the Game: Blueprint for the Reform of Australian Government Administration”⁵ does little to address the concerns raised in this submission.

³ <http://www.premiers.qld.gov.au/publications/categories/reviews/health-payroll-review.aspx>

⁴ http://www.anao.gov.au/~media/Uploads/Documents/2010%202011_audit_report_no_12.pdf

⁵ http://www.dpmc.gov.au/publications/aga_reform/aga_reform_blueprint/docs/APS_reform_blueprint.pdf

public service ethics

There are a number of different approaches to public sector ethics across Australia. While not necessarily obvious from the nature and tone of language used, it is clear that the enunciation of public sector ethics and the subsequent application by the Executive can be generally classified as:

- Suppression of dissent
- Direct conflict with politics
- Anti corruption
- Management philosophy / “aspirational”

The “owner” of the rules for public service ethics is invariably the “Services Commission” with the rules focussed on behaviour.

In many cases the driver for establishing the framework for public service ethics has been lost and the relevance of public service ethics has dropped down to “another policy”, to be balanced amongst other policies.

Current individual breaches of public service ethics are seen as agency HR issues dealt with under HR policies or as individual criminal activity covered by specific criminal laws dealt with by the relevant Commission.

The policy for public service ethics might sit well with a “Services Commission”, but accountability for public service ethics of effectiveness and efficiency sit with the Executive and Parliament. Similarly within an agency HR is accountable to the agency head for public service ethics, rather than an independent Audit Committee focussed on effectiveness and efficiency.

If the expectation is that the public service deliver efficient, effective and corruption free services and projects, then oversight and accountability must come from elsewhere within government and not from the Public Service Commission or the HR area of the Agency.

Accordingly although public service ethics is expressed in the performance of the public servant’s role, it is generally manifest within the context of “government as a business”. In that sense the accountability and oversight of public service ethics for efficient, effective and corruption free services and projects should come from Parliament.

Such an approach facilitates oversight of systemic or governance failure within agencies and across government. Historically however this has not been the case. This submission attempts to deal with some of the current impediments to an effective governance and oversight by Parliament.

policy, project, service

This paper seeks to make a clear distinction between matters which are in essence policy decisions and their implementation and those matters which are project management and service delivery.

While any line of demarcation can always be grey, the definition of “project” can be used to cover those budget items that have a fixed life with an expected outcome. The definition of “service” can be used to cover those programs where the public directly or indirectly receives a service that is funded by the government.

This paper adopts a generic approach to split between those decisions, activities and resources of the public service directed towards the policy cycle (policy) from those directed to providing a service or delivering a project. The distinction is convenient to highlight the different skills, oversight and accountability requirements between policy and project and service delivery.

Where there is confusion in the practical development of a response to these challenges, the simple solution is to empower internal audit and the Independent Audit Committee as the arbiter of those activities to be reported as projects and those to be reported as services.

Where a project or service is excluded from the oversight, their retention on an Internal Audit register would assist with overall agency governance.

community expectations

Despite the change in the public service arrangements or of governments, the expectation from the voters and the community is for continuity of service. Continuity of service requires sufficient capacity within government to ensure delivery to the determined standard. Government capacity is affected by a number of issues:

- Government policy in whether the service is to be provided
- Government policy on the extent of the service to be provided
- Government financial resources, priorities and allocations to fund the service

These are the political issues associated with the public ownership and operation of services and delivery of projects.

Once the political decision has been made, it is the voter perception of the service which affects voter decisions. Perception of the availability or performance of a service or project within the political context, is very different to how it is received in the private sector context.

The views of the public are complicated by a perception that inappropriate and inefficient projects and services are a “waste” of tax dollars and that poor service is below their entitlement. These issues will persist despite governments, politics or spin. However project and service issues in the public domain do compromise government’s ability to highlight achievements. Significant failures can divert excessive time and resources to corrective action, spinning the issues and managing the political aspects.

political reality

It is fundamental that project and service delivery in the public service, occurs within the context of government politics. There are clear examples where the response to a service or project issue is run as a political issue by the government. The Queensland government decision to sell QR National immediately after the 2009 election, predetermined the 2012 election outcome. The politics of the day impacted on the government, however the decision itself was efficiently implemented by the public service.

Similarly the ongoing poor performance of Queensland Health over many years was a service delivery issue. The poor service was compounded by the payroll fiasco and unhelpful public hospital waiting list statistics. Even though the masking of waiting lists was a political decision, it was seen as part of the overall failure of government to manage a health service.

Bundaberg Hospital in Queensland is a case in point where the “service concerns” were dealt with as political issues, rather than as service improvement issue.

While the lens of the voter, the community and service users saw these as intertwined with government policy, an element of separation is required, if service and project problems are to be solved rather than be dominated by political spin. This recognises that public servant obligations can digress from those of the government of the day. In a number of instances, the public service ethics are not consistent with the requirements of politics.

In a number of high profile cases, the use of “offence” provisions, for policy or “secrets” breaches have been used to muzzle whistleblowers, despite the issue raised by the whistleblowers as being in the interests of the employer (and in some cases the community).

This approach by government can be contrasted with other private organisations where management supports disclosure to ensure early intervention in high risk service and project

issues. The failure to deal with operational level issues often lead to political problems, rather being solved as service and project issues.

Confusion occurs when issues are played out in the public arena and the political environment and gain political undertones. In many of the cases, the issues begin as apolitical, only to become political issues because they remained unaddressed.

The abandoned NSW Tcard is illustrative of some of the issues and echoes many of the observations of the Auditor General. Unfortunately those observations about ICT were apparent in 2005 as well as in 2012. In discussing the Tcard system it should be clear that in 2005 the hardware technology solution was in place and working at other locations around the world.

The claims of the Tcard contractor include⁶:

The government's alleged shortcomings included failure to implement reform of the 70 types of fares charged in the greater Sydney area and failure to secure the co-operation of transport operators including RailCorp, the State Transit Authority and the Bus and Coach Association.

The report on Cabinet's decision on the replacement system was⁷:

Crucially, cabinet's decision also included a requirement that the Government pursue changes in the way fares are structured. Experts say the lack of reform of Sydney's complex and antiquated ticketing system was a big reason the Tcard project failed.

This can be contrast with the information in the Auditor General's reports to Parliament:

- 2005 Volume Five at page 349

Largely because of recent examples of IT project failures in other agencies, we will continue to monitor the progress of the Tcard project, including achievement of milestones and other deliverables.

- 2006 Volume Five at page 338

The others were due to complexities encountered by the contractor impacting the developing and testing of software and computer systems.

Under the contract the PTTC is entitled to charge liquidated damages of up to \$10.0 million, for milestones not met by the supplier. Liquidated damages recognised at 30 June 2006 total \$3.5 million. PTTC has indicated that it expects the \$10.0 million cap will be reached before the completion of the project. We are not aware of any further remedy for delays.

- 2007 Volume Five at page 281 and 282

The Corporation is entitled to charge liquidated damages of up to \$10.0 million, for milestones not met by the contractor. Liquidated damages recognised at 30 June 2007 totalled \$8.9 million and the \$10.0 million cap was reached in August 2007.

The Corporation also informed us that on 24 September 2007 it issued notices giving the contractor 20 business days to complete delayed milestone events and stages. We understand that, at the date of preparation of this Report, the contractor had not completed them. Because of this, the Corporation's entitlement to exercise further rights under the contract arose on or about 22 October 2007. On 5 November 2007 it issued 'notices of intention to terminate, allowing the contractor 20 business days to either complete those milestones, or diligently pursue a remedy and submit a satisfactory remedial program'. We understand that the Corporation will then consider its options under the Project Agreement.

It would appear neither contract provisions to allow a claim for "liquidated damages" or for termination, were sufficient to ensure the project outcome. This case also highlights the additional consequences of project failure:

- Litigation

⁶ NSW ticketing fiasco a winner for lawyers (February 24, 2010) Ten years on, the failed Tcard project is finally heading to court (writes Elisabeth Sexton) <http://www.smh.com.au/business/nsw-ticketing-fiasco-a-winner-for-lawyers-20100223-p00u.html>

⁷ Tcard: here we go again (Linton Besser Transport Reporter) (July 3, 2008) <http://www.smh.com.au/news/national/tcard-here-we-go-again/2008/07/02/1214950853856.html>

- Time and resources in managing litigation (not recoverable)
- Time and resources of legal team in the litigation (potentially recoverable, partially)
- Additional payments to the contractor to settle the action or as part of judgment
- Write off of all project costs

“After effecting a number of adjustments identified by our audit, the carrying value of the intangible assets at the date of contract termination was \$59.1 million. The Corporation determined these assets no longer had any realisable service potential and their carrying value was written down to nil”⁸

- Write off of all project time if the claim is not fully recovered
- *“The Corporation is seeking damages in excess of \$100 million”⁹*
- Time of consumers and driver wasted
- Increased running costs of public transport
- Fare evasion
- Delay in other reforms, based on electronic data from Tcard system
- Delay in providing staff with more meaningful jobs
- Unrealised savings (staff and consumables)
- Continued risk exposure (handling and storing of cash)
- Other additional issues identified by Public Transport Ticketing Corporation¹⁰

If the contractor’s allegation is correct about complexity, then it highlights (similar to Qld Health payroll) that one of the key element of failure was external to the project scope. Specifically the reform of pre-existing complexity was required to reduce the project scope. Such a step was achieved in South East Queensland, with limited issues about simplification of the fare structure and more disquiet about loss of frequency/bulk purchase discounts and the sharp fare increases.

In project terms the unresolved level of complexity (Tcard fares and Qld Health awards), significantly increased the likelihood of failure. This project problem occurs on a frequent basis and is one which the public service continues to struggle with. In many cases simplification is a project in itself, that needs to be well progressed before the ICT project starts.

It is often mischaracterised as a “public policy” / “project” trade off or just “outside project scope”. In some cases it is accepted as a project fundamental without assigning a risk. The corollary would be building a major stadium without ensuring the public transport solution was integrated into the facilities.

public sector changes

The management of the Public Service, like private companies, have seen a number of reorganisations over the last 30 years. The public service changes have included:

- Reallocation of responsibilities at the commencement and during governments terms of office
- Transfer, split or amalgamation of business units or agencies
- Centralisation / regionalisation / relocation
- Corporatisation or “Independent” Board
- Purchaser/provider split or Shared Services
- Outsourcing

⁸ Auditor-General’s Report to Parliament 2008 Volume Five, page 292

⁹ Auditor-General’s Report to Parliament 2010 Volume Nine page 137

¹⁰ Auditor-General’s Report to Parliament 2010 Volume Nine Page 136

- Referral to Commonwealth or Inter-jurisdictional agency, whether autonomous or semi-autonomous

In that context it is difficult to determine which, if any of these changes, has benefited service delivery to the public, reduced service costs or ensured better project outcomes. It is assumed that alternative strategies for service delivery have been beneficial to policy development for the Executive.

Similarly “shared models” of service delivery introduces remoteness of oversight and disconnection between project/service and the user/community. At times clarity of purpose for the project has been lost or the review and oversight mechanisms have become detached or have broken down.

In many cases the consequences of “reorganisation” have had identifiable affects on services and for projects in development or to be deployed,. A significant risk is the shift from an agency delivering a service or project based on knowledge to undertake a task, to an agency purchasing an outcome through a contract and project management of the contract.

The paradigm shift from “doing” to “ensuring a contract delivers the required outcome”, is a fundamental alteration in culture, capacity, skills, systems and management of the public service.

While these reorganisations may have a philosophical political basis, they carry with them a high risk of service or project delivery interruption or failure. These reorganisations also divert resources and attention away from the service or project, to meet the challenges of the reorganisation, including implementing administration, management and staff changes.

The Queensland Audit Office has created a checklist for government agencies¹¹. The checklist should be considered from the perspective that the same issues need to be resolved for each business unit that has a new reporting relationship. Accordingly this has a multiplier across the whole of government during a MOG change due to the number of changes, the magnitude of the changes and operational issues involved.

public changes

The ability of social media to influence decisions government is increasing. It is likely that for each new significant event within society, there will be a “step change” in social media usage behaviours. As events occur, more people will explore the ability to shape outcomes through direct and indirect responses, rather than delayed responses at the ballot box.

Similarly there will be projects that were developed under previous “emerging solutions” that need to be retired. Government may need to consider a more robust and higher frequency approach to making information available and more importantly as service providers and project delivers to understand what adjustments are required.

societal changes

Government will also need to come to grips with a paperless and cardless society. The current technologies mean that any smart phone can control all interfaces with government. Government as a legacy entity faces fundamental challenges to reinvent itself across the whole of its organisation. While some agencies are world class in their adoption of technology, their achievements will be hampered by those areas of government that have yet to implement such change.

Examples of “on-line” or “e-government” span fully automatic systems performing all of the administrative function, to those where the only online experience, is that the relevant form can be downloaded online. Thereafter you must print the form, complete it the form using a pen, sign the form and then return the completed form by post.

¹¹ http://www.gao.qld.gov.au/files/file/publications/Checklist_for_Organisational_Change_April_2012.pdf

business technology changes

Increasingly technology will be used in business to automate what were previously manual tasks and the exercise of judgement. This transition means:

- A shift from public servants doing the work, to ensuring the system works
- Potential loss of knowledge and decision making methodologies
- Process change being complicated (and time frames being extended) due to IT requirements
- Exceptions to rules being harder to process
- Increasing dependence on software and systems that need to be maintained, upgraded and replaced when obsolete (unsupported)
- The presence of flawed (or pet) processes, services or projects can be obscured
- Government IT systems integrated with private sector solutions or data, complicating any change in government IT strategy

While Parliamentary Committees such as the Public Accounts Committee have a review role, the Executive remains accountable for policy and for service and project delivery. The Committee along with other government processes provide delayed and often weak feedback on project performance and service delivery. There is significant delays between a problem arising and subsequently being dealt with either by Parliament or the Auditor General.

Further the Audit Office reports have not touched upon reforms required to ensure accountability to Parliament directly or through the Estimates Committee. Rather they have reported on issues within Agencies or projects.

Other areas where feedback to an agency or business unit would appear to be weak are:

- Audit Office reports
- Right to Information requests
- Parliamentary question time, in particular when questions are taken on notice
- Whistleblowers

These review mechanisms are also delayed and after the fact, where time, money and resources have been further wasted in responding to the politics of failure.

All of these instances can be effectively managed as political and/or policy issues using the usual tools of obfuscation, outright denial, independent review, deflection, external consultants, denial of access to documents and delay. Each of these responses are directly opposed to common project management principals and protocols.

The more these tactics are used the less likely that project management objectives will be obtained or public service ethics will be relevant. As blame is used to characterise the failure, it is less likely that the project non-conformance will be resolved. Particularly, the more focused the Committee is on individual project failure the less it is looking for more endemic issues.

Project and service accountability for the public service as the instrument of government, needs to be placed on the same footing as industry project management governance and oversight. The nature and extent of that oversight by Parliament, needs to be negotiated, however the current ex post facto approach adds little value.

There are a number of different forms of governance oversight across Australian Governments. Governance can operate under a simple Cabinet approach through to specific Sub-Committees of Cabinet (eg Finance). While the Executive is the appropriate place to oversee activities of the Public Service, it also generally exempt from Parliamentary oversight by the public through protection from disclosure. As already indicated the review of individual projects or services is cumbersome.

While policy, fiscal and project management reporting to the Executive is appropriate, this approach generally enables the material produced as part of the project to be protected from scrutiny, public or internal, until it is too late.

In terms of whistleblowers actioning their concerns, invariably it is the last action taken, after previous failed attempts by the public servant to have the issue addressed. Reliance on whistleblowers is a deeply flawed strategy, given the past examples of persecution by the Executive, the views of senior public servants about a breach of culture and questions raised about the appropriateness of the actions of the whistleblower.

The Australian Securities Exchange “Principles of Good Corporate Governance and Best Practice Recommendations” recommends and provides guidance on the provision of a whistleblowing service, see Australian Standards on Whistleblowing Programs for Entities (AS 8004).

Westpac statement on “corporate governance framework, policies and practices as at 2 November 2011”¹², provides 4 points of contact, with HR being only 1 of the contact points.

“...our employees are encouraged to raise any concerns of activities or behaviour that may be unlawful or unethical with management, the human resources team, the compliance team or the Financial Crime Management business unit. Concerns may include suspected breaches of the Code of Conduct, the Principles for Doing Business and any internal policy or regulatory requirement.”

Westpac Whistleblower Protection Policy¹³, outlines activities of wrongdoing, such as:

- *corrupt conduct;*
- *fraudulent or any other illegal activity;*
- *a substantial mismanagement of Westpac Group resources;*
- *conduct involving substantial risk to public health or safety;*
- *conduct involving substantial risk to the environment; or*
- *any other conduct that could cause loss to Westpac or become detrimental to Westpac.*

The Westpac policy is consistent with the current laws around whistleblowing in Queensland – section 13 the *Public Interest Disclosure Act 2010*¹⁴ (PID Act). Westpac has the additional catch all of “*cause loss to Westpac or become detrimental to Westpac*”, while the Queensland position excludes a “disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure”.

The Westpac response and the Queensland response diverges on what to do. Under the PID Act disclosure can be made to a member of Parliament. The Act also sets a number of different pathways, based on the nature of the complaint.

¹² http://www.westpac.com.au/docs/pdf/aw/ic/WBC_Corporate_Governance_Statement.pdf

¹³ <http://www.westpac.com.au/docs/pdf/aw/WhistleblowerProtectionPolicy.pdf>

¹⁴ This section applies if a person who is a public officer has information about—

- (a) the conduct of another person that could, if proved, be—
 - (i) official misconduct; or
 - (ii) maladministration that adversely affects a person’s interests in a substantial and specific way; or
- (b) a substantial misuse of public resources (other than an alleged misuse based on mere disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure); or
- (c) a substantial and specific danger to public health or safety; or
- (d) a substantial and specific danger to the environment.

This approach assumes that the issue is a “one off”. Consideration needs to be given for potentially systematic or systemic problems, through having a common secure contact point that has the skills to:

- Understand the organisational issues
- Conduct a preliminary review to determine any system or process failures and the extent of the problem
- Collect, assess and compile information to provide appropriate:
 - o advice to the Audit Committee
 - o information to the relevant compliance areas of the Agency
 - o monitoring of the operational area, the compliance areas and management systems

An Internal Audit function empowered to deal with matters (before the whistleblower feels obliged to disclose information) would be a far more effective position for all concerned. The Agency has an opportunity to address the issue in a professional manner, the concerned public servant has taken all necessary steps and the issues can be addressed as part of the internal audit function, along with the Audit Committee.

As the Premier has ultimate accountability to the electors and the Cabinet has ultimate responsibility for administration of the public service, it is difficult to see where the public would see the line between accountability for policy and accountability for service and project delivery or whether the public would acknowledge such a difference.

The traditional process has been for pressure to be brought to bear on people closer to the problem to resign, leaving the Premier to continue.

However it is clear that the perceived and actual current accountabilities do not align with the requirements for effective delivery of service and projects by the public service on behalf of the Executive.

An agreement by Parliament on oversight of service and project delivery, with ongoing support from political parties would provide long term support for effective oversight of the public service delivering service and projects. This would be supplemented by appropriate reports to Parliament to maintain accountability.

Consistency at this level would ensure agency implementation at the business unit level irrespective of the changes in government or machinery of government.

For such an agreement to provide effective governance a number of elements need to be in place, including:

- An understanding of and confidence in those matters which are to be covered as services and projects.
- Agencies to retain responsibility for delivery
- Oversight of agency responsibility through:
 - o Project Standards, including ICT (which already exist under GITC)
 - o Reporting to Treasury on compliance with Project Standards. Treasury being the decision maker on whether Premier's Department becomes involved (policy issues / political concerns), refers to Internal Audit (to monitor / investigate) or calls for a “Review” discussion with the Agency
 - o Other Agencies providing structured input into Business Cases, Risk Management and Project Management to:
 - Make the processes more robust

- Support the Project Director in making decisions
- Keep the project on track with variations dealt with expeditiously
- Limit gaming on systems and processes, such as Business Case cash flow and the Risk Management project risk assessment
- Providing market and project knowledge
- Compliance oversight through:
 - Establishing strategic hold points and milestones (eg: gateway reviews)
 - Independent Internal Audit, reporting on compliance with Project Standards, to the Audit Committee
 - Audit Committee, fully independent of the Agency
 - Audit General reviewing Internal Audit, Audit Committee and the Agency Head
 - Auditor General reporting to Parliament
- WOG oversight through Treasury keeping a track of renewals register, key services and all projects covering
 - Change of project scope
 - Change in risk profile or change in risk
 - Change in budget
 - Delivery model, project structure and proposed contract

This would also require, the Executive to remove itself, in part, from the intervention in individual service and project delivery issues and to accept that the systems and processes that the Parliament instituted and oversees are appropriate governance by the Parliament.

The application of the Westminster principles of accountability may also require a greater debate in the community.

Case Example – Setting Interest Rates in Australia

The following is an example where the structure for the delivery of a service – the official cash rate of the Reserve Bank, created political and ethical conflict within the public service.

The Treasurer was originally delegated authority to set cash rates for deposits held by the Reserve Bank of Australia (RBA). The Treasurer received advice from the RBA, but in the end the Treasurer could ignore that advice. It was difficult to determine where the issues lay and whether the RBA was providing appropriate advice.

The setting of interest rates became politically charged and there was a lack of confidence in the decision being made.

Subsequently this was changed by delegating to the RBA the power to set the cash rate. The overarching requirement or metrics for the Executive was an annual target inflation range of between 1% and 3%. This target is widely accepted as being an important target.

Since that date the politics about the decision has abated. The political debate continues about the affect of government policies on inflation or the decisions of the Australian Banks. However the confidence in the setting of interest rates and the RBA has provided stability to Australian financial arrangements.

In making the governance and oversight change (through effective laws) has meant general consensus on the outcome (inflation target) and the mechanism (RBA Board determination), leaving plenty of room for politics to be played out in the media.

Contracts are an embodied project management tool (specification), risk allocation tool (liability and insurance) and cost control (specification and variation). There are many standards in place in many industries across Australia.

Examples include, construction industry contracts published by Standards Australia, Government Information Technology Contract (GITC) used by Australian Governments and Land Sale contracts published by the various Real Estate Institutes.

Uniquely only the GITC document states that it cannot be amended. All of the other “standard contracts” when implemented are generally varied substantially to reflect the risk decisions of a particular purchaser, contract negotiations and the contract subject matter.

There are also a number of instances where a supplier has a standard contract, which is accepted by the purchaser. This is an all pervasive arrangement. For example, where an agency uses social media as part of the agencies communication strategy, the agency (and the State) is bound by the terms and conditions of the supplier (eg: Facebook or Twitter). In the absence of a WOG individual contract “negotiated” with the social media platform supplier, the government is “contract taker”, despite its position in society.

Similarly the decision by the Education department to use Microsoft products, generally requires parents to purchase Microsoft products, to enable students to readily submit homework. The reality is that the extensive quality and features of Microsoft products are not required for the basic function involved in preparing and submitting homework (or for much of the public service in producing documents). The decision of the Education Department has cost implications throughout the whole community, which is not reflected in the decision.

There is ongoing consolidation in ICT. A real issue is the lack of diversity in the Australian business landscape. In many areas, the norm appears to be a duopoly with a number of smaller fringe players who place little price or performance pressure on the duopoly players.

For example, governments may need to make a strategic decision to grow and support local IT as a way of reducing dependence on overseas suppliers. This is not a decision that can be made at the project level by an Agency, given the cost differential between overseas labour and local labour. A decision to have a “closed tender” and only inviting local suppliers, is a strategic decision for government to make in support of local skills and capacity having regard to existing contractual and treaty obligations.

In addition to the particular standards there are specific modes of operation adopted by suppliers. For major IT projects, the software supplier manages its risk by having a separate firm supply the “systems integration” component. This occurs independently of the software supplier and the hardware supplier.

The rise of the “systems integration” partner poses a significant risk to IT projects. Whether major suppliers of software packages actually have software that can be readily adapted to government requirements is a separate question, however it should not be assumed that off the shelf software can be adapted with minimal cost. This is where the “system integration” partner becomes involved.

The greater the distance between the client’s activities and the standard platform delivered by the software supplier the greater the opportunity for costs to blow out. The nature of the service provided by the system integration consultant means that the budget for the delivery of the software and the integration with the business cannot be considered to be reliable.

It is well documented that where these types of projects fall over. One clear dynamic is; that the more complex and unresolved the internal issues of the client before the “systems integration” starts, the more complex the solution and the greater the implementation cost. As with construction contracts the variations due to change in scope renders the budget, timeline and the project unmanageable.

In the 1980s and 1990s a number of construction companies adopted a “bid low and profit through variations” business model. This method relied to some extent on the public service selecting the lowest bidder to fit the budget. Under this construction model, subsequent “variations” under the contract enabled the agency to blame the contractor for cost overruns and for the contractor to profit from discrepancies in the contract specification. As a result procurement models now talk about “value for money”.

The construction industry turned to “alliance contracting” to overcome the overly litigious approach to variations. In the defence of alliance contracting, there have also been instances where the alliance approach has yielded dividends to all parties. In particular where the alliance contractor has been able to bring a superior solution to the government’s initial proposed solution. This approach has not led to a reduction in project costs or profits. Hence the move towards PPP, where the proponent’s capital costs can be fused with a long term revenue stream from government.

The driver for supplier profit sits outside the contracting methodology and is market based. Where the demand for construction is high, margins will be high. When governments choose to commission significant infrastructure during a boom period, they are asking for high prices and overruns. Economically they are also increasing the costs of funds for all borrowers and adding to overall inflation.

Although difficult, holding off spending on capital projects and retaining the funds during a boom to spend during a downturn would provide far better outcomes for society, including potentially cheaper construction costs, as the competition for construction resources is diminished¹⁵.

In summary some drivers for poor project and service outcomes are:

- Lack of specification certainty
- Adopting overly complicated solutions or specifications
- Purchasing in a tight market
- Poor allocation of risk
- Lack of competency to manage selected contract delivery method.

In the private sector there have been a number of high profile projects that have not met expectations. Highly successful construction projects can still be unprofitable business opportunities, as demonstrated by various toll roads in Queensland and New South Wales. The two main business risks are, increased borrowing costs (increased expense) and usage below modelling (reduced revenue) eventuated leading to loss making ventures.

The two prime drivers cost of capital (expense) and traffic volumes (revenue) were involved in the funding decision. In the end the cost of capital (interest) had increased making loan servicing difficult. The traffic usage estimates were over optimistic and so the toll fees (revenue) were below expectations. With interest expenses up and the risk of lower traffic volumes materialising, the toll roads were no longer viable in the short term.

¹⁵ Assuming that the current phase is part of the boom and bust cycle experienced over the last 40 years.

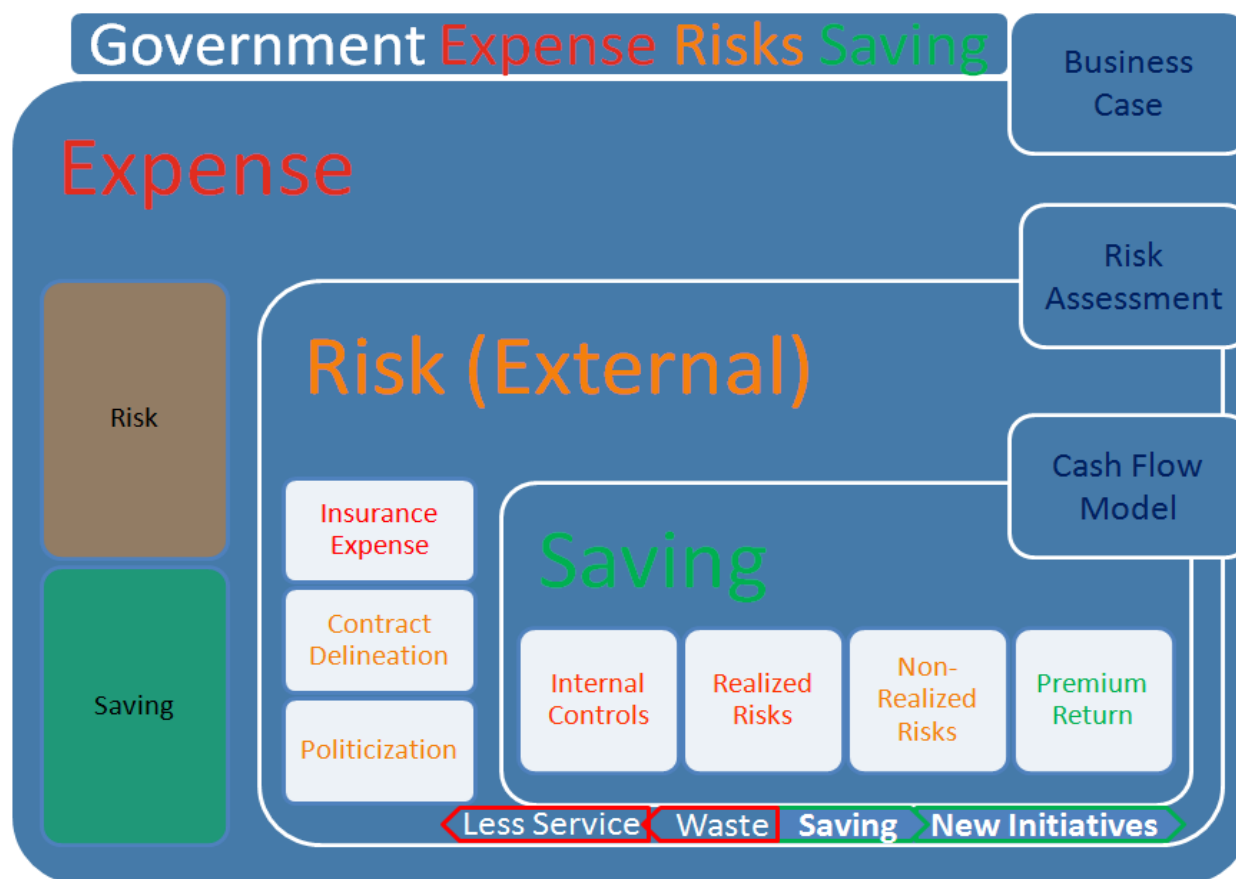
defining success and **failure**

Before defining success and failure it would be best to consider contracts as the point at which Expense, Risk and Savings are allocated by government. In the reverse context they are the point at which a supplier can determine its Costs, its Risks and its expected Profit. Essentially the outcome is a known constant – ie: what it will take to perform the contract.

Working on the basis that Expense and Saving/Profit should be capable of being known, the area of Risk requires attention. Treatment of Risk is generally either:

- Expensed – insurance, design out the risk
- Exclude – design out the risk, which can include making the risk and Expense
- Transferred – making the other party responsible for performance of an element of the contract or management of a task
- Managed/Accepted – with the responsible party implementing internal systems to deal with the risk.

The diagram below represents risks mapped to the contract. This is an inherent part of contract negotiations. The gap between ownership, allocation and capacity on risk and specification create the opportunity for confusion, exploitation of variation clauses and lays the foundation for cost and time overruns.



The Diagram illustrates where:

- some risks can be paid for through insurance with the risk event:
 - o within the insurance policy, then the risk becomes a project expense.
 - o is honoured by the insurer, then the deductible (excess) becomes a project expense.

- some risks are converted to an expense of the party to the contract:
 - o because the party is self insured the expense will belong to that party (realized risk)
 - o with a supplier's realized risk moving the supplier to a "loss position" or for a government realized risk moving towards a "waste position".

Significant waste, leads to reduced government budget and either reduced services or higher borrowing costs. Significant loss on one event or accumulation across a number of events can make a contract unprofitable for a supplier, the business unviable or termination of contract a viable option.

In some cases the supplier will attempt to manage its risks by sub contracting to a third party and allocating the risks to the third party.

To further complicate issues, there are numerous examples where the allocation of risk to a third party has proved illusory. A classic example in the private sector is the BP Deepwater Horizon oil spill, where BP argued that the independent contractors were responsible. However BP remained the focal point of the disaster and the prime party in the litigation.

Accordingly "success" defined as "on budget and on time" can apply to a contract where a supplier makes a "super profit" due to poor scope, misallocation of risk or project variations or where the budget is varied to match the actual costs.

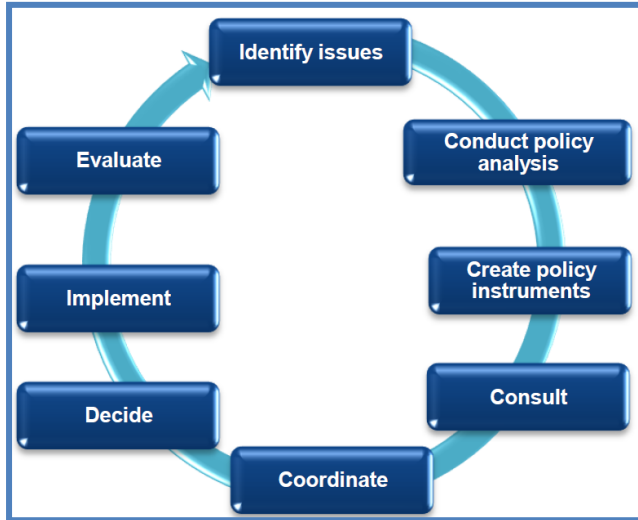
"Failure" might apply to a project delivered late and over budget, although there was an agreed scope change (based on change in government policy) that led to a higher price and/or a later delivery time.

"Success" can be when the business case overstated the time and cost for a project, which was subsequently delivered early.

dichotomy between policy and service

This commentary should be read in the context of the very real drivers within government for policy development and delivery on that policy. However the policy and service delivery require two very different skills to ensure effective outcomes and in many respects the skills required could not be more diverse.

development of policy v deployment of project



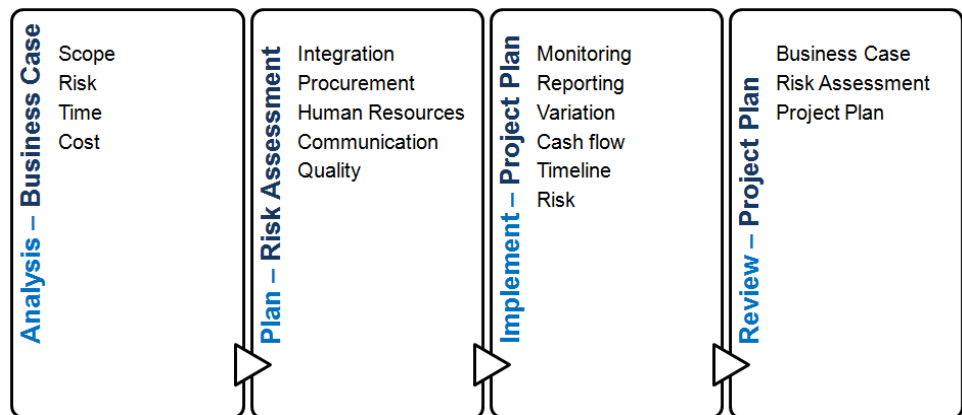
Developing policy through to legislation, requires a deftness in dealing with conflict. In many cases it promotes avoidance of conflict, by negotiating compromises, to achieve the desired policy outcome. In that sense it is more aligned to the art of politics.

Policy whether backed by laws or not, can be changed where required. Except for a few notable cases, there is little liability for past policy failings by the public service.

Responsibility for policy and implementation rests with the Minister.

Source: Davis G and Bridgeman P 2007, *Australian Policy Handbook*, 4th edn, Allen & Unwin, Sydney.

Project delivery relies on more direct candid assessments with rigour around the process to ensure the outcomes. Each of the stages and processes requires an accurate assessment to ensure the next phases



A separate issue, is that without appropriate project management methodologies, tools and culture, an adversarial culture develops resulting in ill well, inappropriate behaviour and blaming and attribution behaviours.

Depending on the role of the public servant, the requirements of the Public Service Ethics will be different. For example “efficiency” for the Director General, Internal Auditor and the Project Manager may look very different.

Given the pervasive nature of technology, many policy initiatives cannot be delivered without an ICT element. Accordingly, ICT will become one of the prime impediments to change within the public service, implementing new services and for making policy changes where existing policy is within an embedded ICT solution.

ICT can become an increasing drag on change in the public service, where it becomes an excuse for stopping or delaying policy.

In many cases where an agency provided a service to the public and did not need to be involved in policy, it was separated from government. PMG's transition to Australia Post and Telstra are prime examples. Those former units have evolved into fully independent business.

Where policy and service and project delivery functions remain within government, there is ongoing push for separation. Water and electricity are current examples of separation by creating autonomous business enterprises.

This separation acknowledges a number of problems with agency policy and service delivery. One of the benefits of physical separation is clarity of objectives for those enforcing policy and those responsible for services and projects.

policy research – project applied skills

Philosophy guided approach to problem solving is generally not appropriate for quick pragmatic project decisions. Project confusion is created when time, decision making and responsibility becomes lax based on a policy culture governing project management decision making.

line agency knowledge – project management skills

The Commonwealth home insulation experience and the Queensland Health payroll provide two valuable insights into the management of a project and the Audit reports. While others may express a different view of these projects and hindsight is a very easy perspective, there are some fundamental issues which provide some insight into the potential role of the Executive.

In both cases the Audit report provides little assistance to the Executive. Readers of the reports could be mistaken for thinking the problems that arose were unique and unlikely to reoccur. They might also miss that in each instance one of the significant issues was external to the project.

Qld Health had a pre-existing award structure that was complicated and increased project complexity. In the end the complexity added significant time, cost and money to the project. Reducing the variation across awards would have posed a significant challenge. For changing awards to be viable a strategic decision would have required this to be addressed 2 years prior to starting on the ICT project. It would be of interest how this strategic risk was identified and managed within the life cycle of the Award negotiations.

With the home insulation scheme, a lack of project management capacity with the department was a key issue. Accordingly, rather than purchase project management skills (outsourced), the agency tried to develop project management skills while managing the delivering of the project using in-house resources. Commentary on (and excuses for) this project centred round the "haste" of the project being driven by the Executive.

Recent examples would include the electronic health record initiative of the Commonwealth, where the deadline for delivery and subsequent "go live" meant the system was not fully operational.

The current arrangement leaves the Minister exposed to a non-performing agency or project without the tools or the capacity or resources to control the project. Without some structured governance arrangement independent of the agency, there is little the Minister can accomplish in project delivery terms.

Alternatively significant involvement by the Minister can also cause considerable difficulties for project delivery.

Project failures are avoided through systems that use "non-conformance reporting" to ensure effective feedback, process improvement and efficient outcomes.

conclusion

In addressing the concerns about procurement and management of ICT services in the NSW public sector, we considered that broader issues need to be considered before the concerns of the Committee can be addressed. Making the reforms at the Parliamentary level would enhance public service ethics.

Parliament and the Executive need to establish effective oversight of projects and services based on longitudinal metrics that can be reported and monitored effectively through the Public Accounts Committee and other Committees of Parliament.

The current frameworks exists for the reporting to the Parliament through the Committees, however the metrics need to be established to ensure they a reliable long term guide to the performance of the public service in providing a service or for managing contracts.

The adoption of reporting metrics, supported by appropriate Audit arrangements across the Auditor General, Audit Committee and internal audit would provide rigour to the metrics.

While politics will always be part of project and service failures, the proposed metrics framework and audit enhancements should provide a consistent platform for measuring public service performance. Professional oversight of the public service by Parliament, with appropriate audit structures and reporting and accountability, will improve project and service outcomes across the whole of the public service not just in ICT.

Where public service ethics are developed without the appropriate governance and oversight reforms at the Parliamentary, Executive and Agency reforms, they will do little so solve the problems identified by the Committee. However, effective governance with appropriate public service ethics and other structural changes can provide long term improvement in service and project delivery in the public sector.

International Organization of Supreme Audit Institutions – Why IT Projects Fail¹⁶

Causes of Failure	Impacts on Projects
Design and Definition Failures <p>Required outputs not described with sufficient clarity – no scope definition prior to authorisation.</p> <p>Over-ambition – sweeping into a single project all “good ideas – all deliverables in one chunk”.</p> <p>Project seen as an IT project, not as part of wider process to deliver business objectives.</p> <p>End-goal too distant with too few review points to confirm business case.</p>	<p>Projects have little understanding of what they have to do to “succeed” and far too many stakeholders to satisfy.</p> <p>Without clear definition of interim success or assessment of what is achievable, projects drift into long term activities which become uncontrolled and uncontrollable.</p> <p>Ultimately, failure is designed in.</p>
Decision Making Failures <p>Prime responsibility rests with committees.</p> <p>Consensus must be achieved on all issues.</p> <p>No single individual in authority – project manager makes decisions in absence of sponsor.</p>	<p>Key issues are logged, but remain unresolved as all people with an interest are consulted. Outcomes of consultation will be blurred in order not to trigger opposition and veto.</p> <p>Projects are not given clear direction – key actions are not taken or are inconsistent.</p> <p>Ultimately, a failed project evolves.</p>
Project Discipline Failures <p>Project documentation replaces project management.</p> <p>Milestones are too distant – slippage is not managed.</p> <p>Weak arrangements to identify and evaluate risks and allocate them to managers with authority.</p> <p>Requirements changes not reflected in “immutable” deadlines.</p> <p>Contingency planning is weak or unrealistic.</p> <p>Project beyond the experience and capability of the Project Manager</p>	<p>Plans are constructed based on deadlines which are pre – determined; few people actually believe they reflect reality so slippage or the impact of change is not taken seriously.</p> <p>Prospect of failure is not allowed to be acknowledged so few preparations are made for problems which do arise.</p> <p>Ultimately, the project moves, unacknowledged, into failure, costs escalate.</p>
Supplier Management Failures <p>Project has little understanding of supplier commercial imperatives (e.g. in fixed price contracts).</p> <p>Supplier not selected on basis of value for money.</p> <p>Projects are launched without an agreed contractual completion date, acceptance criteria and cost limit.</p> <p>Insufficient transparency of management information between client and supplier.</p> <p>Suppliers managed to limit cost rather than risk – no validation of suppliers’ assumptions.</p>	<p>The key early part of the project is confused by contractual debate and positioning – often leaving both sides disappointed.</p> <p>This mistrust is then exacerbated by misunderstanding of supplier and project motivations creating further disputes and resort to contract – leading to a culture of secrecy and “sides”</p> <p>Ultimately, the project focuses its energies on blame for failure.</p>
People Failures <p>Disconnect between project and those who own the need.</p> <p>Culture in project teams to explain away real risks and to hide not address problems.</p> <p>Needs of users not understood due to secrecy or haste during definition and design phase.</p> <p>Too few senior people with real authority</p>	<p>Project staff develops, what they believe to be “developable” and avoid asking for guidance – given the risk of veto and delay.</p> <p>Requirement “owners” fail to understand what is feasible and therefore request deliverables and change which are impracticable in the given timescales or budget.</p> <p>Ultimately, the project delivers failure.</p>

¹⁶ <http://www.intosaiiitaudit.org/whyitprojectsfail.pdf>