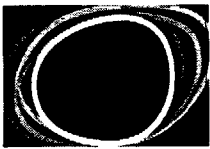


A CRITICAL ANALYSIS OF THE SYNERGY BETWEEN eGOVERNMENT AND RELATED POLICIES IN THE UNITED KINGDOM

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Conventional models of eGovernment typically define the use of digital technology by public administration to produce more efficient, effective and accountable government, better policies and public services and improved information flows for business, organisations and the general public. eGovernment is, therefore, not an end in itself but a means to an end. Indeed, the characteristics of the policy are changing with the emergence of a new emphasis on "transformational government", enabled by technology, in which the delivery of public services through a "public value" test is now at the pinnacle of the agenda. This monograph explores the evolutionary process and progress of the policy, primarily from a UK perspective, and judges what its achievements and difficulties have been to date. In doing so, it considers the challenges arising as the relationship between government and the eGovernment agenda matures. It also considers whether the direction that the Government is taking on eGovernment ties in with the pursuit of related policies on modernisation of the public sector, information policy and the EU agenda.

The dimensions of eGovernment

There is a significant amount of evidence, both in terms of documentation and administrative reorganisation, of the efforts of both the UK and other governments to design a model of public administration for the information age. The development of networked information and communication technology ("ICT") has provided government with new tools with which to undertake this transformation. On the other hand, there are many examples where engagement with ICT

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has not produced the anticipated benefits. If there is one lesson that government has learnt it is that the pathway to success in this relationship is a narrow one. In drawing out an assessment of the achievements of successive UK governments in the application of ICT to the public sector it is important, first, to identify where eGovernment concepts fit within the dynamics of the modernisation agenda and then to measure progress made.

Interesting work in observing these trends among governments around the world has come from the private sector. Research commissioned by Cisco Systems, supplier of networking equipment and network management for the internet, used experience gained by the company as advisor to governments to develop its model of a "Connected Republic" based on Plato's ideal. This is of a state where "citizens are fully engaged in, and control the management of public affairs".¹ The authors suggest that, to attain such a "far reaching and difficult goal", three primary challenges must be met. These are:

"delivering public services more quickly, efficiently, effectively and flexibly; transforming public services to offer what citizens want, while keeping taxes down; and building trust and accountability with a sceptical and often cynical public."

To aspire towards these goals, government would need to move from "command and control" solutions to more flexible methods of delivering improved public services that bridge the traditional public-private sector divide. To achieve this, government power would need to be appropriately distributed "across different regional, sub-regional and local levels".

There was also a need for government to develop a more agile and innovative approach to "empowering" individuals to succeed in the information age, which was one of growing complexity and interconnectivity. The movement of people, capital, and particularly innovation and creativity, to and from almost any part of the world, required an effective response from government, designed to assist its citizens to engage and compete in that process. Beyond that, eGovernment was also about delivering "public value", not simply through greater efficiencies and cost reductions, but through greater transparency and accountability for the actions of the state. Deployment of new technology had to be matched by reforms to the culture of the public sector, where new structures and skills would be called upon in policy development and project management. This was likely to involve "working across organisational boundaries and within informal networks rather than in rigidly defined hierarchical structures".

¹ Badger, Johnston, Stewart-Weeks and Willis, *The Connected Republic—Changing the Way we Govern* (Cisco Systems, Internet Business Solutions Group, 2004).

Finally, there was the challenge of eDemocracy which was being explored by governments in a variety of ways, including "web casting" government activities, e-petitioning and e-polling on specific issues and other electronic participation methods. The issue was how to use ICT in an effective way to increase public involvement in policy development and the democratic process. It was also about establishing mechanisms to ensure that, once government developed such channels of communication, it did not ignore the input generated by the process.

Another private sector participant in the global monitoring of eGovernment trends since 2000 is Accenture, the global management consultancy. The company has developed a model to measure and rank eGovernment performance in different jurisdictions. In its 2005 report,² 22 nations were assessed.³ The report found that, during this period, most governments had evolved "from their first tentative steps, publishing information online, to developing sophisticated interactive and transactional capabilities across a broad range of services". eGovernment was "well advanced", but in terms of putting services online many governments were reaching the upper limits of what could be achieved with such services in their present form. Several jurisdictions, therefore, were now beginning to "broaden their customer service agenda" and put the foundations in place for "multi-channel, interconnected government". This would be critical to entering the "next generation of service delivery". In broad terms, there appeared to be a move away from driving development of eGovernment "for its own sake", towards achieving public sector value "through transformed service delivery".

The report also noted that, in general, governments were finding it hard to keep pace with public demand for access to the new generation of services. It was found, for example, "almost without exception", that governments surveyed were consistently less than 50 per cent of the way towards a "full realisation of cross-governmental and citizen-centred service". In addition, governments were often making investment decisions about service delivery without obtaining a "clear view" of the outcomes they produced. Current measures of service usage were "haphazard", with some being measured and others not. Generating value required more precise assessment of channel preferences and usage patterns. A possible model for measuring adoption was proposed by the report, "as a first step toward a meaningful assessment of where a particular government needs to focus its efforts to achieve its adoption objectives".

Public sector sponsored analysis of the dynamics of eGovernment has come at the instigation of the British Government during its 2005 Presidency of the European Union. In November 2005 it hosted a Ministerial Conference in Manchester entitled "Transforming Public Services". The aim of the event was to review progress in eGovernment across Europe and to share understanding as to the future direction of public sector eGovernment policy.⁴ For release at the event, the UK Cabinet Office commissioned a study from Booz Allen Hamilton, global strategy and technology

consultants, on best practice among nine countries⁵ in eGovernment policy initiatives.⁶

The report broadly confirmed the trends identified in the other studies described above suggesting that the policy itself was about to enter its fourth wave of evolution within some jurisdictions. The first stage concerned efforts to promote access and connectivity in which the focus was on "developing infrastructure" and adapting the legislative framework to foster its adoption. This could be measured by the degree of internet and access device penetration. Stage two focused on delivery of online services, with eGovernment viewed as an "add-on"—i.e. an "additional communication channel . . . for developing customer interfaces to make existing services available online". Measurement involved an assessment of the proportion of government services available online and their degree of sophistication. The study reported that, for many governments, progress through this stage was often difficult, with governments finding it hard to deliver the online services that were promised. Customers were also confused about the proliferation of channels and their lack of co-ordination. Also, the transitional costs of moving from offline to online "e-service" delivery often proved greater than in the offline days. Stage three of the policy—"transforming the enterprise"—was characterised by a change of focus from basic service provision to its "impact, in terms of benefit to end users and government". The measurement emphasis lay on "efficiency and effectiveness". Most governments were currently operating within this sphere of the policy and would continue to do so for some time, attempting either to improve the automation of existing processes or re-engineer them. Where major restructuring was taking place this was also likely to involve modernisation of the organisation itself.

Although examples were few, the report also foresaw that a fourth wave of "next generation government" was imminent, in which use of ICT was likely to become "so ingrained" that defining eGovernment as a "separate entity" ceased to be helpful. In this environment, channels of service delivery would begin to merge with internet telephony, for example, allowing governments to offer "blended solutions" in which electronic channels would become "mainstream". Also, the re-engineering of processes would give way to "new ways of realising policy objectives" enabled by ICT. Reorganisation would be "radical and across organisational boundaries, challenging traditional structures and service delivery monoliths". This was likely to involve the private and voluntary sectors as well as public administration. Added to this, the report envisaged that these changes would also encourage "better regulation and policy". This was likely to reduce pressure for interaction between government, citizens and business with consequential gains in the reduction of administrative burdens.

UK eGovernment strategy

The timeline of the policy development paper trail for eGovernment in the United Kingdom is well set out within the web pages of the IDABC eGovernment Observatory. This is published and maintained under contract with the European Commission and the Directorate General for Enterprise and

² *Leadership in Customer Service: New Expectations, New Experiences* (Accenture, April 2005).

³ The report ranked the United Kingdom in joint 10th place alongside Germany, the Netherlands and Sweden. Canada was ranked 1st with the United States in 2nd place and Denmark, Finland, France, Japan, Norway and Singapore jointly ranked 3rd.

⁴ Details of the Conference can be found at www.egov2005.conference.gov.uk.

⁵ These were Australia, Canada, France, Germany, Italy, Japan, Sweden, the United Kingdom and the United States.

⁶ *Beyond e-Government—The world's most successful technology-enabled transformations* (Booz Allen Hamilton, November 2005).

Industry.⁷ IDABC identifies more than 70 key developments and milestones in the history of the policy as it developed in the United Kingdom during the period from the mid-1990s to the present day. Official documents define policies for the development of eGovernment infrastructure and services, and describe a strategy for implementation within both central and local government.

In terms of ministerial responsibility for eGovernment, two briefs now exist to cover both central and local eGovernment. Following the Cabinet reshuffle in May 2006, Pat McFadden M.P., one of two Parliamentary Secretaries in the Cabinet Office, has taken over primary responsibility the eGovernment agenda from Jim Murphy M.P., former Parliamentary Secretary at the Cabinet Office. However, the Government has made it clear that Hilary Armstrong, Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office and Social Exclusion, may still get involved in eGovernment issues if this is considered necessary. Angela Smith M.P., Under Secretary of State at the Department for Communities and Local Government ("DCLG"), has the local eGovernment portfolio. DCLG replaced the former Office of the Deputy Prime Minister ("ODPM") from May 5, 2006.

In order to assess the strategy and its content, it is necessary to break the policy down into its components. This does not create a clear demarcation, as one element of the policy frequently intersects and feeds into another. However, for the purpose of analysis, it is possible to discern five aspects that need to be considered: government on the Web; online service provision; ICT and public sector administration; local government; and eGovernment policy in relation to "eDemocracy".

The government portal

Chronologically, the first element to be considered in the mid 1990s was how government should engage with what was then the new medium of the internet. The latter was characterised at that time as an "information superhighway", in which many opportunities arose for public sector applications. The rudimentary aim at this early stage was to make future government "more responsive, accessible and affordable". This should be undertaken with a view to delivering "improved services" for the citizen at less cost and in a form that would "enhance UK competitiveness".⁸

In October 1994, the Central Computer and Telecommunications Agency ("CCTA") established the first government "finder site", open.gov.uk, to channel internet users to fledgling departmental and agency intranet sites. CCTA was originally part of HM Treasury in the 1980s but, subsequently, became a Cabinet Office trading agency "selling services and advice to departments and agencies on a commercial fees basis".⁹ In April 2000, it was subsumed within the new Office of Government Commerce ("OGC"), established following a review the year before, on civil procurement in central government.¹⁰ Interim guidance was issued shortly

after the website launch for managers with responsibility for developing internet services within their organisation.¹¹

Management and budgetary responsibility for most intranets remained with the departmental provider, although the Cabinet Office did fund the Central Information Technology Unit ("CITU"), a small policy unit to advise government on initiatives, such as the development of web services. The National Audit Office ("NAO") reported that it was difficult to assess how successful the site had been in the early stages during 1998–1999. Systematic usage statistics were not available at the time although, by 1998, an average of just under two million user sessions were being recorded monthly. Ministers and civil servants also recognised that the site did not have a strong "brand presence" and NAO also identified widespread criticism of its design among officials. It was not yet able to match the more sophisticated portal sites,¹² found in the private sector, such as Yahoo!, that could direct users to a wide variety of links. Specialised search engine sites,¹³ such as Google, were also becoming important commercial players. This led to a decision to re-launch the open.gov site. Work commenced on this task in January 1999, with the original intent to replace the existing site by early 2000. In fact this did not occur until January 2001 when UKonline.gov.uk was unveiled as the new "citizen portal". This was part of the Government's "UK Online" initiative, announced by the Prime Minister in September 2000 through a series of press and television advertising campaigns, to encourage the public at large to "make the most of the Internet".¹⁴

During this period, the Cabinet Office exercised its responsibility for co-ordinating government modernisation by further internal reforms. In September 2000, CITU was absorbed into the Office of the e-Envoy ("OeE"), established one year earlier to develop central policy and strategic direction for eGovernment.¹⁵ The OeE was closely involved in the design and implementation of the new portal. It was intended to be more interactive and user-friendly, with a stronger search engine. The initial experience was poor, with the search engine typically producing more than 1,000 results per search. A rebuild of UK Online was unveiled in January 2002, with a more intuitive search engine and a better designed home page. By autumn 2001, usage figures had modestly increased to 4.6 million "page impressions" per

Services Division of CCTA along with the Buying Agency became part of OGCbuying.solutions (created as an Executive Agency and Trading Fund) on April 3, 2001. See further, fn.75 below.

11 *Making the best use of the Internet* (Cabinet Office—Office of Public Service and Science and CCTA, April 1995).

12 A portal is "any well-used gateway to the Internet, especially those sites designed to serve as a 'front door' and thus the first page that users see when accessing the Web. Portals typically provide large catalogues of other sites, powerful search engines for locating information, and e-mail facilities or other attractive Web services." Source: *Government on the Web II—Report by the Comptroller and Auditor General HC 764 2001–2002* (National Audit Office, Stationery Office, London, April 22, 2002), p.81.

13 A search engine is "a database of web page extracts that can be queried to find references to a person, subject or topic across the World Wide Web as a whole. Many Web sites and intranets provide similar but smaller search facilities for finding material on their site alone". An intranet is a "network linking computers within a particular organisation, which is closed to outsiders. Its structure and user interface are based on those of the Internet". Source: *ibid.*, at p.81.

14 fn.12 above, at p.47.

15 In September 2004 the Office of the e-Envoy was replaced by the e-Government Unit of the Cabinet Office as the "key strategic driver for eGovernment in the UK".

7 The IDABC eGovernment Observatory webpage is found at <http://europa.eu.int>. See further fn.401 below.

8 *Information Superhighway—An update on opportunities for public sector applications in the UK* (CCTA—The Government Centre for Information Systems, July 1995).

9 *Government on the Web—a report by the Comptroller and Auditor General HC87 1999–2000* (National Audit Office, The Stationery Office, London, December 15, 1999), p.51.

10 *Review of Civil Procurement in Central Government* (Peter Gershon—Report to HM Treasury, April 1999). The Managed

month, although this included multiple requests from users visiting more than one part of the site.¹⁶

In March 2004, the first stage of the Government's current online service, DirectGov, was released, replacing UK Online as the main internet link to public sector information and services. The OeE claimed that the project had taken months of planning and was designed to open "a more profound relationship with citizens". Others disagreed as to its value and an alternative "Directionless.gov.com" website was established to make the case.¹⁷ Nevertheless, the vision was to "transform the way government communicates and interacts with citizens" and to "create a better relationship between government and the people it serves by listening and adapting our service to suit the needs of all customers". The e-Envoy at the time, Andrew Pinder, pointed out that the Government maintained more than 2,500 websites. The aim of DirectGov was to make the existence of those individual sites "invisible to the end user" in the search for relevant information. DirectGov would also form the platform for access to a growing number of government forms and transactional services. From April 2006, DirectGov's operational and support functions moved from the eGovernment Unit of the Cabinet Office to the Central Office of Information. In the same month nearly 2.4 million visits were recorded to the site, more than double the numbers achieved during September 2004. In January 2006 a local Directgov programme was also launched via the ODPM, extending the service into local government.¹⁸ All 388 English local authorities were asked to provide links to key local services and resources to be accessible through Directgov.

The picture at this stage, then, is of government keen to establish a user friendly portal capable of delivering the online user to the information sources that were sought. Despite criticism of the configuration and search accuracy of DirectGov, the usage statistics show steady growth in public access to the site. Apart from its information service function, DirectGov is also focused upon the development of service channels for routine transactional service delivery.

Accessible public services

The development of a strategic framework for the delivery of accessible services to the public, post-digitisation, was always going to be a central focus of the eGovernment agenda. At issue was how to engage technology both to improve the service and reduce costs. In March 1999, the strategy for change was set out for the first time in the Modernising Government White Paper.¹⁹ This identified a "long term programme of change" in the way in which government made policy, delivered services and used technology. The White Paper was more a blueprint for "kick-starting" the eGovernment agenda as a whole, as it committed Government to a series of broad promises to develop "framework policies" across the public sector. These embraced "the needs of citizens and business" and was part of a corporate IT strategy for government. Where dealings with the public were involved, these should be delivered electronically except

where, for policy or operational reasons, this was not possible. Other statements dealt with creation of better online services for business, and broader issues about the need to engage technology to improve and modernise government itself.

During 2000, the Cabinet Office published three reports that set the tone for this policy and the way in which the Government planned to move ahead. The first report,²⁰ published in April 2000, defined eGovernment strategy as a "fundamental element" in the Government's "Modernising Government" programme. This was very much within the main stream of what most governments were seeking to achieve with ICT at this time. An immediate target was for all citizens, by the end of 2005, to have access both to the internet and to all government services,²¹ either from their homes or from a "community access point".²² There would be four guiding principles for eGovernment: "building services around citizens' choices; making government and its services more accessible; social inclusion; and using information better". The report also identified the skills, roles and responsibilities necessary to make this happen.

Other official publications quickly followed. In May 2000, the Government published its ideas on "how to improve the way Government handles IT projects".²³ New thinking was required to move away from the concept of IT projects, as such, towards projects that changed the way government worked, using IT in the process. Appropriate leadership, organisation and skills would be needed to achieve this objective. In September 2000, a report from the Performance and Innovation Unit of the Cabinet Office examined the benefits of electronic service delivery.²⁴ There was a huge opportunity here to transform the delivery of transactional and interactive information services on issues such as health, education, benefits, employment, taxation, environmental services and official information. The report also discussed the need for a mixed economy in service delivery that would more fully embrace the private sector. Competition between providers would be encouraged to "stimulate innovation and improve value for money". Such developments in public sector service delivery would join those already operational in the commercial service sectors, such as banking and travel.

Two further reports, published in late 2001, focused upon service delivery. In October of that year, the Government produced a consultation document²⁵ examining the development of possible "channel strategies"²⁶ for the delivery of services, both electronically and by traditional methods. The focus would be on services that were "more accessible, convenient and responsive" to the needs of the public. In November, the Public Services Productivity Panel²⁷

20 *eGovernment: a strategic framework for public services in the information age* (Cabinet Office, April 2000).

21 Except those excluded for policy or operational reasons.

22 The original target for availability of government services online set out in the *Modernising Government* White Paper had been 2008.

23 *Successful IT: Modernising the Government in Action* (Cabinet Office, May 2000). Known as the McCartney Report after its ministerial sponsor.

24 *Electronic Government Services in the 21st Century* (Performance and Innovation Unit, Cabinet Office, September 2000).

25 *Framework for Channel Strategies: delivering government services in the new economy* (Cabinet Office, UK online, October 2001).

26 A channel is a means for organisations to deliver services. This could be electronic, voice, face-to-face or by post, for example.

27 The Public Services Productivity Panel "is a small group of senior business people and public sector managers that has been established to identify ways to help improve the productivity of the public sector. The Panel is chaired by the Chief Secretary to the Treasury." Source: www.hm-treasury.gov.uk.

16 fn.12 above, at para.4.13.

17 *Our Story—a journey into the heart of government* (DirectGov leaflet, 2005). See also www.directionlessgov.com.

18 See local eGov website at www.localgov.gov.uk. See further fnn.224–225 below.

19 *Modernising Government* Cm 4310 (The Stationery Office, London, March 1999).

examined the concept of "customer focused government" and how public sector organisations might set such a direction for change.²⁸ These reports led to the publication, in September 2002, of the Government's plans for "channel strategies" for delivery of electronic services and, in particular, guidance as to implementation.²⁹

It is interesting, at this relatively early stage in the evolution of eGovernment, to consider what attempts were being made at that time to develop schemes to measure the performance of the policy and its implementation. First, the NAO, which reports to Parliament on the spending of central government money, issued a progress report, in November 2000, on how the NAO itself was responding to changes proposed by the "Modernising Government" White Paper.³⁰ The NAO indicated that it was revising its audit and performance measurement techniques to reflect the more "joined-up" delivery of public services and was continuing to encourage increased efficiency in procurement and the use of IT to deliver public services.

A further NAO review followed in April 2002.³¹ This built on the "Government on the Web II report",³² and examined the case for better public services through eGovernment. It concluded that the policy had "considerable potential to improve public services and departments' efficiency". It noted that the OeE, whose primary task at that time was to improve the delivery of public services as well as long-term cost savings, should accelerate the sharing of good practice among departments on how to "encourage citizens to take up services available online". There was a risk to online development if the public saw no benefit in accessing services electronically. It should also develop a "cost methodology" for assessing the potential to "improve operational efficiency and customer benefits" through business changes brought on by IT. Means should be found to measure its achievement. Departments, themselves, should also "set targets and effective strategies for the take up of services online; actively market e-services to the public; tackle the barriers to civil servants using IT; and adopt an approach to IT-enabled change" which realised efficiency gains.

In the period since, until late 2005, the focus of policy development in respect of interactive and transactional services online has been upon consideration of how to drive up access and demand. In September 2003, the OeE produced advice to departments on how to boost the take-up of "eServices".³³ Efficiency savings and improved services could be achieved if best practice was shared and applied. This was followed by consideration of how digital television ("DTV") could be used as a means of service delivery.³⁴ It suggested that both central and local government should consider the benefits of DTV as a "key

channel for e-government . . . to deliver richer services and inclusiveness".³⁵ Other studies in 2003, conducted by the NAO, looked at specific access issues in terms of ways to help older people to access eServices³⁶ and how to simplify the many forms that the public was required to complete when interacting with departments and agencies.³⁷ These issues were also the subject of reports from the Public Accounts Committee ("PAC")³⁸ which, additionally, considered the role of call centres in service delivery to the public.³⁹

In 2004–2005, two further studies reported on the broader issue of how to tackle the problem of those groups in society that were disengaged from ICT. In the first report,⁴⁰ the Digital Inclusion Panel, comprising experts from the private and voluntary sectors, identified the unemployed, individuals with literacy problems and older people⁴¹ as not sufficiently benefiting from ICT as they ought. It noted that, while 61 per cent of UK adults had accessed the internet, only 17 per cent of those aged 65 or older had done so. Investment in "innovation and enterprise across government, industry and the voluntary sectors" offered the "best opportunity" for digital take-up by the public as a whole.

In a second report, published in March 2005, the Government took stock of the progress it felt had been made over five years in creating a "digitally rich" United Kingdom. Since 1999 there had been a "transformation in the way the UK economy and civil society have embraced new technology". The United Kingdom had moved from the "bottom of the pack into the premiership of digital excellence". However, the digital divide still existed and further steps were needed to close it out. A seven-point plan was proposed involving a national pupil/student low cost lap-top scheme; a local authority "digital challenge" award; working with the IT industry to create a safer online environment for children; further expansion of communal internet access points; working with the Office of Communications ("Ofcom") to distribute home broadband more widely; measures to encourage development of broadband content; and development of a "cross-government" focus on public service delivery.

The most current statement of policy, embracing service delivery, was announced by the Government during the "Transforming Public Services" conference in Manchester in November 2005.⁴² As the title of the

28 *Customer-Focused Government—From policy to delivery* (Lynton Barker for the Public Services Productivity Panel, November 2001).

29 *Channels Framework—Delivering Services in the new economy* (Cabinet Office, Office of the e-Envoy, September 2002).

30 *Modernising Government—How the NAO are responding—A progress report* (National Audit Office, November 2000).

31 *Better Public Services through eGovernment* HC 704-1, 2001-2002 (NAO, Report by the Comptroller and Auditor General, April 2002).

32 *fn.12 above.*

33 *A checklist of core considerations for the development of strategies for the improved take-up of "e-services"*, Version 1.0 (Cabinet Office, Office of the e-Envoy, September 2003).

34 *Digital Television—A policy framework for accessing e-government services* (Cabinet Office, Office of the e-Envoy, December 2003).

35 A further report on this issue was published in 2005. See *Service Design and Delivery Guide: Achieving high take-up of e-services, cost savings and better quality public services* (e-Government Unit, Cabinet Office, January 27, 2005).

36 *Progress in making e-services accessible to all—encouraging use by older people* HC 428 2002-2003 (NAO, Stationery Office, London, February 20, 2003).

37 *Difficult Forms—How government agencies interact with citizens*, HC1145, 2002-2003 (NAO, Stationery Office, London, October 31, 2003).

38 *Difficult forms: how government departments interact with citizens*, HC 255, 26th Report of Session 2003-04 (Committee of Public Accounts, May 17, 2004). Also *Improving public services for older people* HC 626, 29th Report of Session 2003-04 (Committee of Public Accounts, July 8, 2004).

39 *Better public services through call centres*, HC 373, 20th Report of Session 2002-03 (Committee of Public Accounts, June 5, 2003).

40 *Enabling a Digitally United Kingdom—A Framework for Action* (Cabinet Office, October 2004).

41 A broad study of the issue was carried out by the NAO in 2002-03. See *Developing Effective Services for Older People*, HC 518, 2002-2003 (NAO, Stationery Office, London, March 24, 2003).

42 See *fn.4 above.*

White Paper—"Transformational Government"—suggests,⁴³ this was more of a general strategy paper designed to mark a policy shift and a new title for it. It was strongly evident at the conference that eGovernment was dead, so "long live transformation." The shift towards a "transformation" agenda made the point that, measuring the performance of government in consequence of its deployment of ICT, was not so much about the process of change as about measuring what had been achieved by it. The time appeared right, politically, for re-definition in which the objective would now concentrate on "transformational government enabled by technology". In this context, technology should be seen as a "strategic asset and not just a tactical tool". The vision was about using technology to deliver better public services and policy outcomes that had "an impact on citizens' daily lives", while improving communities and the economy through "better regulation and leaner government". Technology, by itself, could not transform government, but government could not change to meet public needs and expectations without it.

In relation to service delivery, the Government proposed the appointment of "Customer Group Directors" to represent particular groups, such as the old, within the population. These individuals would feed into the design, delivery and branding of services, ensuring that the customer group interest in these issues was represented at all times. The creation of design principles and sharing of best practice would be in the hands of a "Service Transformation Board", comprising officials from the wider public sector with responsibility for delivery of major services. Work would also continue to ensure that modern channels for access to services existed to suit citizen and business requirements. A timetable and blueprint for change was set out, including the need for significant progress within government in developing the skills and professionalism by which change was to be delivered.

Public sector efficiency

Assessing the contribution of eGovernment policies against the broad issue of public sector efficiency is extremely difficult, because it is not easy to identify which aspect of the Government's desire to reform public administration in its utilisation of ICT is linked to the eGovernment agenda as opposed to other policy remits. It is much easier, however, to begin to answer this question within a "transformation" (tGovernment) framework, as this is more about fundamental change in the functioning of government than simply engaging with ICT to move services online. As such, most of the recent actions taken by government to reform itself in this way fall within the sphere of this analysis. There are at least three aspects of "technology enabled transformation" that should be mentioned here: policy towards improving the quality of public administration; public sector procurement and IT project management; and information-sharing and data management.

Efficient and effective administration

Much of the work done within government on this issue over the past 10 years has been concerned with looking for ways to improve the quality of the output of the public sector; securing efficiency savings in the cost of delivering these services;

⁴³ *Transformational Government—Enabled by Technology*, Cm6683 (Cabinet Office, November 2005).

and identifying models for appraisal and evaluation. There has been a stream of reports emanating from government, Parliament and third parties dealing with these questions. Within government the lead has come from relevant parts of the Cabinet Office, HM Treasury and the Prime Minister and Chancellor. The NAO⁴⁴ and PAC⁴⁵ have led the way on these issues in reporting to Parliament. Meanwhile external input has come from the Institute of Public Policy and Research ("IPPR")⁴⁶ and the Adam Smith Institute ("ASI"),⁴⁷ with both organisations adding value to the national debate.

One of the first strategic challenges facing government in this respect has been how to reorganise administrative structures to accommodate a bureaucracy seeking to make effective use of ICT. There was a recognition that the traditional "department-centric" form of policy management and service delivery had to give way to a much more interactive and joined-up format. This would bring together partnerships within the relevant agencies and policy units. In 2003, the Government also consulted and then published implementation guidelines for a "mixed economy in the supply of eGovernment services".⁴⁸ The proposals envisaged a "market place" in which the public, private and voluntary sectors would work together to deliver eGovernment services to both citizens and business.

The 2005 White Paper⁴⁹ also envisaged moving to a "shared services culture" within government, across both front and back office administration⁵⁰ and in information and infrastructure, to "release efficiencies by standardisation, simplification and sharing". Implicit within these proposals was the expectation that this would lead to greater understanding of how related policies interacted. This point was recognised as early as 2001 by the NAO, when it called for appropriate "joint working" among public service departments according to the circumstances and needs of the client group.⁵¹ Avoiding the breakdown of communications between agencies, of the kind identified by Sir Michael Bichard in his public inquiry into the murder of two children in Soham in August 2002, is clearly a relevant target.⁵²

⁴⁴ The role of the Comptroller and Auditor General, as head of the National Audit Office, is to report to Parliament on central government spending. It works closely with the Public Accounts Committee and other public audit bodies with a public expenditure role.

⁴⁵ The Public Accounts Committee was first constituted by Parliament in 1861 and seeks political accountability for public expenditure voted by the House of Commons.

⁴⁶ The Institute of Public Policy Research is a think tank organisation established in 1988. Its stated role is to "bridge the political divide between the social, democratic and liberal traditions, the intellectual divide between academia and the policy making establishment and the cultural divide between government and society".

⁴⁷ The Adam Smith Institute is a free market think tank that has, since 1977, offered practical initiatives designed to "inject choice and competition into public services, extend personal freedom, reduce taxes, prune back regulation and cut government waste".

⁴⁸ *Policy Framework for a Mixed Economy in the Supply of e-Government Services—Implementation Guidelines V.1* (Office of the e-Envoy, Cabinet Office, December 2003). A consultation document and official response the consultation was published in May and October 2003, respectively.

⁴⁹ *fn.43* above, at paras 21 and 39–40.

⁵⁰ "Back office" refers to the internal operations within an organisation supporting core processes but not accessible or visible to the public. "Front office" is what the public sees in terms of information and service providers and the interaction between government, its citizens and businesses.

⁵¹ *Joining Up to Improve Public Services*, HC383 2001–2002 (NAO, Stationery Office, London, December 7, 2001).

⁵² *The Bichard Inquiry Report*, HC653 (Stationery Office, London, June 22, 2004).

In organisational terms, a series of units and secretariats within the Cabinet Office have been established to develop policy and reform proposals to promote this agenda. The present Government has indicated that it sees the Cabinet Office, working alongside HM Treasury and the Prime Minister's Office, as a "strong centre" for making government "more effective". This would take place by co-ordinating "policy and operations across government"; improving delivery by "building capacity in departments and public services"; and promoting standards to ensure "good governance". Within strategy and planning there is a Prime Minister's Strategy Unit ("PMSU"), whose role is to "improve policymaking at a strategic level within and between government departments"; a Government Social Research Service providing background social research input into government policy-making; and the eGovernment Unit ("eGU"), which is directly involved in "achieving efficiency savings and improving access to public services through electronic delivery". Its remit also extends to setting standards for electronic services across government and operating the DirectGov and GovTalk⁵³ websites. A Policy Hub website is also maintained as an information resource for policymakers and a "platform for promoting the highest standards of research and evaluation".⁵⁴

On the reform and regulation side, the Better Regulation Executive has, as the title makes clear, responsibility for delivering "better regulation" and reducing "unnecessary bureaucracy" in both the public and private sectors. With input from the Better Regulation Task Force, which is an independent advisory group, the Executive is currently supporting the Legislative and Regulatory Reform Bill 2006,⁵⁵ which the Government hopes will provide a more effective tool for swifter reform of "outdated or over-complicated" legislation.⁵⁶ There is also the Prime Minister's Delivery Unit, established in 2001 to ensure the delivery of the Prime Minister's "top public service priority outcomes" by 2005. This includes oversight of Public Service Agreement ("PSA") targets set by HM Treasury in its 2002 Spending Review.⁵⁷ PSAs were introduced by the latter in 1998 to support departmental efforts to achieve "sustainable improvements in services".⁵⁸ Other Cabinet Office organisations include the Government Communication Network ("GCN") whose role, inter alia, is to offer "overall strategic direction and leadership on cross government issues" and to "integrate

communication into policy", and the Office of Public Sector Information ("OPSI"), established in May 2005, to "lead and co-ordinate the Government's information policy". It was formed out of Her Majesty's Stationery Office, which is now retained within the OPSI framework.

The obvious challenge here is how to co-ordinate the work of all these units and secretariats and set up communication channels with government, beyond the Cabinet Office, to ensure that any changes proposed and accepted are assimilated at the speed and in the manner intended. Otherwise, there is a grave danger that initiatives will be swamped within a distributed bureaucracy and conflicts emerge through lack of co-ordination and planning. To drive the "tGovernment" agenda forward, the former head of eGovernment at the eGU, Ian Watmore, was appointed in January 2006 to take over as head of the Prime Minister's Delivery Unit. His remit is to advise as to the capability of the civil service to deliver public services. As the Government's Chief Information Officer ("CIO") he will also chair the CIO Council. This brings together IT professionals from central and local government and other public sector agencies, such as police and health services, to co-ordinate the transformation agenda.

Following the "successful format of the CIO Council", the Government has also now established a Chief Technical Officer ("CTO") Council to operate across government on "joining-up" at the technical level. In addition, to develop the "shared service" agenda, designed to modernise the provision of corporate and other shared services across government, the eGU and the OGC have established a shared services team ("SST"), with a director that will report to the CIO. The SST will work among the 1,300 public sector organisations in the United Kingdom to identify where partnerships can be established, especially in relation to human resources and finance. There is also support, particularly within HM Treasury, for models to be developed to measure performance and change. The tGovernment agenda proposes a continuing review of public sector efficiency, combined with promotion of cultural change within a framework of "IT professionalism". This is designed to reduce failures and improve planning, delivery and skills.

As a consequence of these developments, there is a growing body of work that seeks to measure "public value" in eGovernment. This is evident from research published, both in the public⁵⁹ and private sector⁶⁰ and from the Ministerial Conference of November 2005.⁶¹ Specifically, work is beginning to mature that defines what needs to be measured to demonstrate public value in eGovernment strategies, as well as quantifying the actual delivery of benefits to users. HM Treasury analysis has typically focused upon the measurement of output and productivity against cost.⁶² Such analysis, combined with independent

53 GovTalk is intended to enable "public sector, industry and other interested participants to work together to develop and agree policies and standards for eGovernment through the UK GovTalk consultation process". See www.govtalk.gov.uk.

54 See further www.policyhub.gov.uk.

55 Legislative and Regulatory Reform Bill (Bill 111) 2006. For access to the various official reports leading up to the 2006 Bill and proposed reform of the Regulatory Reform Act 2001(c.6) see the Better Regulation Executive website within the Cabinet Office at www.cabinetoffice.gov.uk.

56 For free market analysis of deregulation see Tim Ambler and Keith Boyfield, *Route Map to Reform: Deregulation* (Adam Smith Institute, 2005). See also fn.325 below. The Government was forced to amend the Bill following criticism in Parliament that proposed powers to be granted to ministers to reform legislation by fast-track procedures, were much too wide and potentially unconstitutional.

57 2002 Spending Review: *Public Service Agreements 2003-2006* Cm5571 (HM Treasury, Stationery Office, London, July 2002).

58 Public Service Agreements offer a "public spending and control regime" allocating resources to departments over a three-year cycle. It incorporates greater flexibility to carry over unspent budgets. Source: *Managing resources to deliver better public services*, HC61-1, Session 2003-2004 (NAO, Stationery Office, London, December 8, 2003), Executive Summary, para.2. See further fnn.148-149 below.

59 See, for example, *Atkinson Review—Measurement of Government Output and Productivity for the National Accounts* (Palgrave Macmillan, 2004).

60 See, for example, Ian Kearns, *Public Value and E-Government* (IPPR, 2004).

61 See fn.4 above. See in particular the papers presented at the seminar on "creating and measuring public value".

62 See, for example, *The Green Book—Appraisal and Evaluation in Central Government—Treasury Guidance* (HM Treasury, Stationery Office, London, 2003) and *Reducing administrative burdens: effective inspection and enforcement* (Philip Hampton, HM Treasury, March 2005). To be read in conjunction with the Green book is *Measuring the expected benefits of eGovernment*, Version 1.4 (Office of Government Commerce, August 29, 2003).

reviews of public sector efficiency,⁶³ feeds into reform and "better regulation" programmes of various kinds designed to reduce administrative burdens.⁶⁴ Establishing models that can offer accurate insights into the measurable gains of policy initiatives within eGovernment is crucial to improving the process of policy making by future governments. Such models could also measure the quality of those policies and input data to enable the policy-makers to be held to account. A NAO report⁶⁵ published in February 2006, on improving government efficiency, examined progress towards achievement of promised efficiency gains of £21.5 billion by 2008. This figure represented estimates of the savings that could be made by implementing the Gershon review recommendations. An "Efficiency Programme" was subsequently established, led by the chief executive of OGC, to implement the proposed savings.⁶⁶ Nevertheless, the NAO reported that more needed to be done to measure such gains and to motivate staff to achieve them. The NAO reminded the public sector as a whole that efficiency was not an "add on", a separate programme to core business, but the "way" core business had to be delivered.

There is also significant work being done by the PAC and NAO in evaluating past experience in public spending for service delivery. This form of analysis, while not popular for government politically, is nevertheless of vital importance in identifying weakness and failure in efficient delivery of services, where lessons need to be learnt. Such informed appraisal and analysis can also look beyond the structures and investment figures that governments like to describe as evidence of successful policy delivery and performance. The process leaves the latter with nowhere to hide. Total managed expenditure by government exceeds £450 billion annually, and departments and agencies are responsible for assets and liabilities⁶⁷ of more than £335 billion and £110 billion respectively. The NAO commented that the manner in which these resources were managed, so as to produce staff with appropriate skills, as well as infrastructure, equipment and IT, would have a "significant influence on the delivery of better public services". It criticised departments for focusing more on the past "management of inputs i.e. staff and goods and services, than on the benefits to people" which those inputs were intended to deliver.

63 Such as: *Releasing resources to the front-line—Independent Review of Public Sector Efficiency* (Sir Peter Gershon, CBE, July 2004). See further fnn.306 *et seq.* below.

64 See, for example, *Regulation—Less is More—Reducing Burdens, Improving Outcomes*, A Better Regulation Task Force report to the Prime Minister (BRTF, The Cabinet Office, March 2005).

65 *Progress in improving government efficiency*, HC802-1 2005-2006 (NAO, Stationery Office, London, February 17, 2006).

66 There is a "dedicated efficiency team" in the OGC, co-located with HM Treasury spending teams and the PMDU, to work with departments to deliver the budgetary savings. Guidance has been offered to departments on how they should develop "efficiency technical notes" setting out efficiency principles for the latter to follow. The Lyons Report (see fn.67 below) also confirmed the Government's view that £30 billion of asset sales was achievable by 2010.

67 fn.58 above. Liabilities represent "amounts owed for goods and services provided but not yet paid for by departments (creditors)". The entire asset base across the public sector as a whole is estimated to be worth £658 billion. Source: *Towards Better Management of Public Sector Assets—A Report to the Chancellor of the Exchequer* (Sir Michael Lyons, December 2004). However, the OGC states that an asset base worth £220 billion across central government is what underpins public service delivery. Source: www.ogc.gov.uk.

In December 2005, the PAC published its most important report on the subject for many years.⁶⁸ This looked back at more than 10 years of work, in which some 400 reports had been issued and hundreds of senior officials questioned; increasingly from both the public and private sectors. The PAC noted that service delivery in modern society was "complex" and that the organisations questioned by the Committee usually acted upon recommendations made. However, there was "less evidence of lessons being taken forward more widely across Whitehall" and this had implications for the quality and efficiency of public services. It welcomed the October 2005 announcement, by the head of the Home Civil Service, that "Departmental Capability Reviews" were to be introduced to "assess how well equipped Departments are to meet . . . delivery challenges and also provide targeted support to make any improvements required".⁶⁹ The PAC expected such reviews to "take account" of lessons highlighted in its reports. These included:

"policies not being properly planned or thought through; improvements not materialising or taking place slowly, despite promises; failure to apply more widely the lessons learned in one part of the public sector; the repetition of mistakes, even after the causes have been identified; failure to exploit commercial opportunities; and slow progress in making the most of opportunities offered by new developments in technology".

To achieve better value for money in public service delivery, departments needed to:

"plan carefully, prior to implementation; strengthen project management; reduce complexity and bureaucracy; improve public service productivity; be more commercially astute; tackle fraud; and [deliver] better and more timely implementation of policies and programmes".⁷⁰

The PAC concluded that many of its recommendations did not require radical change, often being more about "basic housekeeping and good management" than anything more complex.

Procurement and IT project management

A further critical element of public sector efficiency, which is embedded as a central target of both eGovernment and tGovernment ambitions, is the annual spend involved in both general procurement and IT project management within central government. Figures for 2003-2004 suggest that central civil government spends in excess of £15 billion annually on goods and services. These range from equipment and information technology purchases, to research and consultancy advice, postal services, travel and stationery.⁷¹

68 *Achieving value for money in the delivery of public services*, HC 742, 17th Report of Session 2005-06 (Committee of Public Accounts, December 6, 2005). Other recent related studies include: *Improving public services through innovation: the Invest to Save Budget*, HC 170, 16th Report of Session 2002-03; *Managing Resources to deliver better public services*, HC 181, 25th Report of Session 2003-04; *Increased resources to improve public services: a progress report on departments' preparations*, HC 552, 42nd Report of Session 2003-04; and *Managing risks to improve public services*, HC 444 (Incorporating HC 1245-1, Session 2003-04), 15th Report of Session 2004-05.

69 Sir Gus O'Donnell, *Note to the Public Administration Select Committee*, October 11, 2005.

70 *ibid.*, at paras 5 and 7.

71 *Improving departments' capability to procure cost effectively*, HC541, 41st Report of Session 2003-04 (Committee of Public Accounts, October 14, 2004). "Central civil government" excludes the National Health Service as well as defence military procurement.

More specifically, it was reported in 2005 that "IT-enabled" programmes and projects, involving central civil government, were operating at an annual spend of £2.3 billion: "equivalent to 16% of total procurement expenditure".⁷² Following a review of civil procurement by Peter Gershon in April 1999,⁷³ the OGC was established the following year, to "work with departments to improve their procurement capability" and to provide advice and good practice promotion, while developing the government's marketplace.⁷⁴ OGC is managed by a supervisory board, chaired by the Chief Secretary to the Treasury, to which permanent secretaries and senior external representatives belong, together with the Comptroller and Auditor General as observer.

The OGC has established a number of structures and initiatives designed to improve efficiency in procurement. It is developing a "Government Marketplace", supported by information available on the Web, designed to make the procurement environment more attractive to suppliers in all sectors. OGcbuying.solutions is an executive agency of the OGC operating within HM Treasury. In 2004–2005 it managed purchasing arrangements costing more than £2 billion of public funds, while claiming £300 million in savings.⁷⁵ It maintains a catalogue of more than 500,000 products and services under its Catalyst brand, supported by managed communications services for secure email, intranet data transfer and publishing services.⁷⁶ These include Zanzibar—an online eProcurement hub to streamline the process—and eSourcing, which uses web-based "collaborative tools" to conduct online the "strategic activities of the procurement life-cycle". An eAuctions service is also provided, enabling real-time bidding by competing suppliers for supply contracts to take place.⁷⁷ A government procurement "Visa purchasing card" has also been introduced as a cost-effective means for the public sector to purchase low-value goods and services.

In support of electronic procurement, a Cross Sector eProcurement Team ("CSePT") has been established "to catalyse efficiency gains" across the public sector by "harnessing the opportunities" that electronic procurement can offer. Further, to advise OGC on procurement policy issues, a Chief Executive's Procurement Advisory Group ("CEPAG") has been established, comprising procurement experts from central government and the wider public sector. In addition, there is a Commodities Procurement ("CP") Team to look for financial savings through co-ordination of commodity goods and services purchasing across government.⁷⁸ An eProcurement Assessment Tool

("ePAT") has also been produced to help organisations "identify, plan and manage the transition from traditional (predominantly paper-based) procurements systems to an entirely electronically based method".⁷⁹ In local government, a National eProcurement Project ("NePP"), launched in 2002, is working "to support and enable councils to meet their eGovernment targets and to gain the benefits available from eProcurement".⁸⁰

To aid management processes, OGC maintains a "Procurement Excellence Model", to provide guidance on how to assess the "health" of the procurement operation.⁸¹ Since 2004 there has also been a Professional Services Forum to work with the Management Consultancies Association and the Institute of Management Consultancy, to improve the "procurement and delivery of professional services to the public sector". A Supplier Relations Division within OGC is responsible for managing, on behalf of its public sector customers, "the corporate commercial relationship with key suppliers to government". It also maintains a "Supply Intelligence Service" to offer company information about suppliers and markets that may be relevant in the selection process. To improve interaction with outside consultants, an OGC Consultancy and Interim Management Support Group ("CIMS") exists to facilitate access to professional consultants and interim managers who work with public sector organisations, "to help deliver business objectives".

On the human resource side, the Government Procurement Service was established in 1999 to provide staff with the "appropriate skills, experience and qualifications" and guidance on training and career development. In October 2003, a Programme and Project Management Specialism ("PPM") was also added to the "Successful Delivery Skills Programme", to assist staff in government wishing to follow "programmes and projects rather than line-oriented career paths".

OGC is also keen to obtain efficiency savings through adjustment of its asset base that takes account of "the continuous emergence of new technologies". Following the Lyons Review,⁸² commissioned by the Chancellor and Deputy Prime Minister in 2004, OGC has been given the responsibility to embed "effective property asset management" into central civil government, as part of an HM Treasury initiative. All departments are to be encouraged to develop asset management strategies, driven by business plans that include incentives for disposal of unnecessary assets. To help meet present and future needs, a "Route Map to Excellence" project⁸³ has been launched to support creation of "effective and flexible asset portfolios". In order to provide data as to the identification and management of departmental property, holdings and human resources, an electronic property information mapping service ("e-PIMS") database has been established. This will underpin the Civil Estate Co-ordination Agreement ("CECA"), which is designed to organise the "acquisition, management, rationalisation and

⁷² *The Impact of the Office of Government Commerce's initiative on the delivery of major IT-enabled projects*, HC 555 (incorporating HC 1283i, Session 2003–04) 27th Report of Session 2004–05 (Committee of Public Accounts, July 5, 2005).

⁷³ Peter Gershon, *Review of Civil Procurement in Central Government* (April 1999).

⁷⁴ OGC has not power to direct departments but tries to work with them to achieve purchasing and project objectives.

⁷⁵ The process is set out in *Guidance Notes* available at <http://online.ogcbuyingsolutions.gov.uk>.

⁷⁶ OGcbuying.solutions also operates a Framework Programme to deliver "framework agreements" dealing with consultancy, resourcing, goods and commoditised services and solutions". The Catalyst brand is designed to "unify the framework agreements under one identifiable and recognisable brand name".

⁷⁷ This happens by a process of reverse auctions where competing suppliers bid lower to secure the supply contract.

⁷⁸ A collaborative approach is designed to achieve better supply contracts and share transactional services. Buying into "call-off" contracts that have a fixed period for repeat or further procurement can save costs.

⁷⁹ This is an Excel-based questionnaire that defines a baseline test of eProcurement readiness.

⁸⁰ *National eProcurement Project—Delivering eProcurement: Desktop Guide to Procurement Part 1: Overarching Guide to eProcurement* (Local e-gov national projects, supported by ODFM). As part of this work NePP has developed entry level guidance notes for use by councils as they work to implement eProcurement. See further www.idea-knowledge.gov.uk.

⁸¹ See further: *The Procurement Excellence Pilot—A simplified performance review system for Procurement Organisations*, Issue 1 (Office of Government Commerce, 1999).

⁸² fn.67, above.

⁸³ See www.ogc.gov.uk.

disposal of workspace" within the Civil Estate. In 2005, OGC also launched a "Performance Measuring Service" to help public sector organisations measure the functionality of its accommodation against a series of performance indicators built around efficiency and effectiveness criteria.⁸⁴

In addition to large-scale public sector construction and refurbishment programmes,⁸⁵ the House of Commons Public Accounts Committee reported in December 2005⁸⁶ that the record of success, in terms of cost and delivery of specific IT projects,⁸⁷ was a poor one. Over the past 10 years there had been "significant problems" with IT projects that "should have been avoided". It recalled its 1999–2000 report,⁸⁸ in which it had identified problems arising with such projects on "more than 25 occasions in the 1990's". It was clear that, for more than two decades, the Government had "struggled" to implement IT systems within public administration. It proposed eight specific measures designed to tackle the problem and avoid wasting the "enormous sums of money" that could be lost when failures in IT occurred, with the consequent knock-on effect on public services and citizens. The measures proposed included better project management methodologies, a higher degree of professionalism in the "definition, negotiation and management of IT contracts" and a willingness to learn from past mistakes.

In an earlier report, published in August 2002, the PAC identified that 100 major projects were then underway with a total asset value of £10 billion.⁸⁹ The 2002 Spending Review by HM Treasury⁹⁰ proposed an allocation of a further £6 billion over three years for investment in electronic service delivery. However, an additional report, published in 2003 by the Parliamentary Office for Science and Technology ("POST"),⁹¹ reported that a 2001 survey, across sectors, conducted by the British Computer Society, had found that only 13 per cent of all IT projects and less than 1 per cent of IT development projects, had been "successful" in terms of being "on time, to specification and on cost". The Child Support Agency, Passport Office, Criminal Records Bureau, Inland Revenue, National Air Traffic Service and the Department for Work and Pensions were all cited, among others, as having particular problems. The "Libra" project, to provide magistrates' courts with a new IT system, and managed by the Lord Chancellor's Department (as it then was)⁹² was

described by the chairman of the PAC as "one of the worst IT projects I have ever seen".⁹³

The POST report noted that IT projects created specific challenges for government. Technology was rapidly changing and it was hard, therefore, to decide whether suppliers were sometimes "over selling" the product in their bid for access to the public sector. In some cases a technology could be rendered obsolete even before project completion. User requirements might also change during the project, requiring a fundamental reappraisal of its objectives. The software might also be extremely complex and manifold, making it very difficult to estimate costs and completion dates. Finally, non-technical management within the relevant government departments involved might find it difficult to judge the "quality or completeness of software being developed" between contract and final delivery.

A report, published in June 2000 by Intellect (formerly the Computing Services and Software Association)⁹⁴ looked at the differences between public and private sector IT projects. It concluded that IT projects should not exist "in isolation from the business programme" of which they were a part, and it was therefore "essential to focus on the required business objectives and outcomes, not the IT outputs". Realisation of the business benefits should be the end goal. Intellect proposed that government and industry should establish a "Senior IT Forum" to implement the recommendations in the report, designed to improve the "interface" between public sector customers and the supply industry. Working groups, operating under this umbrella, might then be set up to tackle specific issues as they arise.

In assessing the Government's response to these project difficulties and to the ongoing challenge of efficient procurement, it is clear that an array of new measures has been introduced, led by the OGC. The Government has clearly identified this area of investment and expenditure as one where substantial savings can be made. The PAC, for example, pointed out that just a 1 per cent "efficiency improvement in the £1,447 billion of resources allocated to departments" during the current three year cycle, would release almost £14.5 billion to "redeploy to front-line services".⁹⁵ The POST report commented that, in seeking remedies to the identified problems with IT projects, it was desirable, where possible, to seek solutions that could be applied to "all types of project" such as "better leadership, good relations with suppliers, management of risk and user involvement".⁹⁶

It would seem that the Government has taken this advice on board in its response to this issue. Several steps have been taken to attack some of the endemic problems reported by PAC, NAO and others designed to minimise waste, invoke regular assessment of project and procurement activity, share best practice and improve the skill levels and project management capabilities among staff within the public sector.

84 *Performance Measurement Service Property Benchmark Pilot Launched* (OGC Information Note 2/2005).

85 The Guy's Hospital Phase III Development, for example, was completed three years late in 1997 with costs spiralling from £35.5 million to £115 million. The design was not finalised until five years after the initial estimate was approved. Source: fn.68 above, at p.11. 86 fn.68 above.

87 See examples following.

88 *Improving the delivery of Government IT projects*, HC 65, 1st Report of Session 1999–2000 (Committee of Public Accounts, November 24, 1999).

89 *Improving Public Services through e-Government* HC 845, 54th Report of Session 2001–2002 (Committee of Public Accounts, August 18, 2002).

90 *Opportunity and Security for All: Investing in an enterprising, fairer Britain—New Public Spending Plans 2003–2006*, (HM Treasury, July 2002) as reported in *UK Online Annual Report*, (Office of the e-Envoy, November 2002).

91 *Government IT projects*, Report 200 (Parliamentary Office of Science and Technology, July 2003). POST is an office of both Houses of Parliament, charged with "providing independent and balanced analysis of public policy issues that have a basis in science and technology".

92 Following passage of the Constitutional Reform Act 2005 (c.4) the Lord Chancellor's Department was subsumed with the new Department for Constitutional Affairs.

93 The project was reported as having doubled on cost to £400 million. See *New IT systems for Magistrates Courts: The LIBRA project*, HC 434, 44th Report of Session 2002–2003 (Committee of Public Accounts, November 11, 2003).

94 *Getting IT Right for Government—A Review of Public Sector IT Projects* (Intellect, June 2000). Intellect is the "trade association for the UK hi-tech industry. Its members comprise organisations both large and small from the UK's information technology, telecommunications and electronics sectors".

95 fn.68 above, at p.14. Source: *Managing resources to deliver better public services* HC61, Session 2003–2004 (NAO, Stationery Office, London, December 8, 2003).

96 fn.91 above, at p.1.

Following publication of the three reports, in 1999–2000, on public sector IT delivery,⁹⁷ the Cabinet approved a series of “key actions”, responsibility for which is now with the OGC. These were establishing “Project/Programme Management Centres of Excellence” within each department; requiring accounting officers to “provide assurance” that existing (pre “go-live”) and new major projects were not based on “common causes of failure” identified by the NAO; that no “big-bang implementations and developments” should be sanctioned unless approved by a central scrutiny group, including the Chief Secretary to the Treasury and the OGC; that no new government initiative (including legislation) that was dependent upon IT should be announced “before analysis of risks and implementation options” had been undertaken; that projects should be prioritised as “Mission Critical, Highly desirable and Desirable”; and that all high risk and mission critical projects should clearly identify a “responsible Minister, Senior Responsible ‘Owner’ (SRO)⁹⁸ and Project Manager” with good relevant track records.⁹⁹

In response to this, the Centres of Excellence programme has commenced. In addition to its oversight role, it is also intended to serve as a “point of best practice” to which project teams can access and contribute towards.¹⁰⁰ It is also intended as a means whereby expertise in a particular area can be captured and stored for future use. By March 2004, 35 departments had established such arrangements to provide “strategic oversight, scrutiny and challenge” across the range of a department’s projects and programmes. Plans to extend the scope of the programme’s responsibility to cover “all mission critical and high risk procurements” by March 2006, was timetabled by the OGC.

The recommendation by Intellect, in its review of public sector IT projects, that a Senior IT Forum be established, has also been implemented. Since 2000, the Forum, which is jointly sponsored by eGU, OGC and Intellect, has worked to “identify and address joint systemic issues that occur in the acquisition and implementation of Government IT-enabled projects”. In its first series of actions, launched in October 2002, the Forum proposed creation of a Senior Responsible Industry Executive (“SRIE”) role as the industry equivalent of the SRO, to work together and set the “tone and standard” for how the two organisations might collaborate.¹⁰¹ It also published a Government Procurement Code,¹⁰² designed to set out the “core values and behaviours” for adoption within the central civil government supply chain, and a “Value for Money” guide¹⁰³ to assist senior managers on the selection of contract bidders. This would be based on “quality and deliverability” rather than the single measure of lowest price. Following a second programme of work in 2003, the Forum has also produced three further initiatives designed to coincide

with the three stages of “project concept, development and delivery”. These are an “IT Supplier Code of Best Practice”¹⁰⁴ that all IT suppliers should endeavour to work to; Guidance for SROs on “Effective Partnering”,¹⁰⁵ with self-assessment questions to measure progress; and “Concept Viability”¹⁰⁶—a service, operated by Intellect, to help public sector clients take “early market soundings” so as to test the practicality of their project ideas.

In addition to the above, the OGC has also launched an “online guide to procurement policy, tools and good practice”, and an eProcurement Guide of “evidence based guidance” that is designed to help public sector bodies “implement their systems and realise the benefits from eProcurement”.¹⁰⁷ The aim is to provide a single point of reference for departments and agencies, as well as non-departmental bodies, to the “critical questions about capability and project delivery”.¹⁰⁸ An IT Infrastructure Library (“ITIL”) has also been established to provide best practice information drawn from the public and private sectors internationally. The Government has, further, been developing its policy on use of Open Source Software (“OSS”) within the public sector. Since October 2004, OSS solutions have been considered, “alongside proprietary ones”, in IT procurement. From now on, contracts will only be awarded for future IT developments where they support “open standards and specifications”. The intent is to avoid being “locked into proprietary IT products and services”.¹⁰⁹

One of the most important steps that the Government has taken to try and exercise some control and quality management over new procurement projects in central government, including IT projects, are Gateway reviews. The Gateway review process was introduced, in February 2001, to provide “more rigorous scrutiny and oversight to IT-enabled programmes and projects than had hitherto been the case.”¹¹⁰ Under the scheme, SROs are required to submit a written report to an independent review team at key decision points in a project, to confirm that it is fit to move on to the next stage of development. Any recommendations that the review team may make are not compulsory, but failure to comply may lead to greater difficulties down the line at the next review stage of the project. Projects are given red, amber or green signals based on the outcome of the review. These translate to a need for immediate remedial action if the project is to succeed; a cautious permission to move forward, subject to recommendations to be implemented

97 *Government IT projects; Successful IT: Modernising Government in Action*; and *Getting IT Right for Government*; fnn.23, 91 and 94 above, respectively.

98 The SRO would be responsible for ensuring that a project met its objectives and delivered projected benefits. The SRO would normally chair a project board to oversee the process.

99 fn.91 above, at p.18.

100 Pooling market intelligence and sharing strategic information was also recommended in 2003 in an OGC report to the Chancellor: *Increasing Competition and Improving Long-Term Capacity Planning in the Government Market Place—OGC Report to the Chancellor of the Exchequer* (OGC, December 2003).

101 See *Briefing* at www.ogc.gov.uk.

102 *The Government Procurement Code of Good Practice—For Customers and Suppliers* (OGC, December 2003).

103 *Best Practice—Value for Money Evaluation in Complex Procurements* (OGC, March 2002).

104 *IT Supplier—Code of Best Practice* (Intellect, 2003). This was built around 10 commitments that suppliers were expected to subscribe to.

105 *Effective Partnering—An overview for customers and suppliers* (OGC, 2003).

106 *Concept Viability* (Intellect, 2003).

107 Known as *Successful Delivery Toolkit*. It is available as a standalone or Intranet product. It is structured around four areas: Key Issues, Workbooks, Delivery Lifecycle, and Reference—offering “alternative ways of organising guidance and best practice”. See also: *eProcurement in action—A guide to eProcurement for the public sector* (Office of Government Commerce, Spring 2005).

108 *Improving IT procurement—The impact of the Office of Government Commerce’s initiatives on departments and suppliers in the delivery of major IT-enabled projects*, HC 877 2003-2004 (NAO, The Stationery Office, London, November 2, 2004), p.17. See for example, *Aggregation—Is bigger always better?* (OGC). This is one of several specific publications issued within the “Successful Delivery Toolkit”.

109 *Open Source Software Trials in Government—Final Report* (OGC, October 2004) and *Open Source Software—Use within UK Government*, Version 2 (OGC, October 28, 2004).

110 fn.72 above, at p.3.

before the next review; and confirmation that the project is on target to succeed, but may benefit from the uptake of any recommendations made.¹¹¹ Five reviews are scheduled to take place during the lifecycle of a project: three before contract and two thereafter, examining the service implementation and operational benefits.

Since the Gateway review system began, 600 reviews have been carried out across 45 central civil government departments and agencies, involving more than £60 billion of public funds.¹¹² Having set a target of £3 billion in savings through working with departments in the three years to March 2006, OGC believes that up to half of this amount can be achieved by "application of key recommendations" from Gateway reviews.¹¹³ The NAO reported, in 2004, that of 254 IT-enabled projects given a Gateway review rating between June 2002 and March 2004, "50% of them were rated as amber . . . 28% red . . . and 22% green". This included eight IT-enabled projects that had received "reds" in successive Gateway reviews. The Comptroller and Auditor General concluded that the process provided a "strong mechanism by which departments, at the most senior levels, can be alerted to significant risk requiring immediate action".¹¹⁴ However, reviews needed to continue highlighting "consistent weaknesses", and any lessons learnt needed to be shared at a senior level. Practices had to change to ensure that reports were routinely considered by departmental boards and chief executives.¹¹⁵ The PAC supported these findings commenting that, "despite a clear body of evidence", departments were still "failing to foresee obstacles to successful delivery". The evidence showed that more than 20 per cent of all projects that had undertaken more than one Gateway review had got worse as they progressed, while 40 per cent had not improved their status.¹¹⁶

To sum up, it would appear that a great deal has been done to try and tackle what is, quite obviously, a major challenge viz. "to deliver successful procurement and project management within the public sector". Working within HM Treasury, OGC would seem to be playing a vital role in co-ordinating the various programmes and initiatives that the Government has felt necessary to introduce. The real challenge here for eGovernment is ensuring a high level of take-up of the opportunities these schemes and initiatives offer. It is one thing to put structures in place and quite another to see them successfully deployed. For example, the NAO reported that too many projects (30 per cent of all programmes) were entering the Gateway review process at Gates 2 or 3 (procurement strategy and investment decision), "crucially after the business case has been prepared". Alternatively, they were exiting the scheme too soon, before Gate 5 (benefits realisation), and the opportunity to form an assessment of key elements of the project.¹¹⁷ By March 2004, only 13 per cent of projects had moved from Gate 4 (Readiness for service) to Gate 5.¹¹⁸ There also needed to be

an improvement in the number of SROs that responded to OGC requests for feedback on the effectiveness of Gateway reviews. The low level response rate of 45 per cent did not assist OGC in developing the review process.

With regard to Centres of Excellence, the PAC found that only 25 per cent of centres had made progress in "improving departmental capabilities". Fourteen liaison managers would be brought in to link with centres and help promote their services. The capacity of civil servants to deliver the programmes that a higher level of public investment had created needed to be assured. To help achieve this, improvement was necessary in the figures, which showed that only 23 per cent of procurement staff currently held Chartered Institute of Purchasing and Supply qualifications.¹¹⁹

It may be that such lack of professional qualifications and training contributed to the fact that only 54 per cent of departments used market intelligence to select suppliers when engaging in procurement, while just 30 per cent had used the OGC's Supply Intelligence Service.¹²⁰ Also, while the figures for uptake in the use of the Government's procurement card were showing steady progress,¹²¹ with almost half departments now using the card for low-value procurement transactions, more than half of non-departmental public bodies still did not use it at all.¹²² They would need to be encouraged to do so if the £70 million in process efficiency savings, already achieved, was to increase. The immediate challenge ahead for eGovernment policies, therefore, in this sector of public administration, lies in developing more effective management processes so as to ensure that the public sector work force correctly operates the procedures that have been established.

Information-sharing and data management

Governments generate and supply immense volumes of information. Sharing and utilising information appropriately between departments and agencies and externally to business and the general public is a crucial function of government that requires a range of management responses. Information obviously has a critical role to play in the management and development of policy, as well as forming part of the essential communication that must take place if government is going to get its message across, while also meeting public needs. ICT offers a critical means of managing this process as already observed, for example, in the government portal DirectGov. However, beyond that, there are a number of more detailed elements to the policy of information-sharing and data management that need to be identified. All these components are central to the delivery of eGovernment objectives.

First, within the eGU, the e-Delivery Team ("EDT") is responsible for taking forward the Government Gateway.¹²³ The Gateway provides a platform to enable citizens, businesses and intermediaries "and even other government organisations" to communicate with government "from a single point of entry".¹²⁴ The project was originally initiated

¹¹¹ fn.91 above, at p.18.

¹¹² *Improving Procurement—Progress by the Office of Government Commerce in improving departments' capability to procure cost—effectively*, HC361-1 Session 2003-2004 (NAO, March 12, 2004) p. 5.

¹¹³ *ibid.*, at p.6. OGC has already shown some success in achieving "value for money improvement targets" working with departments. Against a target of £1 billion, departments reported value for money gains of £1.6 billion over three years to March 31, 2003.

¹¹⁴ fn.108 above, at para.2.9.

¹¹⁵ *ibid.*, at para.2.18.

¹¹⁶ fn.72 above, at para.10.

¹¹⁷ fn.108 above, at para.15.

¹¹⁸ fn.72 above, at para.5.

¹¹⁹ fn.71 above, at para.16.

¹²⁰ fn.112 above, at para.2.12.

¹²¹ By the end of 1999 some 7,000 cards were in use for 194,000 transactions valued at £23 million. By the end of 2002 this figure had increased to 39,000 card holders completing 2.7 million transactions valued at £413 million.

¹²² fn.71 above, at para.10.

¹²³ Not to be confused with the Gateway review process operated by the OGC for assessing procurement projects at critical stages. See fn.110 above.

¹²⁴ Government Gateway flyer at www.cabinetoffice.gov.uk.

by the Central IT Unit following a report¹²⁵ to the Government, by PA consulting, in 1999. This dealt with the cross-government infrastructure that would be required to deliver "online services and joined-up government", which would be necessary to fulfil the Prime Minister's commitment that, by 2005, 100 per cent of government services should be available electronically.¹²⁶

The first phase of the Gateway commenced in January 2001, offering a central "identity authentication service" for online transactions and submission of financial information. Users operate within the Gateway using a single ID and password, or a digital certificate, for all services accessed.¹²⁷ This is obtained following registration for Gateway services,¹²⁸ its purpose being to ensure that users are whom they claim to be.¹²⁹ The Gateway also contains a secure messaging infrastructure designed to guarantee reliable delivery of documents.¹³⁰ The Gateway website contains a list of government services available online from different government departments and a few local authorities are now linking to the Gateway too.¹³¹ The main central government service providers to the Gateway are DEFRA, Department of Work and Pensions and HM Revenue and Customs. In October 2005, the EDT reported active enrolments exceeding 7.6 million since February 2001 and more than 8 million submissions in the first five years of the Gateway.¹³²

A second initiative that commenced in 1996, during the early stages of eGovernment activity, was the commission of the Government Secure Intranet ("GSI") by the former CCTA.¹³³ This was designed to support the migration of the day-to-day business and administrative activity of government into the electronic environment, providing basic messaging and internet access for departments and civil servants that bypassed the public internet.¹³⁴ The procurement process for a GSI2 version commenced in March 2002 and, in August 2003, Telecoms provider Energis was awarded a five-year £40 million contract by OGCBuying.solutions, trading arm of the OGC, to provide a new network and hosting solution for the GSI.

The first phase of the new intranet entered service in February 2004, based on an Internet Protocol Virtual Private Network ("VPN"), capable of delivering voice and video data using broadband technology. Closed user groups for exchange of secure data could now operate via separate VPNs. Local authorities were also included among the 280,000 users linked up as at the date of launch.¹³⁵ In August 2005,

Energis announced that it had added a further 70,000 users within more than 150 departments to the network, some 16 months ahead of schedule;¹³⁶ although this involved a 50 per cent increase in the value of the original contract to cover the increased capacity, which included a doubling of bandwidth. Ultimately, when fully extended to organisations such as the National Health Service and Ministry of Defence, it is anticipated that a million users may be linked to the network.¹³⁷ Energis claimed that, at the time of roll-out, the network was already handling one million emails daily, while in June 2005 it had successfully blocked one million viruses and 2.7 million junk emails.¹³⁸

A particular service that is available via the GSI is an electronic communication tool known as the Knowledge Network ("KN"). Not a great deal has been published about this resource, although the web page of the eGU does say that the KN was reviewed in 2005 and the "usefulness and importance of the service has been confirmed". Nevertheless, delivery aspects of the service are to be outsourced, with the aim of providing a "better operating model".¹³⁹ The KN comprises a range of information services.¹⁴⁰ KN Central, for example, enables policy briefs, written by officials across government, to be stored and accessed in a single location. LION (Legal Information online) enables members of the Government Legal Service to access and share information relating to government law and legal practice, while Ecpolnet (Economic Policy Network), operated by the Foreign and Commonwealth Office, improves communication between Whitehall officials and economic reporters posted overseas. Also, since 2002, the Electronic Library for Government ("Elib") has been hosted by KN and maintained by the Committee of Departmental Libraries to provide service information, web links and a knowledge base for common inquiries as well as a community resource for government librarians. Other services within the KN include the OGC's IT projects database, e-LMR—the electronic list of ministerial responsibilities and public spending guidance, developed jointly by HM Treasury and KN, designed to enable colleagues in government departments and agencies to share information on issues affecting public spending activity.¹⁴¹

Another important area of work, closely connected to eGovernment principles of public sector efficiency and effectiveness, is information assurance. The latter relates to the process of ensuring that government information systems are reliable, secure and resilient in terms of infrastructure and maintenance.¹⁴² This issue relates, not only to central and local government information resources, but to industry and commerce as well. Therefore, the Government's approach and publicity on this issue is also designed to distribute

125 *CITU Portal Feasibility Study Version 2.0* (PA Consulting Group, June 29, 1999).

126 *fn.22* above.

127 Agents may also register if they submit forms to government on behalf of other businesses or individuals.

128 See further *UK Government Gateway—Gateway Functional Overview—Individual User Type Version 6.0* (April 5, 2005).

129 See further *UK Government Gateway—Frequently asked Questions Version 2.0* (April 5, 2005).

130 *UK Government Gateway—Secure Mail—Functional Overview Version 5.0* (July 30, 2004).

131 See www.gateway.gov.uk.

132 *Government Gateway & DotP—Service Delivery Executive Report* (e-Delivery Team, October 2005). Anecdotal evidence suggests that there have been occasional difficulties experienced by potential users when seeking to register for access to the site.

133 See *fn.9–10* above.

134 There are, for example, peering connections between the Criminal Justice Exchange, Ministry of Defence, National Health Service Net/N3, EU Council of Ministers and TESTA, a network joining other European Government networks. Source: Energis.

135 17 government departments are to use a confidential version of the network called xGSI.

136 The Office of the e-Envoy suggested in 2003 that Government officials based in over 200 countries around the world had access to the Knowledge Network and other information via the GSI.

137 *Fact sheet IDABC* (Interoperable Delivery of European eGovernment Services to public Administrations, Businesses and Citizens, last updated November 2005).

138 Matthew Broersma, "UK govt gets its own intranet", *Techworld*, August 5, 2005.

139 See www.cabinetoffice.gov.uk.

140 Described as intranets, extranets, internet hosted services and bespoke business support systems such as electronic briefing systems delivered by departmental in-house suppliers or third-party software houses. Source: www.cabinetoffice.gov.uk.

141 Reported in the archived web pages of the Office of the e-Envoy in 2003 at www.e-envoy.gov.uk.

142 The policy is set out in: *Information Assurance Governance Framework* (Cabinet Office—CSIA, 2004) and *Working in partnership to protect the UK's information systems* (Cabinet Office—CSIA, August 2003).

the message concerning the vulnerabilities of information systems to the private sector and the home user as well. The Cabinet Office operates a Central Sponsor for Information Assurance ("CSIA") Unit, with a broad remit to help "safeguard the nation's IT and telecommunications services". Its role is to help public sector organisations to develop policies and processes that "minimise risks to their information and the systems in which it is handled".¹⁴³ In that regard, CSIA works to ensure that all departments meet international security management standards.¹⁴⁴ Since September 2005, it also applies a CSIA Claims Tested ("CCT") Mark Scheme for commercial information products and services products used in the public sector. Its aim is to provide a level of confidence to public sector purchasers that any vendor security claims have been tested.¹⁴⁵ The new approach is designed to avoid the kind of problems experienced, in 2004, by the Department of Work and Pensions, when a "routine software upgrade" caused the department to lose up to 80 per cent of its 100,000 workstations, delaying the benefit payments to some 24 million individuals.¹⁴⁶

In March 2005, the National Audit Office published a compendium report¹⁴⁷ on the performance of 64 data systems operated by seven departments in relation to fulfilment of HM Treasury PSA targets.¹⁴⁸ These relate to the key improvements expected in departmental performance, under the three-year expenditure agreement between departments and HM Treasury.¹⁴⁹ The report noted that good-quality reliable data was "crucial for the effective use of performance measures and targets in improving public sector delivery and accountability". It helped departments, too, which could then manage delivery of targets against priorities, report achievements and revise policies and programmes where this was necessary. The report found that 20 per cent of departments (13 systems) were not collecting data that they had previously indicated would be used to judge performance for each specified target. A further 31 per cent (20 systems) contained reporting weaknesses, arising from "gaps and errors" in the data, which needed rectifying. The report recommended that departments should plan and co-ordinate their data needs for new reporting systems and take a corporate view on risks to data quality. Systems should be "adequately documented and updated" where significant changes occurred and managers should also look for ways to undertake credibility checks.

The centrepiece of the Government's technical policies and specifications for the interoperability of its ICT systems and, therefore, of its information flows is the eGovernment Interoperability Framework ("eGIF"). The eGIF, now in its sixth iteration, was first published in September 2001 and lies at the heart of government strategy for "delivering better, more efficient public services". The rationale of the policy

is that, by setting a mandatory underlying infrastructure, public sector organisations can be freed to serve the customer through "building value-added information and services".¹⁵⁰ The eGIF regulates the exchange of information between government systems, i.e. the interfaces and interactions between the UK Government and citizens, intermediaries, businesses (worldwide), public sector organisations and other governments. It embraces high-level policy statements, technical policies and management, as well as implementation and compliance regimes. Internet and World Wide Web specifications are adopted. An eGIF Compliance Assessment Service and Accreditation Authority is provided by the National Computing Centre to provide oversight, skills certification and self-assessment tools. A key aspect is to ensure that IT suppliers and customers have the "competencies and processes to adhere to the eGIF".¹⁵¹ An Interoperability Working Group, within the eGU, is also constituted to co-ordinate development activity.¹⁵²

In addition to the above, the eGIF also offers a registry containing several components. First it defines the standards and guidelines¹⁵³ for data integration and management. Extensible Markup Language ("XML") provides the text format and Extensible Stylesheet Language ("XSL") the presentational protocols for defining a document prepared in XML. The eGIF has adopted these formats so as to moderate the process of large-scale electronic publishing and for the exchange of a wide variety of data on the internet and elsewhere. The UKgovtalk website contains a library of "XML Schemas", which offer the agreed set of mandatory requirements for completion of a range of official tasks and functions. These schemas have been created following public consultation, and extend from protocols for archives and records management to those in respect of procurement, planning, education, health and transport. Some relate to administrative processes such as Gateway administration, while others deal with transactional services such as online fair rent applications to the Rent Service.¹⁵⁴ Yet others set rules for the interchange of data, such as the standard for communicating nutritional data about foods and recipes generated by a diverse group of organisations with food interests. Such data may be relevant, for example, to a wide variety of government activities and policy issues. The registry also includes a Government Data Standards ("GDS") Catalogue, explaining the "rationale, approach and rules for setting and agreeing the set of GDS to be used in the schemas and other interchange processes",¹⁵⁵ and a Technical Standards Catalogue, explaining the specifications necessary to conform to eGIF technical policies.¹⁵⁶

A further critical area to successful information sharing within government and externally is metadata. Metadata

143 Source: www.cabinetoffice.gov.uk.

144 For example ISO/IEC 17799:2005 *Information Technology—Security techniques—Code of practice for information security management* and BS 7799-3: 2006 *Information security management systems: Guidelines for information security management*.

145 See further www.cabinetoffice.gov.uk.

146 See <http://news.bbc.co.uk>.

147 *Public Service Agreements: Managing Data Quality—Compendium Report*, HC 476 2004–2005 (National Audit Office, Stationery Office, London, March 23, 2005).

148 See fnn.57–58 above.

149 PSAs are regarded as at the centre of a department's performance management systems. They are three-year agreements negotiated every two years between each of the 19 main departments of government. A recommendation in 2001 called for a validation process of key published data.

150 *eGovernment Interoperability Framework*, Version 6.1 (Cabinet Office, eGovernment Unit, March 18, 2005), p.5.

151 *The eGIF Accreditation Authority* (National Computing Centre, www.egifaccreditation.org).

152 Other groups include a Government Schema Group; Metadata Technical Working Group; IPSV Governing Board; eGIF Accreditation Steering Committee; and Metadata Working Group.

153 *E-Government Schema Guidelines for XML*, Version 3.1 (Cabinet Office, Office of the e-Envoy, January 2004).

154 The Rent Service is a government agency providing professional rent valuation services to local authorities, landlords, tenants and housing benefit recipients. See www.therentservice.gov.uk.

155 *Government Data Standards Catalogue*, Vols 1 and 2 (published January 6, 2003 and December 9, 2004 respectively) and *UK Trade & Investment Data Standards Catalogue* (published May 4, 2004).

156 *Technical Standards Catalogue*, Version 6.2 (September 2, 2005) at www.govtalk.gov.uk.

labels are attached to documents and other information assets, with similar intent to the labels attached to food products in supermarkets that record the ingredients of the foodstuff, cooking instructions and machine-readable bar codes. Metadata applied to documents is intended to assist in making the document "findable", by describing its content in a structured format. Metadata can be applied to any kind of digital content including "text, data, images, and sound recordings", etc. and are relevant also to website development.¹⁵⁷ The creation of metadata "labels" has become easier to apply since the availability of XML, as this permits data about the meaning of the document to be attached to it. These are potentially readable by search engines used for information retrieval. Metadata can work especially well through the field definitions supplied by XML Schemas.

Since May 2001, the Government has been developing, within the eGIF, a metadata framework applying an eGovernment Metadata Standard ("e-GMS") throughout the public sector. It originally adopted and continues to adhere to the basic principles set out in the Dublin Core Metadata Initiative ("DCMI"),¹⁵⁸ which subsequently became an international standard.¹⁵⁹ In its current version—e-GMS 3.0—additional elements have been added to "facilitate information and records management".¹⁶⁰ However, departments and organisations have been encouraged to adopt "sector and system-specific standards" within the e-GMS, which is seen as a "superset of metadata elements", all of which may not be required where local constraints are desirable.¹⁶¹ The bulk of the development work has been performed by the eGU and supported by the ODPM in consultation with central and local government organisations. The aim is to enable individuals to locate information and services, even though they may not know the source location within government. From the Government's point of view, the appropriate use of metadata can improve efficiency in managing official information and thereby reduce costs.

Part of the compliance requirements of eGMS is that a controlled vocabulary or encoding scheme should be used for both the internet and document management arrangements. The idea is to establish standard terminology to define the subject matter of any resources that might be searched on that basis. When the e-GMS is next updated, use of an integrated public sector vocabulary ("IPSV") tool will become compulsory, replacing the existing Government Category List from which it was partly drawn.¹⁶² Two other taxonomies¹⁶³ were also used, taken from

local government,¹⁶⁴ which explains why the IPSV offers "considerable depth in the subjects of interest to local authorities and providers of community information,¹⁶⁵ but is shallower in other areas".¹⁶⁶ The IPSV was launched in April 2005 and defines terms designed to improve the "retrieval of information resources from websites, intranets and any other collection".¹⁶⁷ The IPSV complies with ISO and British standards for monolingual thesauri¹⁶⁸ and contains approximately 3000 "preferred" terms from "Attendance Allowance" to "Zoology" and 4,000 "non-preferred" terms, usually synonyms of preferred terms such as "e-learning", which is discarded in favour of the preferred term "ICT in learning".¹⁶⁹ Without this discipline, meta-tagging would not be as accurate or useful as it might otherwise be. It was reported, in November 2005, that work was underway to update the scheme beyond the "citizen focused" subject-matter of the current version, to include "internal facing" subjects. A new internal vocabulary subset would be deployed, comprising the terms "thought useful for indexing the internal information resources of public sector bodies".¹⁷⁰

The final area of discussion under this head concerns the benefits, for information storage, access and delivery, to be accrued from the adoption of an electronic records management ("ERM") programme within the public sector. The lead on this comes via the National Archives ("TNA"), established in 2003, when the Public Records Office and Historical Manuscripts Commission were combined into a single entity. TNA maintains one of the largest national archives in the world, "spanning a 1000 years of British history". It claims amongst its greatest achievements in recent years "the development of electronic records management . . . to replace paper-based systems" and the digitisation of paper records and other traditional media, so that they can be accessed online. TNA has also offered advice to government departments and the wider public sector on "best practice in records management", as well as selecting government records of enduring historical value to be preserved in the long term.

The rationale behind the concept of ERM is to provide the most appropriate digital environment with which to capture electronic documents and apply standard records management practices.¹⁷¹ The development of systems to handle the "acquisition, storage, security, retrieval, dissemination, archiving and disposal of data"¹⁷² is central to the functioning of government and to the achievement of its

157 *A layman's introduction to metadata* (Cabinet Office, eGovernment Unit, December 2002).

158 The DCMI began in 1995 at an invitational workshop in Dublin, Ohio, United States, and emerged as "a small set of descriptors that quickly drew global interest from a wide variety of information providers in the arts, sciences, education, business and government sectors".

159 *Information and documentation—The Dublin Core metadata element set* (ISO 15836:2003).

160 *E-Government Metadata Standard*, Version 3.0 (Cabinet Office, Office of the e-Envoy, April 29, 2004).

161 fn.150 above, at para.2.19. Version 3.0 has 25 elements to it of which four are mandatory.

162 Few public sector bodies found any of the lists suitable for retrieval of the information resources they produced themselves. Source: *IPSV Maintenance Guide*, Version 1.1 (Cabinet Office, eGovernment Unit, December 2005), para.1.2.

163 For a guide to the terminology see: *Tomatoes are not the only fruit: a rough guide to taxonomies, thesauri, ontologies and the like* (Cabinet Office, eGovernment Unit, April 2005).

164 These were the Local Government Category List ("LGCL") owned by esd-toolkit and the "seamlessUK taxonomy" owned by Essex County Council.

165 For more information see *Local Authority Websites (LAWs) IPSV—Guidance Notes for Local Authority and Other Users*, Draft Version 0.01 (Local e-gov, supported by ODPM, March 31, 2005).

166 *Which IPSV? A guide to the versions and formats available Version 1.2* (Cabinet Office, eGovernment Unit, December 2005), para.3.1.

167 *Guide to Meta-tagging with the IPSV*, Version 1.1 (Cabinet Office eGovernment Unit, September 2005).

168 *Documentation—Guidelines for the establishment and development of monolingual thesauri* (ISO 2788:1986).

169 *ibid.*, s.4.

170 fn.162 above, at para.1.2.

171 *eGovernment policy framework for electronic records management*, Second Version (Public Record Office, 2001), para.11. Defined as "a system that manages electronic records throughout their lifecycle, from creation and capture through to their disposal or permanent retention and retains their integrity and authenticity while ensuring that they remain accessible".

172 *The principles of good data management*, 2nd Edition (Intra-governmental group on Geographic Information, Office of the Deputy Prime Minister, July 2005).

eGovernment agenda. There needed to be a formalisation of control over electronic records to accommodate the replacement of paper-based records and to integrate new information systems developments as they occurred. As such, any framework for ERM would need to integrate with all other initiatives, already examined, for handling government information flows.

The "Modernising Government" White Paper declared in March 1999 that, "by 2004, all newly created public records will be electronically stored and retrieved".¹⁷³ This led, later that year, to the publication of the first set of "cross-government" functional requirements for ERM¹⁷⁴ and for the evaluation of potential software products,¹⁷⁵ as well as advice on the management, appraisal and preservation of electronic records.¹⁷⁶ From 2000 onwards, a series of "electronic records toolkits" were also produced, explaining the principles and implementation strategies for managing electronic records.¹⁷⁷ The Central IT Unit, later to be absorbed into the Office of e-Envoy and subsequently the eGU, also published a technical framework for the "enabling role" or ERM in fulfilment of eGovernment strategy.¹⁷⁸ In 2002, a revised policy statement was published to reflect work done in departments to identify their own "organisational specific" ERM requirements.¹⁷⁹ It was also a response to developments, over the three-year period, in the emergence of cross-government standards for interoperability; recent data protection and freedom of information legislation; EU model requirements for ERM systems¹⁸⁰; and lessons learned from international experience. The link between ERM strategy and the business needs of the organisation was reflected in a paper in 2003,¹⁸¹ followed by further guidelines, in 2004,

on aspects and areas to be considered in developing an organisational policy for managing email.¹⁸²

Current guidance on the realisation of benefits from ERM was published in 2004.¹⁸³ It drew a number of links towards the financial and non-financial benefits of developing a robust ERM policy within departments. These included legislative and policy, as well as internal, drivers, which all demanded speedy adoption of an ERM scheme. Various statutory duties concerning data protection and human rights, freedom of information, public records and environmental information required such information to be flagged and found.¹⁸⁴ Government policy for modernisation, compliance with the Lord Chancellor's Code of Practice on Management of Records,¹⁸⁵ as well as requirements for data sharing,¹⁸⁶ were all dependent upon an ERM strategy. There were also internal ERM drivers. These included the desire for better-quality information and knowledge management strategies, the management of information overload and efficiency savings in both staff time and physical storage of documents. Financial savings could also be found in cost reduction in information filing and retrieval and in the creation of more efficient systems for retrieving task precedents, when otherwise the matter in hand would have to be reworked from the beginning. In 2003, the Lord Chancellor established the Advisory Council on National Records and Archives to advise the Government on records issued on behalf of the public.¹⁸⁷

In January 2005, TNA announced the completion of its evaluation scheme for ERM systems software products. Ten products had been placed on the approved list, having met TNA's 2002 requirements under test conditions.¹⁸⁸ A fourth component to the 2002 ERM guidance was published in September 2004, dealing with the introduction, integration and configuring of ERM software.¹⁸⁹ In March 2006, guidance was issued on the need for departments and agencies to develop long-term solutions for retention and access to electronic records.¹⁹⁰ TNA indicated that this might prompt the "offering of such solutions by suppliers of proprietary ERM solutions".

173 fn. 19 above, Ch.5, para.9.

174 *Functional requirements for Electronic Records Management Systems 1: Statement of requirements; 2: Reference document* (Public Record Office, National Archives, November 1999).

175 The evaluation scheme involved a "rigorous independent test by TNA (PRO) of suppliers' products against the 1999 requirements. See: *Public Record Office Electronic records management systems—requirements conformance testing—Test Plan* (Public Record Office, National Archives, March 2001).

176 *Management, appraisal and preservation of electronic records, Volume 1: Principles and Volume 2: Procedures*, 2nd Edition (Public Record Office, National Archives, 1999).

177 *Corporate Policy on electronic records* (September 2000); *Guidance for an Inventory of electronic record collections: A toolkit* (September 2000); *Evaluating information assets: appraising the inventory of electronic records; Good practice in managing electronic documents using Office 97 on a local area network; sustainable electronic records—strategies for the maintenance and preservation of electronic records and documents in the transition to 2004* (August 2001); *Managing web resources—management of electronic records on websites and intranets: an ERM toolkit* (December 2001); *Electronic Records Management: Framework for strategic planning and implementation* (August 2001) (Public Record Office, National Archives).

178 *Modernising Government—Framework for Information Age Government—Electronic records management* (Central IT Unit, April 2000).

179 *Requirements for Electronic Management Systems 1: Functional Requirements; 2: Metadata Standard; 3: Reference Document* (Public Record Office and The National Archives, September 2002).

180 *Model Requirements for the Management of Electronic Records—MoReq Specification* (Prepared for the IDA (Interchange of Data between Administrations) Programme of the European Commission by Cornwell Management Consultants plc).

181 *Business classification scheme design*, Version 1.0 (National Archives, October 2003).

182 *Guidelines on developing a policy for managing email* (National Archives, 2004).

183 *Guidelines on the realisation of benefits from Electronic Records Management* (National Archives, September 2004).

184 See Data Protection Act 1998 c.29; Human Rights Act 1998 c.42; Freedom of Information Act 2000 c.36; Public Records Act 1958 c.51; The Environmental Information Regulations 2004, SI 3391/2004.

185 *Lord Chancellor's Code of Practice on the Management of Records under section 46 of the Freedom of Information Act 2000* (Lord Chancellor, November 2002). In February 2006, The National Archives published an evaluation workbook *Complying with the Records Management Code: Evaluation Workbook and Methodology* to assist public authorities "in assessing conformance of their record management systems to the Records Management Code".

186 *Privacy and Data Sharing: the way forward for public services: An update on progress* (Department for Constitutional Affairs, November 2003).

187 Previously, an Advisory Council on Public Records had been set up under the Public Records Act 1958 but its remit was considered too narrow in the wake of the expansion of responsibility of the Lord Chancellor as Secretary of State for Constitutional Affairs.

188 See fn. 179 above.

189 *Requirements for Electronic Records Management Systems 4: Implementation Guidance* (National Archives, September 2004).

190 *Requirements for Electronic Management Systems—Functional Requirements for the Sustainability of Electronic Records*, Version 1.0 (National Archives, March 2006). This builds on the four volumes of generic requirements for the sustainability of electronic records previously published.

In assessing central government strategy up to this point in the analysis, it is clear that a significant amount of work has been done, within the public sector, to analyse the relationship between ICT and the functions of government. Major reorganisation has taken place, led by the Cabinet Office, to create various offices and units to take the eGovernment agenda forward. As with all these initiatives, the proof of value will lie in the quality of the delivery of the stated aims. In the case of eGovernment, this dovetails into better service delivery to the public, improved efficiency and public value. More thought needs to be given to issues such as information-handling, and acquiring appropriate ICT to secure the desired performance of information systems right across the public sector. What is going to be much harder to judge and to attribute is the effect of the response in terms of better regulation and more effective policies. One potential measure may lie in delivery of improved services to the public at no extra cost, combined with more encouraging findings from the PAC and NAO in their audits of government performance. Another measure might be found in the effect of eGovernment policies in tackling fraud, particularly in the field of benefits claims, subsidies and tax evasion, while ensuring that those entitled receive such benefits and services do so in a timely and efficient manner.

Local eGovernment

The eGovernment or "transformation" agenda has now extended to local government. Compared with the central eGovernment timescale, the process has taken longer to develop, owing to the large number of local authorities involved, the different tiers of local government and the consequent complexity of developing policy that was suitably flexible for local community needs. The policy context is the need to "re-assert the value of locality and local public services . . . in order to deliver better democratic government, better local services and better outcomes".¹⁹¹ The roots of co-operation between central and local government date back to the late 1990s, when a Central Local Partnership was formed between government and the Local Government Association ("LGA") to "strengthen and sustain local government". A Framework for Partnership was entered into in 1997 to develop "best value" in local service provision that would be "responsive and accountable" to local people.¹⁹² To supplement this partnership a Central Local Information Age Concordat was also announced to reflect central and local government's desire to exploit ICT and electronic service delivery for the "benefit of the wider community". To back this commitment, the LGA was invited to nominate representatives to participate in project and working groups to take these ideas forward.¹⁹³ Two White Papers¹⁹⁴ followed in

1998 and 2001, respectively, dealing with how to modernise local government and improve public services and local leadership. As part of the process of developing this agenda, a new reporting initiative was introduced by ODPM with effect from July 2001. This required every council to produce an annual statement of the steps each was taking locally to implement electronic government ("IEG").¹⁹⁵ This was, in part, driven by central Government's commitment for "full electronic service delivery by 2005".¹⁹⁶

Following a further paper, offering a "route map for achieving e.revolution in local government",¹⁹⁷ a consultation paper was published setting out a draft model¹⁹⁸ which the ODPM said it wanted to test against informed opinion, while seeking the "widest possible debate" on the issues raised. In 2002, this led to the publication of the first "national strategy for local eGovernment",¹⁹⁹ described not as a "technical blueprint" but a statement setting out what councils should be doing to develop local eGovernment in their areas. The aim was to create a "common framework" within which local strategies could be planned "with confidence"; set out "what needs to be put in place nationally to help this happen"; and identify "common priorities for developments in technology and joined-up services that will reduce the cost to councils".²⁰⁰

The Government indicated that there were "nine key service areas" where eGovernment nationally could make a "vital contribution" and within which local eGovernment had a role to play. These were service to business; benefits and personal taxation; transport and travel; education; health; citizens' interaction with the criminal justice system; land and property services; agricultural services and eDemocracy.²⁰¹ An £80 million programme of "Local eGovernment National Projects" was to be established to develop products and best practice, which other councils could access so as to avoid re-inventing the ideas. In addition, councils would be encouraged to work in partnership with one another for joint service delivery where this might lead to "better and more cost-effective services".²⁰² Similar gains might be made by creating a "mixed economy" for the supply of public services to independent and voluntary sector "intermediaries". Both local and central government should be "more open to joint working". By doing so, services might be "pulled together" and customer service "improved". The success of the local eGovernment strategy would be measured in terms of the availability and take-up of electronic services and value for money provided by local eGovernment activity.

195 Plans for IEG statements were set out in two documents: *eGovernment: Delivering Local Government Online—Milestones and resources for the 2005 Target* (DETR, February 2001) and *Annex A of eGovernment: Local Targets for Electronic Service Delivery* (Central Local Liaison Group, 2000). There was also *eGovernment—Delivering Local Government Online—Guidelines for preparing Implementing Electronic Government statements* (ODPM, March 2001). Further draft guidance was published in 2002 for "IEG2" statements.

196 See fnn.22 and 126 above. Progress of local government towards the 2005 target is measured by Best Value Performance Indicator 157 (BVPI 157)—defined as the number of types of interaction that are enabled for electronic delivery as a percentage of those that are legally permissible for electronic delivery.

197 *Modern councils, modern services, access for all—Putting Local Government Online* (DTLR, 2001).

198 *E-GOV@LOCAL: Towards a National Strategy for Local eGovernment: Consultation* (ODPM, April 8, 2002).

199 www.localgov.gov.uk—The national strategy for local eGovernment (ODPM, 2002).

200 *ibid.*, at pp.6–7.

201 *ibid.*, at p.10.

202 *ibid.*, at p.22.

191 *Transformational Local Government—Discussion Paper* (Cabinet Office, Chief Information Officer Council, March 28, 2006).

192 See further <http://odpm.gov.uk>. The partnership agreement was signed by the Deputy Prime Minister and the chair of the LGA.

193 A local government representative was invited to serve on the Modernising Government Project Board and the Information Age Champions Group. A Central Local Information Age Forum was also established to work with central government and the LGA to build stronger central-local co-operation and cross cutting initiatives. See <http://archive.cabinetoffice.gov.uk>.

194 *Modern Local Government: In Touch with the People* (Department of the Environment, Transport and the Regions ("DETR"), July 1998) and *Strong Local Leadership—Quality Public Services* (Department of Transport, Local Government and the Regions ("DTLR"), December 2001).

Following publication of the national strategy, the Audit Commission published its own review of the progress that had been made by local authorities to the key challenges posed by the eGovernment agenda.²⁰³ It found that all councils were struggling with some aspects of implementation and examined the key reasons for this. Some councils argued that there were barriers to delivery—"funding, a lack of ICT skills and staff reluctance to change". Such councils appeared to be finding it hard "to connect eGovernment with the core business of the council"; yet others appeared to have overcome these problems. The Audit Commission suggested that, while some councils were concentrating on "improving access," this did not necessarily amount to "improving services". Councils should take "local ownership" of eGovernment, set "challenging local targets" for themselves and review and monitor performance against these indicators. A shared understanding of "successful local eGovernment" was the key to better access to improved services.

Two progress reviews were published in December 2003²⁰⁴ and March 2005²⁰⁵ assessing achievements in implementing the strategy after one and two years respectively. The first report concluded that progress had been made with 23 National Projects²⁰⁶ and more than 100 established partnerships.²⁰⁷ The third wave of IEG returns confirmed that every local authority was engaged in implementing eGovernment programmes, with some taking an "innovative and ambitious approach" to the task. There was also evidence of the integration of the eGovernment agenda within broader-based policies for the improvement of public services. Local Public Service Agreements,²⁰⁸ created by the ODPM since 2001, supported by Local Area Agreements since 2004,²⁰⁹ had targeted goals to be achieved across a range of services, capitalising on better co-ordination between central and local government. These, combined with new local powers under the Local Government Act 2000²¹⁰ to promote "social, economic and environmental well being", and the fiscal relaxations for local authorities found in the Local Government Act 2003,²¹¹ could all be underpinned by successful eGovernment strategies. The hope was that the achievement of "100% e-enabled delivery" of services for citizens and business at the local level by 2005 would be

203 *Message beyond the medium—improving local government services through eGovernment* (Audit Commission, July 2002). See also: *Message beyond the medium—improving local government services through eGovernment—Briefing for Councillors* (Audit Commission, July 2002).

204 www.localgov.gov.uk—One Year On—The national strategy for local eGovernment (ODPM, December 2003).

205 *Two Years On: realising the benefits from our investment in eGovernment—The national strategy for local eGovernment* (ODPM, March 2005).

206 See further *National Projects at the heart of excellent services—Benefits Guides Executive Summary* (Local e-gov supported by ODPM, November 2005). Projects cover a wide range of initiatives from delivering local government eProcurement (see fn.80 above) to knowledge management and local eDemocracy. There are also projects developing planning and regulatory services online and a national framework for development of integrated smart card technology for local authorities.

207 See further: *Local eGovernment Partnerships* (ODPM, October 2005).

208 See: *National Evaluation of Local Public Service Agreements: Interim Report* (ODPM, August 2005).

209 See: *A process evaluation of the negotiation of pilot Local Area Agreements—Final Report* (ODPM, June 2005).

210 Local Government Act 2000, c.22 ss.2–5.

211 Local Government Act 2003, c.26 especially ss.1–8.

matched by similar developments in service delivery between central and local government.²¹²

The second evaluation of the eGovernment strategy for local government reviewed progress two years into the programme. It noted that eGovernment policies were only one element in the link-up between local and central government and, therefore, it was important to note the "significant developments in other elements of the partnership". HM Treasury's 2004 Spending Review,²¹³ for example, charged ODPM, by 2008, with responsibility "to improve the effectiveness and efficiency of local government in leading and delivering services to all communities".²¹⁴ The aim was to achieve "efficiency gains" of 2.5 per cent per annum, so as to deliver "at least £6.45 billion by 2007–08. It also noted the contribution of the Audit Commission's Comprehensive Performance Assessment ("CPA") programme, designed to assess individual council performance in service provision and, increasingly, in shared priority themes, cost effectiveness and efficiency.²¹⁵ Aided by the eGovernment Support and Capacity Programme,²¹⁶ 79 per cent of authorities were now "e-enabled"—a 20 per cent increase on the year before. 98 per cent of authorities reported a readiness to achieve the 100 per cent target by the end of 2005. The report also highlighted improvements in the rigour with which the recording process for measuring electronic service delivery was being conducted.²¹⁷ Looking beyond 2005, the report envisaged making the "e" in local eGovernment "disappear". The momentum generated by the December 2005 target for electronic service delivery should be channelled into ensuring that eGovernment entered the mainstream of policy and practice.

Two other supporting mechanisms to deliver eGovernment locally are Government Connect and Local Direct Gov. The Government Connect ("GC") programme²¹⁸ is defined as "a major step forward in tackling one of the remaining barriers to delivering eGovernment, that of "identity management". It builds on LGOL-Net, an existing free open-source

212 This builds on the long-term strategic vision for local government set out in: *The future of local government: Developing a 10 year vision* (ODPM, July 2004).

213 *2004 Spending Review—Public Service Agreements* (HM Treasury, July 12, 2004).

214 *ibid.*, Ch.5: Office of the Deputy Prime Minister, para.4.

215 The CPA programme is part of a wider agenda set out in the Local Government White Paper *Strong local leadership: quality public services* (DLR, December 11, 2001). See also Audit Commission CPA web page: www.audit-commission.gov.uk.

216 This was established by the ODPM in 2003 to help councils deliver eGovernment services in line with the national strategy for local government. See *2 Years on: support & capacity for local eGovernment* (ODPM, 2005). The Local eGovernment Standards Body ("LEGSB") also existed, until January 2006, as the national standards authority for eGovernment providing access to an online database of key projects and information. This has been available to local authorities and their partners and suppliers. Its business case for continuation of its standards work was rejected by ODPM last year with effect that LeGSB has entered ODPM's "Stage 2 Migration process" and is effectively now frozen in terms of its standards work. Its website www.legsb.gov.uk ceased to be active from the spring of 2006.

217 The Local Government Services List ("LGSL") defining "UK local authority citizen-facing services". It is managed by an electronic service delivery (esd) toolkit which measures each process. LGSL is provided as a scheme within the eGMS subject.service element/refinement proposed by Local Authority Websites ("LAWS") information architecture and standards outputs.

218 Government Connect is a £12 million sponsored ODPM project. It is run by a partnership involving local authorities, the ODPM and the eGovernment Unit of the Cabinet Office.

messaging software product, developed by the Local Authority Websites ("LAWs") National Project.²¹⁹ It also adds to "other major improvements in service delivery, already made by local authorities".²²⁰ Until its launch in March 2005, there had been no way, nationally or together, for local authorities to join up with central government, or with other partners, in a secure communication environment. The best of Government Gateway,²²¹ LGOL-Net and other related outputs from national initiatives would be brought together in a "single package" in which local authorities could have confidence. Customers could, if they so chose, use "one set of personal details" for secure transactions across government, even though the information they might require "is held by a number of organisations".²²² The aim would be to enable a wide range of secure transactions to be made by customers at times and through channels of their own choosing.²²³ The Government also claimed that one indirect benefit of GC would be to require local authorities to improve their efficiency and productivity as a prerequisite to effective use of the service. Local authorities that had already invested in Government Gateway or were using LGOL-Net could take a phased approach to the migration to GC, with their original investment intact.

The second initiative, designed to boost the take-up of online local authority services, is the programme to connect local authorities to DirectGov—the Government's online service, via a local link to the portal. Until the launch of Local DirectGov ("LDG")²²⁴ in January 2006, the focus of online service provision lay with central government departments and agencies. However, LDG literature argued that with "80% of all government services . . . actually provided through local authorities, parishes and the voluntary sector", it was time to offer a service extension to the existing portal.²²⁵ The LDG programme has four projects underway to help secure its objectives. The National Infrastructure and Engagement Project aims to develop technology to create "seamless connections" between DirectGov and local authority websites. The Neighbourhoods and Parish Councils Project is looking at a tool to enable councils to "support and e-enable neighbourhoods and local parishes", while also supporting other community groups.²²⁶ Next, the Home and Community Franchise Project is seeking to build the information content across all DirectGov topic areas to support the connection across to LDG. This includes good practice guidance for online

transactions directed at local authority web managers. Finally, there is a Usability Project, "addressing the need for citizens to have a useful and engaging experience when inter-acting online with local government". The vision is for a flexible, smoother and simpler online service offering "a wealth of benefits" for local authorities and citizens.²²⁷

The LDG is supported by an additional site—*info4local*—which is a government portal offering local authorities "a quick and easy way to find and link to relevant [local government related] information on the web sites of central government departments, agencies and public bodies". It is run by seven departments with contributions from a further 65 more.²²⁸

In November 2005, a significant change of emphasis across the whole central and local eGovernment agenda took place with the publication of the "Transformational Government" strategy White Paper.²²⁹ The paper sought to set out the case for broadening the eGovernment portfolio of action points into "a vision for 21st century government." The process involved embracing services "enabled by IT" and designed for the citizen and business rather than the provider; achieving efficiency gains within a new "shared services" culture in public sector administration; and a "broadening and deepening" of professional capability in the "planning, delivery, management, skills and governance of IT enabled change".²³⁰

In March 2006, to coincide with the launch of the full Implementation Plan, the Government also published a Discussion Paper on the impact of the policy for local government.²³¹ The aim of the paper was to "trigger a conversation across local government about what a 'transformed local government', supported by modern ICT, should look like". In practical terms, this involved identifying the resources, in terms of funding and skills, to deliver change and to enable work to continue effectively with the range of service delivery partners involved. It suggested that local government was at a "tipping point" in which a convergence of different strands of policy was taking place that could trigger both the "opportunity and need to change fundamentally". For local government, "transformation" meant a focus on "the citizen and user of local public services", but not in terms of the organisations that provided them.²³² The value of locality and local service provision needed to be reasserted and, consequent upon this, there would be "better democratic engagement,²³³ better local

219 The aim of the LAWs project is to develop a suite of "low-cost, local authority-focussed applications and standards to help councils provide a wider range of higher quality services on their websites".

220 *Government connect—everyone can* (Cabinet Office, ODPM, 2005). See www.govconnect.gov.uk.

221 See fn.123 above.

222 fn.220 above, at p.8.

223 The Government argued that, for the first time, customers would be able to "complete sensitive transactions online without having to send by post or turn up in person with their passport, driving licence or utility bill as proof of whom they are or that they live where they say they do"; *ibid.*, at p.5.

224 The Local DirectGov programme is led by Brent Council and London Connects, the London-wide agency designed to "bring together local, regional and central government to support the delivery of the eGovernment agenda across the Capital" (see www.londonconnects.gov.uk). The project is also supported by ODPM. See further fn.18 above.

225 *Local DirectGov Programme—Connecting Local Services to DirectGov* (Local Directgov Programme, ODPM, 2006). See www.localgov.gov.uk.

226 This will add additional sections to the ENCORE (Environment and Community Online Residents E-services) national project to make local environment information easy to find.

227 Priority outcomes of the LDG initiative include: securing a rising and sustained use of the portal; empowering local organisations, community groups and clubs to maintain their own information online; and agreeing a baseline and targets for e-participation activities, including targets for citizen satisfaction.

228 See www.info4local.gov.uk. The seven departments are: ODPM, Department of Education and Skills, DEFRA, Department of Health, Home Office, Department of Transport and Department of Work and Pensions.

229 fn.43 above.

230 *Transformational Government—Implementation Plan* (Cabinet Office, March 29, 2006).

231 fn.191 above. The paper was developed through discussion with an advisory group drawn from members of the Chief Information Officer Council, the Chief Technical Officer Council, the Service Transformation Board and Common Infrastructure Board. See further www.cio.gov.uk.

232 Service users needed to be asked about their needs and data should also be gathered from the process of service delivery.

233 This included greater transparency and accountability by giving service users details of who is responsible for delivering the services they need.

services²³⁴ and better outcomes". The simplicity of these remarks, however, should not disguise the fact that its delivery implied "radical changes to the way in which public services were delivered".²³⁵ The paper concluded saying that transformation was already taking place,²³⁶ but there needed to be "engagement" on the way forward. It called for comment and ideas on how local government could "transform" and how central bodies could help.

In summing up the response of local government to the eGovernment agenda, the picture is one of local services under pressure from all sides to maintain their delivery. This is taking place within a much more transparent environment than was the case before and where resources are constantly under pressure. In this environment, local government has taken a pragmatic view towards eGovernment policy, showing a willingness to embrace its agenda where this has the potential to enhance efficiency, while improving the quality of the service provided. It is clear that central government support and guidance will be critical to the successful integration of the transformation policy for government that more accurately describes what the focus of official thinking is now.

eGovernment and democracy

It would not be appropriate to exclude the impact of ICT on democratic processes from an evaluation within eGovernment policy. The links are obvious, yet the modernising government agenda, concerned with creating "better government" and making "life better for people", has always focused on the practical issues. This has been in terms of how to improve government performance from the inside out in relation to service delivery, by becoming more "responsive to the user" and more open and accessible to the public.²³⁷ The somewhat awkward terminology of the "Transformational agenda",²³⁸ which is about "creating conditions in which government transforms itself", continues to focus on tackling internal performance issues, rather than necessarily linking that process to a new and better relationship with the electorate.

In a paper²³⁹ on the issue for the Adam Smith Institute²⁴⁰ in 2006, it was submitted that the definition of eGovernment adopted by the British Government was "too narrow", since it was an aspiration to be achieved "alongside better and more open government, rather than a means of achieving these". The paper asserted that, rather than operating as a "separate part of policy", the eGovernment agenda could and should "fundamentally change the nature of the relationship between citizen and government". From the Institute's point of view, "better government" included "meeting citizen's expectations and reducing costs". Open government was

concerned with "providing transparency and accountability". Utilising ICT to create eDemocracy should lead to "better and more frequent communications between citizen and government".²⁴¹ The issue was concerned with much more than simply "making forms easier and quicker to fill in", but about recasting democracy to increase participation in the process of shaping policy.

Other, more critical analysis of present policy has come from the IPPR.²⁴² In 2005, it published a paper²⁴³ asserting that there was now a "disconnection between representatives and represented" in the UK political system:

"The problem faced by contemporary democracy is horribly simple: governments have come to believe that the public don't know how to speak; the public has come to believe that governments don't know how to listen. Faced with apparently 'apathetic' citizens, the political class complains about the difficulty of governing in a vacuum. Convinced that the political class is not interested in them, the public is increasingly pursuing a conversation in which politicians are outsiders".²⁴⁴

The paper asserted that the "representative" political relationship in Britain was "in trouble". Opposing historical concepts of democracy were in play here, between democracy as "empowering people directly" and democracy as "investing power in professional governors or politicians who represent the people".²⁴⁵ The transition of ancient democracy from the direct rule of the people to indirect government had created an "enduring quarrel" between those advocating the recovery of power by the people and those arguing that politicians should be "left to govern as their judgment dictates".²⁴⁶

In present-day terms, according to the findings of an IPPR survey, this translated into five aspirations. First, the public wanted to be heard. The paper argued that Parliament was only "just beginning any kind of systematic effort to engage and consult the people". This was important, especially in mediating between the consulted and government and in accounting for government actions when these deviated from expressed views. Since 2004, for example, the Better Regulation Executive had promoted a code of practice on consultation, setting out the basic principles for conducting "effective Government consultations".²⁴⁷ Secondly the public wanted a "conversation, not just a consultation". Although political discussion was taking place among the electorate outside Parliament, "mobilising, listening to, learning from, mapping and responding to public talk" were "underdeveloped skills" among present-day politicians. Thirdly, politicians needed to engage the

241 *ibid.* By this expression the ASI meant more than communication by the ballot box since eVoting trials in the United Kingdom had been successful, but had failed to increase turnout.

242 See fn.46 above. The "democracy team" at IPPR "works to promote democratic reform of central and local government and public services . . . Public institutions have to become more open and transparent and do more to engage ordinary citizens in decision making".

243 *Direct Representation—Towards a Conversational Democracy* (Stephen Coleman, IPPR, 2005).

244 *ibid.*, at p.1.

245 *ibid.*, at p.8.

246 Another detailed study of this problem has been conducted by *POWER—An Independent Inquiry into Britain's Democracy*. See *Power to the People* (Centenary project of the Joseph Rowntree Charitable Trust and the Joseph Rowntree Reform Trust, the POWER Inquiry, February 2006).

247 *Code of Practice on Consultation* (Better Regulation Executive, Cabinet Office, January 2004). The Code does not have legal force but is generally regarded as "binding" on UK departments and their agencies. See also *How to take part in public consultations* (web page created by the BBC at www.bbc.co.uk).

234 It was suggested that service delivery needed to be more "joined-up", consistent and less fragmented over time and between providers.

235 fn.191 above, at p.5.

236 See for example *Implementing electronic government return 2005 (IEG5)—Summary of analysis of IEG5 results* (ODPM, February 22, 2006). See also *Defining eGovernment Outcomes for 2005 to support the delivery of Priority Services and National Strategy transformation agenda for local authorities in England—Version 1.0* (ODPM, December 2005).

237 fn.19 above, at para.5.

238 fn.230 above, at para.5.

239 *Rewiring Democracy: Better eGovernment for the UK* (Adam Smith Institute, London, 2006), p.4.

240 See fn.47 above.

public more frequently and not just during an election period. This would offset the feeling that government had become "remote and faceless". Fourthly, the public wanted less "partisan adversarial argument" and more honest assessment by politicians of their achievements and policy failures. The final aspiration was for politicians to be accountable for their political decisions and not simply to "play the role of delegate". Politicians needed to find room to "exercise their own judgement" and sometimes to follow their own conscience.²⁴⁸

The IPPR paper next posed the question how, if a more "conversational relationship" between government and the electorate was what was required, this might be achieved and, in particular, what role ICT might play in the process. Through ICT, it was possible to tackle the widespread feeling that the process of government had become too independent of the public it served. Much could be done to capitalise on the growth of "grass-roots politicking" that was evident from the millions of blogs now in operation on the internet.²⁴⁹ Politicians needed to navigate a way through such developments to ensure that they were not "swamped by the emergence of a subterranean sphere of discourse" that might leave them behind. For example, there had been a series of online consultations through forums of invited individuals that had offered comment on the draft Communications Bill to the Joint Committee handling the measure.²⁵⁰ This had led the Committee to "change the questions we were asking witnesses and made us focus on areas we would not necessarily have thought of". The online consultation had worked "exceptionally well, and proved its worth as a vital tool in the democratic process".²⁵¹

In a second paper,²⁵² again in 2005, that offered a "manifesto for a digital Britain", the IPPR argued that eDemocracy need not just be about "automating existing channels of democracy", such as e-voting or emailing one's M.P. It should create "new types of intermediaries", developed around the "distributive and interactive capabilities of new media". As such, the existing lobby channels that "had existed for Decades between civil society and Westminster, or business and Westminster", needed modernising. One particular development that the paper identified was "the importance of the locality as a political concern" and the rise of "place-based communities" engaging in political action to advance local needs. This had been the theme of a paper on neighbourhood governance produced by the ODPM²⁵³ and academic study on "social capital"—the development of "bottom-up self organising behaviour". While evidence suggested that digital channels were doing "precious little to increase participation or interest in formal democratic politics", the convergence of communication with broadcasting and the transition from viewer or listener

to online participant, created new opportunities for media innovation in the development of eDemocracy.

The Government's response to the issue of eDemocracy, within the eGovernment agenda, has been distinctly low-key. In party political terms, on the issue of drawing the public into national debate on issues of public concern, the Prime Minister, Tony Blair, launched the "Big Conversation", following the Queen's Speech in 2003. He argued that this was to deliver on his pledge to keep "in touch with the people" and to engage the electorate in shaping Labour Party policy in preparation for the next election. After six years in power the Government had reached a "fork in the road" and he called for discussion on 13 questions, ranging from how to build a stable economy and do more to tackle poverty and inequality, to how to "connect politics and people", make Britain "stronger in Europe" and develop "our concept of international community".²⁵⁴ The "consultation" centred around a website in which the public were invited to complete a short survey, "add a 'story' or pictures about their lives or ask a question to a politician in a live web cast".²⁵⁵ One critic described the exercise as, at best, a "metaphorical event" and "not a conversation in anything like the usual sense of the term".²⁵⁶ The real task facing politicians was to prove to the public that politicians cared about their opinions. Perhaps indicative of the whole exercise is that, today, the web page for the Big Conversation directs the internet user to a consumer page for the sale of fireplaces!²⁵⁷

In policy terms, the only major consultation on eDemocracy that has taken place has been via a Green Paper in 2002.²⁵⁸ The Leader of the House at the time, the late Rt Hon. Robin Cook M.P., in introducing the consultation paper, argued that its "primary concern" lay with the "democratic dimension rather than the 'e' in eDemocracy". Participation was at "the core of democratic government", and the two areas proposed for government action on e-participation and e-voting highlighted ways in which the "mechanisms of democracy" could be "enhanced" by ICT. Consultation issues revolved around whether the Government was right to focus on participation and voting issues, and how "trust" in online forms of participation could be strengthened. This was both in terms of security in e-voting, as well as building confidence among e-participants that the process was worthwhile and that the views expressed would be considered.

Somewhat curiously, the end result of this process has been to subtly redefine the whole issue as one of "local eDemocracy". The original website,²⁵⁹ linked to the 2002 consultation (at least on its banner page "about us"), is now firmly directed towards encouraging "citizen participation in local decision making" within the national strategy for local eGovernment.²⁶⁰ The local eDemocracy National Project is described as "one of 22 local eGovernment National Projects initiated by the ODPM for this purpose". Whether this signals

248 fn.243 above, at p.12.

249 A blog is short for weblog. A weblog is a journal (or newsletter) that is frequently updated and intended for general public consumption. Blogs generally represent the personality of the author or the website. Source: www.bytowninternet.com.

250 See *Draft Communications Bill—Volume I—Report*, HL Paper 169-1; HC 876-1 Session 2001-2002 (Stationery Office, London, July 25, 2002).

251 Stephen Coleman, *Connecting Parliament to the public via the Internet: Two case studies of online consultations* (Information, Communication and Society, March 2004), p.10 at <http://depts.washington.edu>. See fn.445 below.

252 *Modernising with Purpose—A Manifesto for a digital Britain* (William Davies, IPPR, 2005).

253 *Citizen Engagement and Public Services—Why Neighbourhoods Matter* (ODPM, Home Office, January 2005).

254 "Blair launches 'Big Conversation'", BBC News at <http://news.bbc.co.uk>.

255 Stephen Coleman, "Whose Conversation?—Engaging the Public in Authentic Polylogue", *Political Quarterly*, April 2004.

256 *ibid.*; the author, Stephen Coleman, is Professor of eDemocracy at the Oxford Internet Institute, University of Oxford.

257 See www.bigconversation.org.uk.

258 *In the service of democracy—a consultation paper on a policy for electronic democracy* (Cabinet Office, Office of the e-Envoy, July 15, 2002). The period of consultation ended on October 31, 2002.

259 www.e-democracy.gov.uk. The website was "commissioned" by St Albans City and District Council on behalf of the local eDemocracy National Project. It is described as "supported" by the ODPM.

260 See fn.199 above.

a deliberate desire on the part of the Government to shift the focus of eDemocracy towards local affairs, or is the outcome of a conclusion reached by central government that embedding eDemocracy locally is the best entry point to assess some of the initiatives, prior to their implementation at Westminster, remains to be seen. There is, however, a very interesting "Knowledge Pool" on the site containing a wide range of discussion documents, publications, official documents, speeches, surveys and studies that engage in a full evaluation of many aspects of the topic. Although much of the material relates directly to local government, the connections between eDemocracy and central government are explored, although without much official engagement by the Government in terms of any policy framework for eDemocracy at national level. With regard to the National Project itself, however, there is clearly much to be learnt about the process of conducting online democracy if some of the reported exchanges between the chair of the project, in response to other participants on the project's weblog, are to be taken into account.²⁶¹

In terms of policy development, what does exist is segmented analysis within specific areas of government. At the local level, the local eDemocracy National Project has published a paper aimed at councillors and local authority managers, arguing the case for use of "the tools and techniques developed for eDemocracy".²⁶² The same team has also published a paper analysing research and thinking on a range of eDemocracy issues.²⁶³ At Westminster, two House of Commons committees have looked at the impact of ICT on connecting Parliament with the public. The first, published in July 2002,²⁶⁴ from the House of Commons Information Committee, looked at how to tackle the perception among both Members of Parliament and the general public that the House appeared remote and unresponsive to the latter, while failing to do enough to hold the Government to account. It avoided prescription, but suggested a number of "desirable outcomes" arising from the future use of ICT by the House of Commons. The aim should be to increase public participation in its work and recognise the value of greater openness and accessibility.

The second report,²⁶⁵ published in June 2004, from the Select Committee on Modernisation of the House of Commons, took the debate further in the context of the House of Commons Commission's Strategic Plan "to improve public understanding and knowledge of the work of the House and

to increase its accessibility, subject to the requirements of security".²⁶⁶ It recommended that greater efforts be made to engage young people in the nation's democratic institutions and to improve provision of information to the public through, for example, improved website design and an effective search facility. New technology offered many "innovative tools for communication". In relation to the citizenship curriculum in schools, for example, there was much that the Parliamentary Education Unit²⁶⁷ could do to enhance its "outreach work" through provision of digital resources.²⁶⁸

Unsurprisingly, the one area of eDemocracy where government has paid more vigorous attention is the potential of ICT in relation to development of eVoting methods. In a speech in December 2001 to the Constitution Unit—the independent research body on constitutional change—the then Leader of the House, Robin Cook M.P., argued in favour of eVoting on the grounds that the process was more "relevant to modern life".²⁶⁹ The Green Paper²⁷⁰ set out a range of options for the introduction of ICT to voting methods, which was subsequently followed up by a research study into electronic voting undertaken on behalf of a range of interested parties by De Montfort University and others.²⁷¹ The study concluded that the practice of voting in public elections, "the most fundamental component of our democracy", had "not kept pace with social and economic change". It suggested that there should not be any "sudden switch-over to a single eVoting technology, but a "phased move to multi-channel elections" with voters offered a "range of means" by which to cast their vote.²⁷²

One critical issue identified in the study was the need for any new system of remote voting to comply both with electoral law²⁷³ and UK international obligations.²⁷⁴ There had to be confidence in the "security, secrecy and privacy" of any eVoting arrangements.²⁷⁵ In the Government's view, any move towards expansion of remote voting at elections would need to be precipitated by reforms to the arrangements

266 *An outline strategic plan for the House of Commons Administration 2002–2007*, as adopted by the House of Commons Commission on June 24, 2002.

267 The Parliamentary Education Unit was established in 1980 by both Houses to sponsor visits to Parliament by school students on a range of programmes and provide resources for teachers and students in the classroom.

268 There is a useful note, prepared by the Parliament and Constitution Centre examining ways in which "ICT can be harnessed to enhance the participation of the citizen in the electoral process and in the work of Parliament and other elected assemblies". See Keith Parry, *eDemocracy* (Parliament and Constitution Centre, House of Commons Library, September 10, 2003) at www.edemocracy.gov.uk.

269 *Ibid.*, at p. 12. The Constitution Unit is part of University College London School of Public Policy and is an independent research body on constitutional change.

270 *Ibid.* fn. 258 above.

271 *The implementation of electronic voting in the UK* (De Montfort University, University of Essex and BMRB International, May 2002). The research was jointly commissioned by the DRLR, Office of the e-Envoy, Electoral Commission, LGA, IDeA, and SOLACE.

272 *Ibid.*, at p. 1.

273 As set out in the Representation of the People Act 2000, c. 2.

274 For example, Universal Declaration of Human Rights, Art. 21(3); International Covenant on Civil and Political Rights, Art. 25; European Convention on Human Rights, Protocol 1 Art. 3; Organisation for Security and Co-operation in Europe Copenhagen Document of 1990 and Inter-Parliamentary Union Declaration on Criteria for Free and Fair Elections (Paris 154th Session, March 1994), ss. 2(5), 2(7) and 4(5).

275 See further *Public attitudes towards implementation of electronic voting—Qualitative Research Report* (Sara Candy, BMRB Qualitative, prepared for DTLR, January 2002).

261 The website declares that "although it is still early days, the Project's research shows that eDemocracy is already helping to reinvigorate public interest and engagement in the areas where local councils have piloted eDemocracy tools". See www.edemocracy.gov.uk. However, see also "Local eDemocracy—Jerry Springer-Style", reported on Public Sector Forums on June 13, 2006 at www.publicsectorforums.co.uk.

262 *Deeper and wider community engagement—eDemocracy and its benefits for local authorities, councillors and communities* (local eDemocracy National Project, February 2, 2006). See also *eDemocracy Survey 2005—Local Authorities experiences of democracy on and off line* (local eDemocracy National Project, Bristol City Council, MORI social research institute, March 2005).

263 "What works"—*Key lessons from recent eDemocracy literature* (local eDemocracy National Project, Bristol City Council, MORI market dynamics, March 2005).

264 *Digital Technology: Working for Parliament and the Public*, HC 1065 First Report of Session 2001–2002 (House of Commons Information Committee, London, Stationery Office, July 15, 2002).

265 *Connecting Parliament with the Public*, HC 368, First Report of Session 2003–04 (House of Commons Select Committee on Modernisation of the House of Commons, London, Stationery Office, June 16, 2004).

for holding and maintaining the electoral register. Reforms to the system of electoral registration were, in fact, introduced in the Representation of the People Act 2000 to create a rolling system of registration.²⁷⁶ Following the publication of an evaluation²⁷⁷ of electoral pilot schemes by the Electoral Commission²⁷⁸ in 2003, 17 of which offered electors the opportunity to vote electronically "through a variety of channels", the Government committed itself to further modernisation of the electoral process.²⁷⁹ Action needed to be taken to tackle some of the "real challenges to our democracy" and the "reluctance of so many to participate in and engage with our democratic institutions" both at local and national level. The aim was to hold an "e-enabled general election, sometime after 2006", although thinking on eVoting was not yet "sufficiently mature" to enable all the steps required to achieve that goal to be defined.

In a statement by the then Minister for Local and Regional Government, Nick Raynsford M.P., in January 2004, the Government announced plans to tackle one of the problems identified in the 2002 Green Paper,²⁸⁰ namely the need for a national database of voters supported by central counting facilities. To attain the Government's goal, it would be necessary to "standardise local electronic electoral registers across the country and make them fully interoperable regardless of the local system in use".²⁸¹ The project entitled CORE (Co-ordinated Online Register of Electors) is a joint initiative led by the former ODPM in partnership with the Department for Constitutional Affairs and replaces an earlier project LASER which had similar goals and was to have been led by the Improvement and Development Agency ("IDeA").²⁸² The project has not been universally supported, however, since doubts as to its necessity and desirability have been raised by some of the original de Montfort team. They argued that the security risks would be "excessive" while there was a danger that eVoting might take place while the individual was not present in the locality at the appropriate time.²⁸³

The CORE project has, nevertheless, steadily taken shape, with a consultation paper²⁸⁴ published to canvass opinion on the possible options available in building the database.

This has since been followed with the introduction by the Government of the Electoral Administration Act 2006²⁸⁵ which, in Pt I of the Act, contains the necessary legislative provisions to enable the CORE database to come into being. It would seem that the Government is steadily navigating its way towards establishing a statutory framework for creation of the database and, beyond that, is continuing to test ideas through pilot schemes. However, it is doing so mindful of the serious security and privacy implications, and the need to neutralise the risk of electoral fraud that has already surfaced in relation to postal ballots.²⁸⁶ To underline the concern, the Electoral Commission published guidance in February 2006 on fraud prevention and detection applicable to the May 2006 local elections.²⁸⁷

In assessing where eDemocracy has reached on the checklist of the Government's priorities for eGovernment, it is clear that there is a long way to go before a discernable policy can be identified. It is evident, and perhaps not unexpected, that the culture of government administration finds it hard to adapt to change in the way bureaucracy operates. This is particularly true of the United Kingdom where, until recently, governments were substantially free from constitutional or statutory intervention in the process of executive activity. Perhaps, occasionally, Parliament was able to act and secure the accountability that constitutionally it is empowered to seek. Today, Government and its administration must get used to a new environment whereby statutory duties arise through the medium of freedom of information, data protection and human rights legislation. In addition, the challenge of falling voter participation at elections, and measured disenchantment with politicians, must be faced. The Electoral Commission argued that "although turnout went up marginally at the 2005 general election" when compared with 2001, there remained a "great deal of work to do by all those with an interest in engaging more people in politics".²⁸⁸ In its latest audit on political engagement,²⁸⁹ undertaken jointly by the Electoral Commission and the Hansard Society²⁹⁰ and published in March 2006, little change was reported in public attitudes compared to the year before. However, "considerable disparities in depth and breadth of political engagement" were found among different social groups and there was a distinct cohort of young people who, having

276 Prior to the Act there was an annual qualifying date of October 15 for entry on the register which might cause registration delays for people moving into the area shortly after that date.

277 *The shape of elections to come—A strategic evaluation of the 2003 electoral pilot schemes* (Electoral Commission, July 2003). 59 local authorities participated across England in schemes involving more than 14% of the English electorate.

278 The Electoral Commission was established as an independent statutory authority on November 30, 2000, following the passage of the Political Parties, Elections and Referendums Act 2000, c.41.

279 *The Government's Response to The Electoral Commission Report: The Shape of Elections to Come—A Strategic Evaluation of the 2003 Electoral Pilot Schemes*, Cm5975 (Deputy Prime Minister, Stationery Office, September 2003). See also a later report: *The Government's Response to The Electoral Commission Report: Delivering democracy? The future of postal voting*, Cm6436 (Deputy Prime Minister, Stationery Office, December 2004).

280 fn.258 above, at para.4.3.4.

281 Electoral Registration, Ministerial Statement (Mr Nick Raynsford) H.C. Deb., Vol.416, col.43WS (January 15, 2004). For a general description of electoral registration see Isobel White, *Electoral Register* (Parliament and Constitution Centre, House of Commons Library, March 10, 2005).

282 The Local Authority Secure Electoral Register ("LASER") project.

283 Dr N. Ben Fairweather, "In the service of democracy"—*Response of the Centre for Computing and Social Responsibility, De Montfort University* (2002).

284 *The Co-ordinated Online Record of Electors ("CORE")—The implementation of national access arrangements Consultation*

Paper (Department for Constitutional Affairs, December 14, 2005). The consultation period ended on March 7, 2006.

285 Electoral Administration Act 2006 (Royal Assent on July 11, 2006). Part I makes provision for the adoption of "one or more CORE" schemes to be implemented by statutory instrument.

286 See, e.g. Jill Sherman, "Councils are investigated for postal fraud", Whitehall Editor, *The Times*, April 27, 2006. See further *Electoral Registration*, HC 243-I First Joint Report of Session 2004-05 (House of Commons Constitutional Affairs and ODPM: Housing, Planning, Local Government and the Regions Committees) and *Government Response*, Cm6647 (Secretary of State for Constitutional Affairs and Lord Chancellor, Stationery Office, July 2005). These papers dealt with "how to prevent people being disenfranchised; how to stop fraud by ensuring the system is secure; and we can make use of new technologies to provide a better service to the public".

287 *Guidance on fraud prevention and detection for use at local elections in May 2006* (Electoral Commission, February 2006).

288 *Election 2005: engaging the public in Great Britain—An analysis of campaigns and media coverage* (Electoral Commission, December 2005).

289 *An audit of political engagement 3 Research Report* (Electoral Commission and Hansard Society, March 2006).

290 The Hansard Society was established in 1944 to promote the ideals of parliamentary government. It is an independent charity managed by the society's council. Its president is traditionally the Speaker of the House of Commons.

"failed to participate in the 2001 election", were "continuing not to vote as they get older". The issue raised questions that went well beyond mere voting behaviour alone, challenging the very core of what representative democracy might mean today.

Making eGovernment work

Where is the policy now?

Thus far this monograph has endeavoured, through official documentation, published information and relevant discussion with officials, to define the scope of eGovernment in the United Kingdom from the information forthcoming. From late 2005 the language of eGovernment in official documentation began to change. There was increasing dissatisfaction with the use of the "e" in eGovernment. Its meaning had become blurred in the sense that online connectivity had been achieved across a huge swathe of public sector activity. Had eGovernment, perhaps, been delivered or was this a misconception of the intent and remit of the policy? As one Cabinet Office official put it:

"many people still see eGovernment as just a government department having a website! What many miss is that it is so much more. It is all about how the citizen transacts with government, making services more accessible, and offering an easier channel to become involved in the democratic process".

In November 2005, at a conference in Manchester hosted under the UK Presidency of the EU, the policy makeover was revealed. "eGovernment" was relegated to the by-line of the event which was entitled "Transforming public services—Ministerial eGovernment conference 2005".²⁹¹ Some participants expressed the hope that, when the next event in which the public sector participated took place, all mention of "eGovernment" might disappear from the title. This was duly complied with, in May 2006, at the European Technology Forum's GovUK IT Summit entitled "How IT will transform government—achieving transformation".²⁹² The November conference coincided with the publication of the Government's "Transformational Government" strategy²⁹³ and an EU Ministerial Declaration on how transformed public services might contribute to the EU's objective for a "dynamic and competitive knowledge-based economy by 2010".²⁹⁴

So the question arises, then, what this change of emphasis means. Have the original goals been achieved or has the direction of the policy changed? How long will it be before "transformational government" has been transformed so that the "t" in tGovernment becomes tired and another symbolic expression is adopted to describe such evolutionary processes within the public sector? The fact is that the transformation agenda, whether it is about outcomes or evolution, is presently endeavouring to give a name to a policy of public sector adaptation in response to the attractions of ICT. Whereas much of the transformation agenda would be destined to happen anyway, it is important and necessary

for that process to be managed and understood within the framework of a policy.

From the very beginning, as stated in the first "Modernising Government" White Paper,²⁹⁵ the intent has been to define a "road map for the future"—a process for long-term improvement in how government works. To improve service provision, all parts of government needed to work better together in a more integrated and joined-up fashion. The challenge was "to modernise government, to create better government and to make life better for people".²⁹⁶ Seven years on, building on the experience gained during this time, the Government has now identified three key "transformations" that it wishes to pursue—improved service delivery to the citizen and business enabled by IT; a shared services culture within government to improve efficiency and effectiveness; and greater professionalism in the process of delivering "IT enabled change".²⁹⁷ To achieve these goals the tGovernment implementation plan²⁹⁸ proposes central policy direction where the "barriers to change" cannot be "removed by individual departments". Although somewhat opaque in the description, tGovernment is now about "creating the conditions in which government transforms itself", drawing on best practice in the public and private sector.

The process is firmly tied to the "Capability Review" programme, designed to look, systematically, at performance levels within departments and agencies in the context of effective delivery of functions, announced by Sir Gus O'Donnell, head of the Civil Service, in October 2005.²⁹⁹ These include whether departments have the right "strategic and leadership capabilities"; whether they have measured their performance and have the tools to remedy any identified underachievement; whether staff possess the appropriate skills to meet "both current and future challenges" and whether they "engage effectively with their key stakeholders, partners and the public".³⁰⁰ It is also linked to spending and, therefore, to the second Comprehensive Spending Review, announced by the Chief Secretary to the Treasury in July 2005.³⁰¹ In his Budget 2006 report,³⁰² the Chancellor announced that he was seeking advice on how "channels through which services are delivered can be made more efficient and responsive to the needs of citizens and businesses".³⁰³ This might be by improved exploitation of the potential of electronic service delivery; improving quality of service provided by call centres; "identifying

295 See fn.19, above.

296 *ibid.* Foreword by Jack Cunningham, then Minister for the Cabinet Office.

297 See fnn.43 and 229 above.

298 See fn.230 above.

299 The head of the Civil Service announced this to the Public Administration Select Committee in October 2005. The first three departments to be reviewed are the Department for Constitutional Affairs, the Home Office and the Department for Work and Pensions. The other main Whitehall departments are scheduled to be assessed during 2006–2007. The programme is to be run by the Prime Minister's Delivery Unit.

300 *Note to the Public Administration Select Committee—Departmental Capability Reviews* (Sir Gus O'Donnell, October 11, 2005).

301 *Treasury announces second Comprehensive Spending Review* (HM Treasury Press Notice 65/05, July 19, 2005). See further www.hm-treasury.gov.uk.

302 *Budget 2006—A strong and strengthening economy: Investing in Britain's future—Economic and Fiscal Strategy Report and Financial Statement and Budget Report* HC 968 (HM Treasury, London, Stationery Office, March 22, 2006).

303 *ibid.*, at para.6.24. It was announced that Sir David Varney, executive chairman of HMRC and former CEO of O2 would advise on "opportunities for transforming the delivery of public services".

291 See further fn.4 above.

292 The event took place in London on May 8–9, 2006. The programme sought to "provide insight into the key issues surrounding the Cabinet Office's Strategy for Transformational Government".

293 See fn.43 above.

294 Ministerial Declaration approved unanimously on November 24, 2005, Manchester, United Kingdom. See www.egov2005conference.gov.uk.

opportunities for more efficient and innovative use of local office networks" providing a variety of services from a single site; and improving processes for "handling identity". An entire chapter of the Budget 2006 report was devoted to the delivery of public sector services, the aim being to "deliver world-class public services through sustained investment matched by far-reaching reform".³⁰⁴

It is quite clear, looking at the two "Transformational Government" White Papers, that improving the efficiency and effectiveness of government is a key objective of this agenda. This ties in clearly with HM Treasury's 2004 Spending Review,³⁰⁵ supported by the recommendations of the independent Gershon Review of public sector efficiency.³⁰⁶ This proposed more than £20 billion of "annual efficiencies" by 2007–2008 for reinvestment in front-line services. In 2006, the NAO reported³⁰⁷ that this "efficiency programme" was the first to assess the efficiency of the public sector as a whole. Informed speculation suggests that the next round of "efficiency gains" may seek a doubling of the original Gershon target beyond 2007–2008.

It is this author's opinion, however, that defining the transformation agenda only in terms of "efficiency", in which efficiency is defined solely as a component of effectiveness in terms of fiscal policy, is unduly and inappropriately narrow. Efficiency in this form is easy to measure, but how does government measure the intangible benefits of greater effectiveness beyond financial savings? Implicit within transformation policy is the desire for effectiveness within government. Often there can be a tension between the two concepts because effective government, in terms of the non-financial outcomes, while difficult to measure, is no less tangible, relevant or important for that. The soft return of prolonging life or reducing crime levels, as a result of a better technologically equipped ambulance and police services, is a quality of life issue that cannot be measured in the same way as the number of online tax returns submitted to the Inland Revenue, or the savings made by a department engaged in "shared services".

Similarly, other transformation policies across government may result in soft returns in relation, for example, to the environment, home/work life balance, public safety, health, education and many other areas. There are sound arguments, therefore, for pursuing the "public value" analysis, presented on behalf of IPPR, as a possible measure for evaluating eGovernment.³⁰⁸ The concept relates to the public perception of services as judged by such factors as "availability; the satisfaction of users; the perceived importance of the service and the fairness of its provision; and, finally, its cost". It also takes into account the quality of service provided and the level of trust felt by the citizen. If that exists he/she is "more likely to accept government action and to feel a sense of association with it".³⁰⁹

In this context, efficiency savings of the non-fiscal kind will likely involve higher levels of expenditure in order to achieve the effectiveness gain. The increased investment, for example in BlackBerry^{Res} wireless email and data delivery

technology across the public sector,³¹⁰ particularly among the emergency services, will involve significant expense. At the same time it is expected to achieve improved soft returns in terms of productivity and service delivery, if deployed appropriately. No doubt indirect aspects of the soft return can be measured as well if the issue is, for example, about linking a fall in crime levels to more effective policing that results directly from enhanced front-line online access to services and support offered to the officers on the beat.

It is likely, therefore, that tGovernment will move inexorably towards more sustainable or "sGovernment" policies in the future, as the tensions between efficiency and effectiveness are played out. Once sustainable government becomes the key driver for policy, then the battle will start again to define sustainable in relation to the soft and hard returns of fiscal, economic, social, environmental and political criteria.³¹¹ This raises the question whether a single eGovernment or tGovernment policy exists. In broad terms it obviously does, but this may not achieve much more than point observers in the general direction of aims and objectives. One could be forgiven, for example, when examining official documentation, to conclude that tGovernment is only concerned with improving service delivery channels to the citizen. Yet, in terms of government action, it is clear that the policy is much broader and overarching. The detail is broken down within the mass of projects, documents, initiatives, practices, offices, groups, committees and working parties that are striving to implement the agenda across the public sector.

The ultimate achievement of transformation policy will come if this effort succeeds in producing not just the tangible, measurable gains already identified, but ultimately better policies and, therefore, better government as a whole. This assumes that, at least as far as the United Kingdom is concerned, a clearer understanding exists as to the role eGovernment, and now tGovernment, has or has had in the evolution of public administration. Such policies will always be a means to an end and define a process. They are, clearly, not the ultimate objective aspired to. The final section of this monograph, then, reviews a few issues that intersect with eGovernment that need to be monitored as government strives to move into its transformational agenda. These relate to modernisation of the public sector, government information policy and the EU.

Modernisation of the public sector

Engagement with transformational government does, of course, rely heavily upon the response of the public sector to the process of change. Often understated within the glare of publicity given to the front-line components of the policy is the crucial role played by officials responsible for delivering that change. For them, the description of the policy as "transformational" requires no less a response than the adjective describes. This is because, in order to deliver its goals, long-established practices and bureaucratic

304 *ibid.*, at para.6.1.

305 See fn.213 above.

306 Sir Peter Gershon has carried out reviews of public sector efficiency and of civil procurement arrangements. See fnn.10, 66 and 73 above.

307 fn.65 above.

308 fn.60 above.

309 *ibid.*, at p.6.

310 See further: *BlackBerry and the public sector—Mobilising the Power of Wireless* (2006) and www.blackberry.net.

311 A debate on this topic took place at the GovUK IT conference (see fn.292 above). The author is grateful to the participants for helping him to develop these arguments. One participant described sustainability as a "slippery issue". It was important to understand the risk factors in relation to the "shifting sand of problems" and to get to the "bedrock" of what was underneath. Above all sustainability was no longer purely driven by cost.

structures within public sector administration will need to be either modernised or discarded. Effecting such change in deeply rooted administrative routines, combined with the constitutional commitment to more open government, requires a skilful response from those charged with driving such institutional change forward. The individuals at the sharp end of such events will need to understand the objectives of the process in a form that they can break down and apply to their sphere of administrative activity. It also requires individual employees to deal with the uncertainty of integrating change within present organisational structures, at a time when overarching policy may soon lead to reform of those self-same structures. Within that process, of course, can be found the uncertainty of redundancy.

The Government has not lost sight of this issue, since the Transformational White Papers refer to the need to broaden and deepen the Government's professionalism in response to "IT enabled" change.³¹² Nevertheless, responding to that challenge is complex and difficult, for the very reason that such change raises management issues across the entire framework of public sector administration, from major strategy to detailed implementation. The need to develop professional skills that can manage this process has, nevertheless, not been lost on the head of the Civil Service or, indeed, the Government itself. Sir Gus O'Donnell, when interviewed in April 2006,³¹³ introduced "the 4 Ps"³¹⁴ as necessary values for transforming the civil service—"pride, passion, professionalism and pace"; with the last of the four being the "primary driver for change". Behind that is a Professional Skills for Government ("PSG") programme, described as "a key part of the Government's 'Delivery and Reform' agenda". This has operated from the Cabinet Office³¹⁵ since October 2004, and seeks to equip its workforce with the skills required to "design and deliver 21st century services".³¹⁶ Other initiatives, such as the National School for Government,³¹⁷ PMDU Capability Reviews and governance changes³¹⁸ also aim to underpin the modernisation agenda.

For the medium term, this means responding, in particular, to the shared services agenda³¹⁹ of the Transformational White Papers. The concept of sharing services is one of the key mechanisms for securing the financial savings likely to emerge from the 2007 Comprehensive Spending Review. This envisages a cross-departmental sharing of assets and investment, where duplication of such resources is unnecessary. The Government suggests that, in developing this approach to administration, particular attention could be paid to the operation of customer service centres; human resources, finance

and other corporate services; as well as identifying opportunities for developing common technology infrastructure, data-sharing and information management policies alongside common approaches toward information assurance, identity management, technology standards and infrastructure. This is a challenging agenda in which the management process needs to find pathways to drive the policy forward, breaking through the rhetoric and language of change to secure tangible results.

At the present time, shared services development and, indeed, the whole transformation agenda are only just commencing. However, the language of change is now firmly embedded in the minds of public officials, if that spoken at the 2006 GovUK IT Summit³²⁰ is representative of the wider Civil Service community. Delegates heard about "outcome and change management"; "business process re-engineering"; and "change leadership". Reference was also made to "supply side competence"; "legacy environments"; "benefits and stakeholder management"; and "whole life costing". What must now emerge from this is stronger evidence that the language of change is taking the Government in the direction that it has set. Evidence that this is happening will come, for example, when the balance of reporting from independent watchdogs, such as the National Audit Office, the Audit Commission and Public Accounts Committee, report that this process is taking place. A better media response would also help deepen confidence that the Government is getting it right in key activities, such as developing a more robust procurement policy alongside tougher public sector IT project management. Anecdotal stories, for example, that there are 50 public sector contracts with office supply companies, or that front-line IT systems are over-budget or constantly malfunctioning, need to diminish over time. There also needs to be improved uptake in the use of online service delivery channels by the general public, and less complaint by service users that when they went online to register or use the system, the transaction failed to complete owing to a service malfunction. Perhaps, also, the IT supply industry and government need to offer one another a clearer picture of what open source means to them in ICT delivery terms.³²¹

Perhaps, too, although the task must inevitably be ongoing, the Government could endeavour to improve the effectiveness of its ICT platform and to require a stronger business case for allowing bespoke systems to enter the public sector. If this occurs, then the prospects for shared services are likely to be enhanced. In fact, it is symptomatic of the desire to jump onto the electronic services bandwagon that many departments appeared to travel down the bespoke route, before they seriously began to think about its implications for shared services. Perhaps that was a political failing or simply down to a natural process of policy evolution. It may even have been necessary in the individual case. However, the consequence, in some instances, is likely to be either that information systems are incompatible or that the cost of alignment will be higher than it need have been.

In the meantime, while work continues within government to put the building blocks of the transformation agenda in place, it is important that the watchdogs, including Parliament, remain robust in their monitoring and reporting role. By so doing, more effective progress is likely to be achieved. In March 2006, for example, the Audit Commission published a

312 See fn.297 above.

313 Interviewed on April 4, 2006; the article first appeared in *Personnel Today* magazine entitled "Cabinet Chief proves a safe bet". It can be found at <http://hr.civilservice.gov.uk>.

314 See www.civilservice.gov.uk.

315 The Cabinet Office is at the "centre of the Civil Service". The Department "supports, advises and monitors HR functions and managers issues across the service".

316 *Professional Skills for Government—Progress Report from the Civil Service Management Board* (Cabinet Office, May 2005).

317 The National School of Government is intended to develop a role as a centre of excellence for learning and development across the public sector.

318 New governance arrangements for Civil Service management were announced by Sir Gus O'Donnell, effective from December 19, 2005. All first permanent secretaries would form a new group—the Permanent Secretaries' Management Group ("PSMG") to succeed the Civil Service Management Board ("CSMB"). It would meet approximately every quarter to "consider issues of concern to the Civil Service as a whole".

319 See fnn.50, 230 and 297 above.

320 See fn.292 above.

321 See further fn.109 above. Open source software is software where the source code is freely distributed with the right to modify the code and on condition that redistribution is not restricted.

discussion paper³²² on the Government's plan to remodel the "landscape of regulation" in the public sector. At issue was how to ensure that government plans to reduce the "overall amount spent on inspecting public services" was balanced against the value of "the emerging evidence of sustained improvement in the performance of many of our public bodies". It is not unexpected that an independent contributor to policy development is likely to pick up potential flaws or difficulties in the discharge of policy that may not, otherwise, have been identified within the routine of ongoing day-to-day administration. The paper also argued strongly that, at operational level, government should not attempt to override the professional judgement of the independent regulator in relation to individual public bodies or services. It might be an easy target, but a reduction in the funding and, therefore, the potential effectiveness of the public service inspectorate should not be undertaken as a means of avoiding more politically sensitive budgetary cuts elsewhere.

It was, perhaps, with the need in mind, occasionally, to "reign in government" against its own ambitions, that Parliament recently and successfully sought amendment to the Legislative and Regulatory Reform Bill 2006.³²³ This was to ensure that, what critics referred to as "astonishingly broad powers on Ministers to make the law of the land"³²⁴ without direct recourse to Parliament, would only be used to deliver "reductions in unnecessary red tape within the Government's Better Regulation agenda".³²⁵

Clearly, there are serious challenges ahead as the Government attempts to apply its transformation agenda to the modernisation of the public sector. What has been seen is that the issue goes well beyond questions of efficiency in terms of cost reduction of public administration. A much more holistic picture emerges in which, perhaps, the ultimate goal is a government able to achieve all things—efficient, effective and sustainable government supported by ICT—in which the application of technology begins its slow journey towards a useable form of "intelligent" information for government, or at least an electronic aide memoire. If that occurs then ministers, facing the kinds of problems most recently experienced in the Home Office, might be alerted sooner to the fact that the previously uncollected or otherwise unnoticed data entering their departmental intranet had potential political and practical consequences for policies operating in completely different areas of government responsibility. Having said that it is, of course, clearly evident that government cannot be transformed either by IT, shared services or professionalism alone. Appropriate administrative and personnel structures must also exist, alongside human intelligence, to enable often complex administrative tasks to be effectively conducted and assessed.

It must be the Government's hope, for example, that the Capability Review of the Home Office will set a benchmark for how such a process can work. It may well be that a government department employing almost 70,000 individuals across England and Wales, and with a remit

that includes crime; policing and justice; drugs; terrorism, immigration; community and race relations; collection of statistics in areas such as crime and immigration; and supporting scientific projects such as biometric research for ID cards, is just too large and complex to be managed under present structures.³²⁶ Perhaps more research needs to be done here into the theory of how such large organisational hierarchies can best be made to work in line with the Government's transformation agenda. The current impression given is that the review of departmental structures and remits has not been systematic across government. Rather, it has been driven more by political pressures and the need for short-term responses to events, than by any measured processes. An ongoing and comprehensive review of departmental structures needs to be developed that reflects past experience of performance and builds that into the delivery of the transformation agenda while, at the same time, ensuring that civil servants are able to continue to operate effectively within the change culture that such demands require.

Government information policy

There can be no doubt that the development of a successful information policy is critical to the success of the transformation agenda. The timely production of information in the appropriate form, distributed both within and across government and out to business and the public at large, is the cement that binds together all other components of a successful public sector bureaucracy. Mention has already been made of the efforts, currently underway, to develop approaches towards information-sharing and data management in the digital environment. This must be an ongoing task. The immediate questions relate to the quality of information systems being put in place, their interoperability and the metadata standards that underpin the retrieval of data. Can the CIO and CTO Councils,³²⁷ for example, established to help co-ordinate the transformation agenda, work successfully with the eGU,³²⁸ TNA³²⁹ and private sector service providers to develop the necessary processes and infrastructure for effective information provision? Modernising the information policy of government is a substantial task. One wonders whether a more strategic central approach needs to be taken in the roll-out of the records management programme, where the lead in the development of standards is currently within TNA. Applying the policies and best practice currently emerging from the TNA is a task, perhaps, that lies somewhere between the respective roles of the eGU and OPSI.³³⁰

There is also a question about information quality in terms of value, currency, accuracy and form. It is important,

326 See further www.homeoffice.gov.uk.

327 See above. The Chief Information Officer and Chief Technical Officer Councils operate from within the Cabinet Office with the remit broadly speaking to support transformation and joined-up government.

328 The eGU's work is about "delivering and transforming public services through information technology". The eDelivery Team working within the eGU still focuses predominantly on delivery and technology innovation, i.e. infrastructure, including the Government Gateway.

329 See fn.171 above.

330 The Office of Public Sector Information is described as working "at the heart of information policy, setting standards, delivering access and encouraging re-use of public sector information". It does not, however, deal with broader issues related to data management within government.

322 *The future of regulation in the public sector* (Corporate Discussion paper, Audit Commission, March 2006).

323 See fn.55 above.

324 David Pannick Q.C., "Another blow to Parliament?", *The Times*, February 28, 2006. Clause 2 of the Bill had originally permitted a Minister to "make provision amending, repealing or replacing any legislation" for one of two purposes: "reforming legislation" or implementing recommendations of the Law Commission.

325 *Government amends Legislative and Regulatory Reform Bill* (Cabinet Office CAB022/06, May 4, 2006). For further discussion of Better Regulation policy see fnn.55, 64 and 247 above.

within any large bureaucracy, not to lose sight of the fact that data held may be misleading, inaccurate or incomplete. The data may also lack key elements or be assembled in an inappropriate form for the necessary information to be elicited from it. Care should be taken, therefore, to identify any information deficiencies before such data are subjected to data governance processes.³³¹ Co-ordination of such a task could be handed to OPSI if additional resources are forthcoming to support this work, since OPSI is already heavily involved in information policy development, particularly in encouraging re-use of public sector information within the framework of HM Treasury fiscal policy. Information assurance as to access, etc. is also happening, to some extent, within OPSI's Information Fair Trader Scheme ("IFTS")³³² in relation to that category of information that might have re-use value in the information market place. However, this has not extended beyond a commitment that licensing arrangements should operate fairly across the different sectors of the market.

Apart from the categorisation of the information products within the Information Asset Register³³³ and the information assurance³³⁴ activity pursued by the CSIA³³⁵ and the Communications Electronics Security Group ("CESG") of the Government Communications Headquarters ("GCHQ"), the closest that the UK Government comes towards any form of overt "information quality/suitability assessment" is that found in the work of the Information Commissioner,³³⁶ the Chief Information Officer and the GCN—Government Communication Network. The Information Commissioner, Richard Thomas, however, is confined to delivery of statutory duties to "promote access to official information and to protect personal information", whereas the primary role of the Government's Chief Information Officer, John Suffolk, is to "enable public service transformation through the strategic deployment of technology".³³⁷ The GCN is more a skills organisation, focusing on establishing links between "professional communicators" across government, and to "support them in gaining the skills they need to carry out their roles to a consistent, high standard".³³⁸ That leaves the issue of information content standards subsumed within broader policy development processes undertaken by the PMSU and the eGU.³³⁹

A lead has been taken on this issue by the Advisory Panel on Public Sector Information ("APPSI"). This is a non-departmental public body, established by the Cabinet Office in April 2003, as a successor to the Advisory Panel on Crown Copyright. Its broad remit includes "providing advice on how

to harmonise public sector information policy".³⁴⁰ In its 2005 annual report,³⁴¹ APPSI supported the call for "a Government Minister to be given explicit responsibility for the proactive management of knowledge within the public sector". While the focus was still on ensuring that the "intellectual capital" of the public sector was "captured and re-used", rather than upon the narrower issue of the benefits for policy development of the delivery of public sector information at the right time, in the right form and to the right locations, this is the first independent public organisation to identify the general problem.

APPSI has followed this up with further comments in its response to the Transformational Government White Paper. It wants to see improved "public sector information management" including the "secure retention, preservation and archiving of public sector information"; more effective systems for handling "requests for access to official information" and greater re-use by "publishers, traders, educators and citizens" beyond those uses put to the data by the government departments that captured it in the first place. It also recommends that consideration be given to improved development of document management systems—"systems that help name, store, retrieve and control all computer-based files . . . and word processed documents . . . and email" as well as knowledge management systems, i.e. "the ways organizations gather, manage, and use the knowledge that they acquire".³⁴² APPSI would like to see expansion of knowledge management initiatives that move beyond "inward facing" issues, such as "how to improve performance and efficiency internally", towards external applications: for example, extending a database project designed to identify useful reports for internal use so that it embraces materials that could also be "exploited externally".³⁴³

On the general question of "freedom of information", tangible progress has, of course, been made in securing greater public access to official information. This is clearly a product of the statutory obligations that took effect, in January 2005,³⁴⁴ among public sector organisations, arising from the gradual implementation of the Freedom of Information Act 2000.³⁴⁵ This legislation supports eGovernment policy objectives to the extent that restrictions on public access, that previously limited the public right of access to official information, have now been relaxed. Improved access fulfils a number of relevant criteria of the policy, in better informing and engaging the citizen upon issues that the public might wish to be notified while also perhaps, in small measure, bringing the Government to account. The concern, however, relates to the extent to which the restrictions and exceptions to public access, set out in Pt II of the Act, are likely to thwart

331 Data governance is defined by IBM as "the process by which organisations establish appropriate access to their critical data, by measuring operational risk and mitigating security exposures associated with that access". Source: *Innovations in Corporate Responsibility 2004–2005* (IBM, United States), p.45.

332 The IFTS sets and assesses standards for the re-use of public sector information and is supported by the Information Asset Register ("IAR").

333 The IAR "lists information resources held by the UK Government, concentrating on unpublished resources". In doing the Government claims that it "enables users to identify, from one single source, the information held in a wide variety of government departments, agencies and other organisations".

334 Information assurance is a term used to describe the goal of "ensuring the confidentiality, availability and integrity of all electronically held information". Source: CESG at www.cesg.gov.uk.

335 See fnn.143–144 above.

336 See further www.ico.gov.uk.

337 John Suffolk appointed as Government Chief Information Officer (Cabinet Office CAB018/06, April 26, 2006).

338 See further www.comms.gov.uk.

339 See above.

340 *Advisory Panel on Public Sector Information releases 2005 annual report* (Cabinet Office, CAB 036/05, August 5, 2005). Its chair is Professor Richard Susskind OBE.

341 *Realising the Value of Public Sector Information—Annual Report 2005* (APPSI, 2005).

342 See further <http://en.wikipedia.org>.

343 *Response to Transformational Government* (Letter dated February 1, 2006 by Professor Richard Susskind OBE, Chair APPSI to the Strategy Team, eGovernment Unit, Cabinet Office).

344 See Freedom of Information Act (Commencement No.4) Order 2004, SI 2004/1909 (c.81) which brought into force on January 1, 2005 provisions to enable enforcement of Environmental Information Regulations 2004 (SI 2004/3391) and Freedom of Information Act (Commencement No.5) Order 2004 SI 2004/3122 (c.131) which brought all the provisions of the Act fully into force from January 1, 2005.

345 See fn.184 above.

ambitions for more open government. This will be an issue for Parliament, lobby groups, individuals and the Information Commissioner to judge as time goes by. There is also the mindset of government to consider too. To what extent can it be said that the approach taken by politicians and officials towards greater openness has been fully embraced? If the process has been commenced with a determination to relate freedom of information objectives within the transformation agenda of improved communication with the citizen, shared services and heightened professionalism within the public sector, then freedom of information policy applying, as it does, to approximately 100,000 public authorities in the United Kingdom, will find a useful place within the framework of reform.

In the meantime, the lead on implementation has been taken up by the Department for Constitutional Affairs ("DCA"). A number of guidance documents have been prepared by the Department for use by central government, other public authorities and the public, with statutory codes of practice available dealing with the discharge of public authorities' functions under Pt I of the Act and the management of records in a form consistent with the relevant obligations under the Act. To assist the process, s.19 of the Act requires all public authorities "to make information available pro-actively by virtue of Publication Schemes". These schemes, which the Google search engine lists in some 82 pages of search results, offer details of "classes of information" available from the public authority concerned, with details of how that information might be obtained. Much of that information is accessible from within the web pages of the scheme itself. The 2005 report on the operation of the Act indicated that approximately 2,000 additional information releases per month were emanating from central government as a result of freedom of information requests.³⁴⁶

Information policy in relation to personal data held by central government, and the question of data-sharing across departments and agencies, continue to be issues of concern to the Information Commissioner. The desire for greater efficiency and effectiveness among a whole range of public sector activities inevitably involves the need to access personal data of many different kinds. Aspects of the transformation agenda, particularly the move towards shared services, are bound to raise issues as to the desirability of centralising the holding of personal data by government. The Identity Cards Bill,³⁴⁷ which secured Royal Assent in May 2006, has increased the focus of public attention on this issue. The Information Commissioner has expressed concern that the proposals amount to "much more than a simple identity card" as, "more significantly", a National Identity Register is to be created with "uncertainty remaining" as to the extent of information to be collected and held.³⁴⁸

These and other general concerns about the issue has led the chair of the All Party Parliamentary Internet Group, Derek Wyatt M.P., to call for the appointment of an independent "Trust Intermediary" organisation, similar in stature and independence to the Office of Fair Trading and the National Audit Office. In his view, such a body might "police" public sector use of personal data and intercede in cases where it

considered that proposed data sharing by government was inappropriate. For, example, there was controversy in 2006 when the Driver and Vehicle Licensing Agency ("DVLA") admitted that convicted criminals and "companies" that "did not exist" were able to obtain names and addresses from the vehicle database, prompting a review of the process.³⁴⁹ It is reported that DVLA made £6 million in 2005 from the sale of vehicle ownership details, a 27 per cent increase on the year before.

A Trust Intermediary body could also play a role in advising government on data-sharing policy within the public sector. Although a Cabinet Committee on Data Sharing exists "to develop the Government's strategy" on the subject "across the public sector", and a Data Sharing Practitioners' Group has been established by the former Lord Chancellor's office to "consider problems and solutions", uncertainty remains as to the Government's official position on the issue.³⁵⁰ The basis for some form of "intermediary input" is the M.P.'s view that the Information Commissioner has neither the powers nor the resources to undertake such a role. This issue will continue to re-appear as the transformation agenda unfolds.

One further and often overlooked strand³⁵¹ of information policy relates to the growing importance and value of "geographic" or "geospatial information" as a policy development and administration tool.³⁵² These expressions define information that can be mapped and that communicate where an individual or object may be in relation to others. The necessary data is obtained through remote sensing, mapping and surveying technologies. Google Earth and Microsoft's Virtual Earth and, more recently, Windows Live Local beta are examples of free geospatial resources designed to add value to existing services offered by these providers.³⁵³ Developments in this field, particularly with reference to private sector investment in geospatial data for local communities, is very fast-moving and has high commercial potential. One GIS specialist commented that circumstances were changing almost by the week, with different fronts opening and new ideas developing all the time.

349 The release arrangements are set out in a Voluntary Code of Practice for Private Car Parking Enforcement at www.dvla.gov.uk. See also Delgado, Ludgate and Nichol, "DVLA sells your details to criminals", *Mail on Sunday*, November 27, 2005.

350 "Gov Connect makes itself look daft over data sharing", at www.publicsectorforums.co.uk. Apart from policy for the NHS there appears to be only two consultation papers on the issue: *Privacy and data sharing—The way forward for public services* (Cabinet Office, A Performance and Innovation Unit Report, April 2002) and *For your information: how can the public sector provide people with information on, and build confidence in, the way it handles their personal details?* (Lord Chancellor's Department, April 2003) and a guidance document: *Public Sector Data Sharing: Guidance on the law* (DCA, November 2003). The PIU is now the Strategy Unit of the Cabinet Office. See also fn.186 above.

351 See further *Geographic Information: an Analysis of Interoperability and Information Sharing in the United Kingdom* (Cabinet Office, 2005).

352 These terms are largely interchangeable. Geographic information refers to "information about objects or phenomena that are associated with a location relative to the surface of the earth. A special case of spatial information". Geospatial data is another term used to describe information that is referenced by geographic location. See further www.ordnancesurvey.co.uk.

353 Google Earth, for example, is a 3D graphics application enabling the viewing of aerial photography and satellite images to show views of the earth from above in great detail. Windows Live Local, now available in beta test format, is a free service combining mapping with local search, enabling the user to find information based on a specific location. It includes both mapping and satellite view, including from a 45-degree angle.

346 *Freedom of Information Annual Report 2005—Operation of the FOI Act in Central Government* (Department for Constitutional Affairs, May 2006).

347 Identity Cards Act 2006 (c.71).

348 See www.ico.gov.uk. No specification for this database appears to have been published by the Government which civil liberties advocates cite as a cause for concern.

In the United Kingdom, most of the important work has been carried out by Ordnance Survey ("OS"), the nation's national mapping agency, which has supplied successive governments with its maps and other geospatial support since the mid-18th century. As studies have shown, the aim of many national governments has been to establish a "reliable and integrated reference base" for geospatial information to underpin the e-economy.³⁵⁴ In its first annual report, in 2004, APPSI speculated whether the extent of reliance on geospatial resources within the UK economy was properly understood.³⁵⁵ Given the spread of geospatial investment within the private sector, and new rules on public sector procurement,³⁵⁶ greater pressure than ever before must now be felt by OS as it attempts to sustain its current unique role of "maintaining the national geo-reference base for Great Britain".³⁵⁷

The different strategies deployed by countries to manage such activity have recently been addressed by the OECD in a report on public sector information and digital broadband content:

"Developing a geospatial market requires an efficient Spatial Data Infrastructure (SDI). This means technology, policies, standards and human resources have to enable the acquisition, processing, storage and distribution of geospatial data. Many countries have initiated programmes to establish such a national infrastructure, but strategies and especially the role of private and public institutions differ. For example, the Japanese geospatial information market is largely deregulated and initiatives emerge mainly from the private sector. The United States has also extensively included the private sector. In contrast, in the United Kingdom, the government has taken a leading role in various areas."³⁵⁸

The key elements of UK geospatial support within the public sector can be found in the development of the Digital National Framework ("DNF")³⁵⁹—an open initiative, "developed across organisations" and designed to create standards to support the interchange of information where location is the common denominator.³⁶⁰ Enabling the DNF is OS MasterMap. Its topography layer contains the digital representation of the United Kingdom with in excess of 450 million "uniquely identified geographic features", embedded in the topography layer of the database.³⁶¹ These can support the overlaying of additional geospatial information by commercial or other users of the map database. By a pan-government agreement, OS supplies a portfolio of geospatial

products, including OS MasterMap, to more than 200 public sector organisations.³⁶² Local government has secured access to a range of mapping data for its own use by a Mapping Services Agreement reached in 2005.³⁶³

Until March 2006, OS, which has functioned as a Trading Fund since 1999,³⁶⁴ also enjoyed financial support from the Government for some of its less profitable but necessary mapping activities commissioned in the national interest. This was via a National Interest Mapping Services Agreement ("NIMSA"),³⁶⁵ between the Government and OS, which generated £70 million of investment in OS activity over a six-year period until the agreement's expiry in March 2006. Whether such projects will continue to be funded and, indeed, the future of OS in discharging them does not appear to have been formally resolved, given the current lack of any official statement on the future of NIMSA offered by the Government.³⁶⁶ The same is true of proposals that surfaced in 2005 for a National Spatial Address Infrastructure ("NSAI"), designed to merge several independent sources of address data into a "single, definitive address database". This was intended to support spatial infrastructure currently in use within a wide range of central and local government programmes.³⁶⁷ Failure to reach agreement as to the terms for relinquishing the intellectual property rights in the existing data sets held by participating organisations, as well as uncertainty as to the new ownership arrangements for the data, appear to lie at the centre of the breakdown of the proposal.³⁶⁸ The formation of NSAI is probably no longer viable now, given the recent ministerial changes and the abolition of the ODPM. OS has also launched a possible effective alternative to the proposal in "Address Layer 2", which was added to its OS MasterMap in May 2006.³⁶⁹ This fulfils aspects of the proposed NSAI model with the Valuation Office, Royal Mail and OS elements and appears to have been favourably received so far. Also at stake is finance for

362 The Agreement is operated by the Intra-Governmental Group on Geographic Information, established in 1993 to "enable central government to liaise effectively and exchange best practice in the use of geographic information". The existing agreement set up by the former ODPM expired on March 31, 2006. Renewal of the agreement has been opened up to competition with the outcome not yet clear. See <http://egip.jrc.it>.

363 This replaced a 10-year agreement and was entered into by open procurement process by Local Government Information House, the wholly owned subsidiary of the Improvement and Development Agency ("IDeA") with three suppliers—OS, Intermap and Intelligent Addressing. Its aim is to supply "the latest mapping technology for all local authorities in England, Scotland and Wales".

364 Trading Funds are part of government but operate under different financial arrangements compared with other departments and agencies. Basically they are "arms-length trading organisations" mandated to observe specific financial targets set by HM Treasury.

365 See further www.communities.gov.uk.

366 See *Consultation on the Future of The National Interest Mapping Services Agreement ("NIMSA")* (ODPM, May 2005).

367 See *Towards the National Spatial Address Infrastructure* (ODPM, May 2005).

368 Cross, "Lost in the system—Disagreement continues to delay the creation of a national database of addresses", *The Guardian*, August 18, 2005. See further www.agi.org.uk.

369 Address Layer 2 includes the precise location of more than 27 million postal addresses. Among the enhancements to the Layer 1 version are geographic alternative addresses in BS7666 format, multi-occupancy residences containing flats not normally accessible to postal delivery staff and properties without addresses. Address Layer 2 is intended to "support analysis, decision making and service delivery by utility companies, insurers, retailers, local and central government and emergency services". See further www.ordnancesurvey.co.uk.

354 Murray, "The Digital National Framework—Underpinning the Knowledge Economy" (2003) 2 *Data Science Journal* 146. See also *The Economic Contribution of Ordnance Survey GB—Final Report* (Ordnance Survey, September 24, 1999).

355 *Advisory Panel on Public Sector Information 1st Annual Report* (APPSI, July 2004). It suggested that as far back as 1996 up to 20% of the UK economy was underpinned by geospatial information provided by OS. Independent estimates have put OS's annual value to the UK economy at more than £100 billion.

356 See fnn.433 *et seq.* below.

357 See further *Geographic Information Strategy 2006-08* (Ordnance Survey, 2006).

358 *Digital Broadband Content: Public Sector Information and Content* (Working Party on the Information Economy for the Committee for Information, Computer and Communication Policy of the Organisation for Economic Co-operation and Development, DSTI/ICCP/IE(2005)2/Final, March 30, 2006, p.23).

359 See further www.dnf.org.

360 See *The Digital National Framework—evolving a framework for interoperability across all kinds of information* (White Paper by Ordnance Survey, September 2004).

361 See www.ordnancesurvey.co.uk. The scales 1:1250; 1:2500; and 1:10000 scales are used for urban, rural and mountain/moorland areas respectively.

the Gigateway³⁷⁰—a web service, run by the Association for Geographic Information (“AGI”), designed to “increase awareness of and access to geographic information in the UK”. This was previously funded through NIMSA. However, a budget to operate until the end of March 2007 has been agreed. Currently then, as things stand, NIMSA has been pulled back to support Gigateway and little else.³⁷¹

In assessing the overall government position on geospatial strategy within information policy, it is clear that more needs to be done to define the nature of the present strategy and the role of that strategy in the fulfilment of eGovernment objectives. Until recently, there appeared to have been a distinct lack of focus as to the potential impact of geospatial information upon the conduct of day-to-day government administration. There is certainly little mention of the issue in any of the eGovernment strategy papers. However, in April 2005, the Government established, within the former ODPM, a Geographic Information Panel to “encourage more effective, extensive and systematic use of geographic information” within government and to provide “regular short reports to Ministers”.³⁷² In March 2005, the Panel designate commented that an effective Geographic Information Strategy for the United Kingdom would “reduce duplication and, as a result, costs”—thus ensuring the “effective and consistent provision, management and utilisation of geographic information to support and sustain the needs of the citizen, business and government”.³⁷³

This is a similar type of approach to that taken within OPSI to the appointment of APPSI.³⁷⁴ This represents a small but significant move in the right direction. The initiative will do well if it succeeds in bringing to the fore the importance of geospatial information for policy development and execution within the public sector, and the desirability of its closer integration within the overall framework of information policy.

EU eGovernment strategy

The final section of this monograph focuses upon eGovernment policy development within the EU.³⁷⁵ This will enable the direction taken within the United Kingdom to be compared and contrasted with the EU agenda. Several relevant

EU initiatives can be identified that connect with eGovernment development within the Member States. First, there is the “i2010” Information Society initiative,³⁷⁶ successor to “eEurope2005”,³⁷⁷ originally proposed at the Seville Council in June 2002 and endorsed by the Council of Ministers in January 2003.³⁷⁸ “i2010” (European Information Society in 2010) is the first Commission initiative to be adopted under the EU’s “renewed Lisbon strategy”,³⁷⁹ and seeks an “integrated approach to information society and audio-visual policies in the EU, covering regulation, research and deployment and promoting cultural diversity”.³⁸⁰ Its objective is to ensure that Europe’s citizens, businesses and governments “make best use of ICTs in order to improve industrial competitiveness, support growth and the creation of jobs and to help address key societal challenges”.

Three policy priorities have been identified: the creation of an “open and competitive single market for information society and media services within the EU”; securing an 80 per cent increase in “EU investment in research on information and communication technologies”; and promotion of an “inclusive European information society”.³⁸¹ By ministerial statement, issued during the “Transforming Public Services” conference in Manchester in 2005,³⁸² it was agreed that, during 2006, Member States would “work together to agree a ‘roadmap’ for inclusive eGovernment objectives” to synchronise, where relevant, with “i2010 ICT for inclusion” activities. They would also share experience in developing policies which were “inclusive by design”, such as use of multi-channel architectures for “citizen-centric” service delivery.³⁸³

In its first annual report on the programme, published in May 2006,³⁸⁴ the Commission called for more definitive policy development to enhance “the positive trends in the ICT sector”. The message was one of greater “urgency, partnership and action” in developing innovative services “for the benefit of citizens and for growth and jobs”. Also included, within the i2010 agenda, was the need to establish information security “for the creation of a single European information space”. This was necessary because the “availability, reliability and security of networks and information systems” were increasingly central to the economies of Member States and to the fabric of society.³⁸⁵

370 See further West & Schofield, *Gigateway 2004–2005: A year in review* (www.gigateway.org.uk). Essentially a metadata—data about data—search engine, Gigateway “enables users to quickly discover what geographic data is held by the UK public and private sectors through its datalocator”.

371 *AGI Gigateway Advisory Group Minutes*, March 23, 2006. The AGI exists to “represent the interests of the UK’s geographic information industry”.

372 See www.gipanel.org.uk. See also written ministerial statement to the House of Commons on July 20, 2004 (HC Vol.424, cols 13–15WS). For a full discussion of public policy, see Saxby, “Public Policy and the development of a UK National Geographic Information Strategy” (2006) 14(2) *International Journal of Law and Information Technology* 147–194 at www.ijlit.oxfordjournals.org.

373 *Work to date on GI strategies in the United Kingdom—Background Paper* GIP 1/05 (Geographic Information Panel, March 16, 2005).

374 The Advisory Panel on Public Sector Information. See fnn.341 *et seq* above.

375 Within the EU eGovernment is defined as “the use of information and communication technologies in public administrations combined with organisational change and new skills in order to improve public services and democratic processes and strengthen support to public policies”. Source: *The Role of eGovernment for Europe’s Future* (COM (2003)567 final, Brussels, September 26, 2003), p.7.

376 See: *Signposts towards eGovernment 2010* (European Commission Information Society and Media, November 2005).

377 *eEurope 2005: An information society for all* (COM(2002)263 final, Brussels, May 28, 2002).

378 Council Resolution on the implementation of the eEurope 2005 Action Plan (Council of the European Union, 5197/03, Brussels, January 28, 2003).

379 *i2010—A European Information Society for growth and employment* (COM(2005)229 final, Brussels, June 1, 2005). See also *Challenges for the European Information Society beyond 2005* (COM(2004)757 final, Brussels, November 19, 2004) and *Working together for growth and jobs—A new start for the Lisbon strategy* (COM(2005)24 final, Brussels, February 2, 2005).

380 See <http://europa.eu.int>.

381 fn.378, above.

382 See fn.4, above.

383 *Ministerial Declaration approved unanimously on 24 November 2005, Manchester, United Kingdom* (Transforming Public Services Ministerial eGovernment Conference 2005, UK Presidency of the EU 2005).

384 *i2010—First Annual Report on the European Information Society* (COM(2006)215 final, Brussels, May 19, 2006). See also *Commission Staff Working Paper* (SEC(2006)604, Brussels, May 19, 2006).

385 See *A strategy for a Secure Information Society—“Dialogue, partnership and empowerment* (COM(2006)251, Brussels, May 30, 2006). This paper revitalises the strategy set out in 2001: *Network*

In April 2006, the European Commission published an "i2010 eGovernment Action Plan".³⁸⁶ This is the first specific statement on the issue within i2010 strategy. Five major objectives were defined, with targets set for 2010. First, all citizens should benefit from "trusted, innovative services and easy access for all". Secondly, efficiency and effectiveness needed to become reality with "high user satisfaction, transparency and accountability, a lighter administrative burden and efficiency gains". Thirdly, all public procurement should be available electronically with 50 per cent actual usage, as well as "agreement on co-operation on further high-impact online services". Fourthly, "key enablers" should be put in place to enable citizens and businesses, by 2010, to benefit from "secure and interoperable authenticated access across Europe to public services". Finally, participation and democratic decision-making should be strengthened by developing the "tools for effective public debate". The Action Plan concluded that effective and innovative public administrations were "essential to a globally competitive Europe", and that eGovernment was "the key to unlocking potential in the public sector".

A further communication about i2010 was published by the Council of the European Union in June 2006, following a meeting of the Transport, Telecommunications and Energy Council.³⁸⁷ It listed again the priorities of the Action Plan—inclusive eGovernment; efficient and effective eGovernment; high impact services (such as eProcurement and other services with a direct impact on the internal market); and key enablers, including management of electronic identifications. The Communication called on Member States and the European Commission to undertake "all necessary efforts" to promote the policy and implement the "specific objectives, actions and roadmaps".

To some extent, implementation of the Action Plan will rely on "co-operation within the Member States and other stakeholders" participating in the programmes already operating in the relevant areas. Currently, the European Commission, through its eTEN programme,³⁸⁸ has made funds available to support projects for the deployment of trans-European e-services. Included in this is support for the use of electronic services "provided by or for public administrations". It also covers services designed to "facilitate citizen participation in democratic processes", as well as services which "support government process transformation".³⁸⁹ Local government has also benefited from EU support for eGovernment related initiatives through the "IntelCities" project,³⁹⁰ which ran from January 2004 until October 2005.³⁹¹ This was designed to "pool expertise" and generate "advanced knowledge" of eGovernment and how the "transformation of public services could be achieved through innovative local eGovernment solutions". This

involved collaboration between 18 cities, 19 ICT companies, 35 research groups (including 16 small and medium-sized enterprises (SME's)) in 20 European countries. Much emphasis has been placed on sharing experience and best practice.

Other relevant and supporting initiatives include the Information Society Technologies ("IST") research programme³⁹²; the Modinis programme,³⁹³ providing the financial support for implementation of the former eEurope 2005 Action Plan; and eContentplus,³⁹⁴ supporting the development of "multilingual content for innovative, online services across the EU". For the period 2007–2013, the European Commission has also established the Competitiveness and Innovation Framework Programme.³⁹⁵ This is intended to build on the achievements of the initiatives just described, and to stimulate:

"the new converging markets for electronic networks, media content and digital technologies ... test solutions to the bottlenecks that delay wide European deployment of electronic services ... and support the modernisation of public sector services that will raise productivity and improve services".

Another significant initiative of the European Commission that supports i2010 is the IDABC Programme (Interoperable Delivery of pan-European eGovernment Services to Administrations, Businesses and Citizens). IDABC is effectively the third phase of a programme that first commenced in 1995 with the adoption of a project on the Interchange of Data between Administrations ("IDA"). This aimed to enhance the synergy between European and national information systems through "IT empowered networks for information exchanges in the different community policy areas".³⁹⁶ Its focus was on areas such as employment, health, agriculture, statistics and competition. A second phase of the programme (IDA II) was launched in 1999 and ran until the end of 2004. This sought to extend the implementation of networks and the measures and services needed to ensure interoperability, in areas such as economic and monetary union, consumer protection, health and transport.³⁹⁷ In October 2002, both decisions were amended, in part to adapt the IDA II programme to the needs of the "eGovernment chapter" of the eEurope Action Plan.³⁹⁸ The outcome has been establishment of a secure network communications infrastructure for data interchange—TESTA

392 See <http://cordis.europa.eu>. European research activities are "structured around consecutive programmes, or so-called Framework Programmes. The Sixth Framework Programme (FP6) sets out the priorities—including the IST Priority—for the EU's research, technological development and demonstration (RTD) activities for the period 2002–2006. The proposals for FP7 (2007–2013) await approval and adoption by the European Parliament and Council".

393 See <http://europa.eu.int>.

394 See <http://cordis.europa.eu>.

395 See <http://cordis.europa.eu>.

396 Council Decision of November 6, 1995 on a Community contribution for telematic interchange of data between administrations in the Community (IDA) (95/468). See further <http://europa.eu>.

397 Decision 1719/1999 of the European Parliament and of the Council of July 12, 1999 on a series of guidelines, including the identification of projects of common interest, for trans-European networks for the electronic interchange of data between administrations (IDA); and Decision 1720/1999 of the European Parliament and of the Council of July 12, 1999 adopting a series of actions and measures in order to ensure interoperability of and access to trans-European networks for the electronic interchange of data between administrations (IDA).

398 Decision 2046/2002 [adoption: co-decision COD/2001/210] and Decision 2045/2002 [adoption: co-decision COD/2001/211] (October 21, 2002).

and Information Security: Proposal for a European Policy Approach (COM(2001)298 final, Brussels, June 6, 2001).

386 *i2010 eGovernment Action Plan: Accelerating eGovernment in Europe for the Benefit of All* (COM(2006)173 final, Brussels, April 25, 2006).

387 *Council Conclusions on eGovernment for all Europeans* (2735th Transport, Telecommunications and Energy Council meeting, Luxembourg, June 8–9, 2006).

388 eTEN is a "key instrument of the eEurope Action Plan 2005. See <http://europa.eu.int> and *eTEN: Deploying Trans-European eServices for All* (European Commission, 2005).

389 See <http://europa.eu.int>.

390 See www.intelcitiesproject.com.

391 See *IntelCities Publishable Final Activity Report M1-M22, 1 January 2004–7 October 2005* (Contract No.507860) at www.intelcitiesproject.com.

(Trans-European Services for Telematics between Administrations) that includes most Member States and the European institutions. TESTA will also support "pan-European services for citizens and businesses" once projects develop.

Phase III of IDA, which is now the IDABC Programme, commenced in January 2005 and runs until 2009.³⁹⁹ Its priority is no longer limited to the narrow issue of "equipping" organisations within the public sector with ICT, but on how to use these technologies "to improve collaboration between organisations and facilitate interaction with civil society at large".⁴⁰⁰ This includes delivery of cross-border public services to citizens and enterprises, enhanced forms of collaboration between European public administrations, and raising the profile of Europe as "an attractive place to live, work and invest". In addition to its work just described, the IDABC eGovernment Observatory analyses eGovernment strategies within the Member States, providing a wide range of information resources reporting on this work.⁴⁰¹ More work is also being carried out to measure progress among European governments in making relevant and innovative use of ICT to deliver better services and ensure accessibility.⁴⁰²

A further strand of policy that intersects with i2010 Strategy is regulation of the re-use of public sector information. This must be distinguished from access regulation, dealt with under freedom of information criteria, which normally does not grant an automatic right of re-use.⁴⁰³ The Commission argues that PSI is an important economic asset, constituting "the raw material for new digital products and services" and a "key data input for eCommerce trading". PSI products, such as geographic information produced and held within the public sector, combined with the presence of "good and readily available" information products based on public sector information, are judged as vital to facilitating the "functioning of the Internal Market as a whole" with "considerable" social and economic potential that is "largely untapped".⁴⁰⁴ In November 2003, after lengthy discussion as to the form it would take, the EU introduced a Directive on the re-use of public sector information ("PSI Directive").⁴⁰⁵ The original Green Paper⁴⁰⁶ had been published back in January 1999, but the Proposal for the PSI Directive took a further three and a half years to materialise.⁴⁰⁷ The reason

for this was that securing agreement on the harmonisation arrangements for PSI within Europe took time to negotiate both within the Member States and among the private sector information industry. The result is a measure that seeks to define principles for the removal of barriers to re-use rather than imposing specific terms of access to PSI. It therefore focuses on the issues of competition; transparency; non-discrimination; fair trading; requests and conditions for re-use; and charges linked to cost.

The PSI Directive was implemented in the United Kingdom by regulation in July 2005,⁴⁰⁸ and has had a significant impact on information policy contributing, for example, to the impetus for development of the Information Fair Trader Scheme and the Information Asset Register.⁴⁰⁹ OPSI, supported by its independent advisory group APPSI, continues to work within the public sector to review practices and develop common standards in line with EU policy. Article 13 of the PSI Directive requires a review of its application by July 2008. In the meantime, a Commission Decision⁴¹⁰ has been published setting out conditions for the re-use of documents held by the Commission, or on its behalf, by the Office of Official Publications of the European Communities. Its purpose is to enhance the "image of openness of the Commission, to facilitate wider re-use of Commission material and to reduce administrative burdens for both re-users and the Commission itself".⁴¹¹

The European Commission has also been active in relation to policy towards geospatial information. Between November 2001 and January 2004, the IST programme⁴¹² funded the GINIE research project—Geographic Information Network in Europe.⁴¹³ Its partners were EUROGI (the European Umbrella Organisation for Geographic Information); the Open GIS Consortium Europe (representing the GI industry); the Joint Research Centre of the European Commission; and the University of Sheffield as co-ordinator. The programme originated from the prevailing circumstances surrounding the "demise of the GI2000 proposal" for a Commission communication on the creation of a policy framework for GI in Europe.⁴¹⁴ Other events also contributed, such as the proposal for the PSI Directive, which addressed some of the geospatial policy issues, but not in any specific form. The project's aim was to develop a "deeper understanding of the key issues and actors affecting the wider use of GI in Europe, and articulate a strategy to promote such wider use" that would be "consistent with major policy and technological developments at the European and international level".⁴¹⁵

In just over two years the project produced a significant volume of research material including reports, surveys, case studies and workshops. In broad terms the project concluded, first of all, that GI had a major role to play "in addressing societal demands and exploiting the opportunities opened up by policy and technology". Secondly, GI had an "economic

399 Decision 2004/387 of the European Parliament and of the Council of April 21, 2004 on the interoperable delivery of pan-European eGovernment services to public administrations, businesses and citizens (IDABC).

400 *IDABC Work Programme 2005-2009 Second Revision* (February 28, 2006).

401 However, the views expressed do not state the official position of the European Commission. See the IDABC website at <http://ec.europa.eu>. See also fn.7 above.

402 Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee and the Committee of the Regions—eAccessibility (COM(2005)425 final, Brussels, September 13, 2005) and *eAccessibility of public sector services in the European Union* (UK Presidency of the EU 2005, November 2005).

403 Under UK reg.5(2)(c) (see fn.408 below) unless otherwise accessible, information not available under the Freedom of Information Act 2000 is exempt from re-use rules.

404 See <http://europa.eu.int>.

405 Directive 2003/98 of the European Parliament and of the Council of November 17, 2003 on the re-use of public sector information. A separate Directive 2003/4 of January 28, 2003 dealt with public access to environmental information repealing Council Directive 90/313.

406 *Public Sector Information: A Key Resource for Europe—Green Paper on Public Sector Information in the Information Society* (COM(1998)585 final, Brussels, January 20, 1999).

407 Proposal for a Directive of the European Parliament and of the Council on the re-use and commercial exploitation

of public sector information (2002/C 227 E/17) (COM(2002) final—2002/0123(COD) submitted by the Commission on June 5, 2002).

408 The Re-use of Public Sector Information Regulations 2005 (SI 2005/1515). This followed a consultation process and regulatory impact assessment reported at www.opsi.gov.uk.

409 See fnn.332 and 333 above.

410 Commission Decision of April 7, 2006 on the re-use of Commission Information (2006/291, Euratom).

411 See further <http://europa.eu.int>.

412 See fn.392 above.

413 See www.ec-gis.org.

414 See www.eurogi.org.

415 *GINIE Final Report*, Report D 1.5.1 (Geographic Information Network in Europe, ISR-2000-29493, January 2004), p.3.

value in its own right as a major component of PSI" and offered the basis for creation of "new markets and jobs in the value-adding and location-based industries". Thirdly, GI had a "social and policy value" in offering clearer insights as to where policies might be "integrated" or intervention "targeted", thus providing "tangible benefits to citizens, business and government". Finally, it noted, somewhat optimistically perhaps, that governments across the world "increasingly understood the value of GI" and were "taking action to develop and exploit this asset". It also articulated what it identified as "continuing obstacles" to development of GI policy in Europe, including gaps in spatial data; inadequate documentation on available spatial data sets; incompatible spatial data and GI initiatives; barriers to sharing and re-use; a lack of progress towards interoperability; isolation among GI communities; a lack of co-ordination and leadership; underestimation of the cultural and organisational issues involved in assimilating geospatial information; insufficient reported evidence of short- and medium-term benefits of spatial data infrastructure; and insufficient consideration given to the "crucial need" for capacity-building (education, training) and targeted research.⁴¹⁶

At about the same time as GINIE began its research work on GI policy development, the European Commission established the INSPIRE initiative (Infrastructure for Spatial Information in Europe).⁴¹⁷ According to the INSPIRE website,⁴¹⁸ the original intent was to respond to the Sixth (2002–2012) and, prior to that, the Fifth (1992–1998) Environmental Action Programme, which called for environmental objectives and priorities to be set as an integral part of EC strategy for sustainable development.⁴¹⁹ The argument was that an information base that provided "detailed, relevant, harmonised spatial information for different policy areas" that was commonly accessible "could significantly contribute to this objective": yet, currently, exploitation of GI was "hampered by lack of standards, of data and of a coherent policy". Nevertheless, those involved in INSPIRE were optimistic that awareness of the need for quality geo-referenced information was growing at national and EU level, as a means of helping governments understand "the complexity and interactions between human activities and environmental pressures and impacts".⁴²⁰

The upshot of this initiative has been a Commission Proposal for an INSPIRE Directive, to provide the legal framework for the establishment and operation of an infrastructure for spatial information in Europe that would deal with issues of "availability, quality, organisation and accessibility . . . common to a large number of policy themes experienced across the various levels of public authority".⁴²¹

As of June 2006, the Proposal continues to make its way through the co-decision procedure, whereby the European Parliament and the European Council, representing Member States, must consider the proposal and form their common

positions.⁴²² At the outset, back in February 2004, the ODPM indicated that the UK Government's stance would be broadly supportive of the aspirations of the proposed Directive.⁴²³ However, since then, the Government has run into conflict with the European Commission over the impact of UK Crown copyright policy on what the Commission would like the Proposal to contain in terms of access arrangements.

Articles 14 and 15 of the proposed Directive, as at First Reading (June 2005),⁴²⁴ require Member States to "establish and operate network connection services for making metadata and spatial datasets and services accessible" to the public. This includes the ability to search, view, download and transform the data. Further, by Art.20, spatial data sets and services should also be shared between public authorities. Operating within this legislative process, the UK Government was pleased to endorse amendment to the original text, both at First Reading and when carried through as a recommendation for Second Reading, following final approval of the common position by the European Council in January 2006. The explanatory statement accompanying the recommendation for Second Reading indicates that the European Parliament's position was that, while intellectual property rights should not be "an impediment to making information available . . . additional conditions may be imposed (e.g. click licence)".⁴²⁵ The UK Government wanted this established to ensure that the Proposal was "compatible with UK government policy on information trading" and "fully respected intellectual property rights", including those of the public authorities themselves.⁴²⁶

In its response to these amendments, the European Commission has made it clear that it opposes the suggestion that intellectual property rights held by public authorities should be "among the list of grounds for limiting public access to spatial data".⁴²⁷ It specifically opposes the possibility that public access, as a result of online searches for spatial

422 The co-decision procedure is the main legislative procedure by which law can be adopted in the European Community. See <http://ec.europa.eu>.

423 This was in a letter to the Association for Geographic Information which was described as "the recognised national organisation representing the UK geographic information community". Source: *Spatial Data Infrastructures in the United Kingdom: State of Play Spring 2004*—Country Report on SDI elaborated in the context of a study commissioned by the EC (EUROSTAT & DGENV) in the framework of the INSPIRE initiative (INSPIRE, Spatial Applications Division K.U. Leuven Research & Development, August 2004), para.1.2.4.

424 Position of the European Parliament adopted at first reading on June 7, 2005 with a view to the adoption of European Parliament and Council Directive 2005/. . ./EC establishing an infrastructure for spatial information in the Community (INSPIRE).

425 Draft European Parliament Legislative Resolution on the Council common position for adopting a directive of the European Parliament and of the Council establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (Recommendation for Second Reading, Rapporteur: Frederika Brepoels, FINAL A6-0081/2006, May 2, 2006) Explanatory Statement.

426 This explanation was offered by the Government in a letter dated September 6, 2005 to the House of Commons European Scrutiny Committee. See *Fifth Report of Session 2005–06 HC34-v* (Report together with formal minutes, House of Commons European Scrutiny Committee, October 12, 2005), para.24.6.

427 Communication from the Commission to the European Parliament pursuant to the second paragraph of Art.251(2) of the EC Treaty concerning the common position of the Council on the adoption of a Directive of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (INSPIRE) (COM(2006)51 final, Brussels, February 10, 2006), p.6.

416 *ibid.*, at pp.15–16.

417 See <http://inspire.jrc.it>.

418 *ibid.* See also Memorandum of Understanding between Commissioners Wallström, Solbes, Busquin—Infrastructure for Spatial Information in Europe (INSPIRE) (European Commission, April 11, 2002).

419 See <http://ec.europa.eu>.

420 *Why INSPIRE—the need for the INSPIRE Initiative* at <http://inspire.jrc.it>.

421 Proposal for a Directive of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (INSPIRE) (COM(2004)516 final, Brussels, July 23, 2004), Recital 3.

data sets, might be limited by Crown copyright, "as this would mean that the public would not even be able to learn of the existence of the data".⁴²⁸ It would seem that this impasse can only be resolved by political decision, taken by both parties. However, having successfully negotiated the rights issue in relation to the PSI Directive,⁴²⁹ it is unlikely that the UK Government will want to give way now. Crown copyright has always been of critical support to the approach taken by HM Treasury towards the operation of Trading Funds, i.e. the means of "financing the revenue-generating operations of a government department, which takes them outside the Supply process".⁴³⁰ Any relaxation in such arrangements, precipitated by the EU, would have major implications for the financing of central government operations and would, therefore, require a radical rethink of domestic policy towards the funding of relevant departments, agencies and trading funds. The Government has also made it clear that Crown copyright is "outside the scope" of the Gowers independent review of intellectual property law, announced by the Chancellor of the Exchequer, on behalf of the Government, in December 2005.⁴³¹ On the other hand, it is precisely this kind of debate that has prompted the "Free our Data" campaign, mounted by *The Guardian* newspaper. This has led to vociferous calls from some members of the public and from parts of the information industry for further relaxations of policy towards public access to information, information products and services to be accepted.⁴³²

The final area of EU regulatory activity that relates, in relevant part, to eGovernment policy, is public procurement. According to the public procurement section of the European Commission's Internal Market⁴³³ website, current public procurement spending within the EU in 2002, "i.e. the purchases of goods, services and public works by governments and public utilities, was estimated at about 16% of the [European] Union's GDP or €1,500 billion" at that time.⁴³⁴ The Commission argues that the "opening up" of public procurement within the Internal Market has "increased cross-border competition and improved prices paid by public authorities". However, there was potential for "significant further competition" in procurement markets and "further savings" to be made on behalf of taxpayers.⁴³⁵

428 *ibid.*, at para.3.1.

429 fn.405 above. The position is stated in Recitals 22 and 24.

430 *Guide to the establishment and operation of Trading Funds* (Central Accountancy Team, HM Treasury, May 2004).

431 *Gowers Review of Intellectual Property—Call for Evidence*, p.5 at www.hm-treasury.gov.uk. At the Enterprise Conference on December 2, 2005 the Chancellor of the Exchequer announced that, as part of the Pre-Budget Report 2005 package, he was asking Andrew Gowers, former editor of the *Financial Times*, to lead an independent review into the intellectual property framework in the UK since IP was a "critical component of our present and future success in the global economy". The review is expected to report in the autumn of 2006.

432 See www.freeourdata.org.uk. For a full discussion of the issue as it specifically relates to the INSPIRE Proposal, see <http://egip.jrc.it>.

433 The Internal Market refers to the establishment of the single market in the European Community in 1992 when the Maastricht Treaty was signed. It is in effect a customs union operating common policies for product regulation and free movement of goods, services, capital and labour. See further *The Internal Market—Ten Years without Frontiers* (European Commission, Internal Market and Services, January 7, 2003).

434 See <http://ec.europa.eu>. Among Member States the proportion varies significantly from 11%–20% of GDP.

435 *ibid.* See also the work cited in fn.433 above, at p.25.

The current regulatory regime on public procurement has its roots in a Green Paper of November 1996,⁴³⁶ which set out to define the principles for future policy. Subsequently, this progressed to a "legislative package" of public procurement directives,⁴³⁷ approved in 2004, imposing "EU-wide competitive tendering for public contracts above certain value",⁴³⁸ as well as requirements for "transparency and equal treatment for all tenderers". The aim is to secure best value for money, combined with fair conditions of competition for suppliers.

These Directives were implemented within UK law by regulations in January 2006,⁴³⁹ and now require some adjustment to domestic procurement practices to bring present arrangements into line with the new rules. This process is being led by the OGC, which also has responsibility for the existing "efficiency" programme of the present government in seeking value for money in public procurement.⁴⁴⁰ One consequence of the new rules is that any renewal of existing or recently lapsed commitments between the Government and OS, such as NIMSA or the Pan Government or Mapping Services Agreements, will now have to be conducted under the new EU rules.⁴⁴¹ The Pan Government Agreement expires on September 30, 2006 and the PGA 2 Procurement process is being handled by DCLG. In line with the new transparency requirements DCLG has already stated that it is "aware of the perception of a conflict of interest in its dealings with Ordnance Survey", since it also has responsibility for OS in monitoring its commercial performance as a Trading Fund. Accordingly, to finalise its approach to procurement of PGA 2, it performed a market sounding in June 2005 and published the response.⁴⁴² The Contract Notice for the PGA was issued later that year in October.

Further work on procurement policy continues in DG Internal Market and Services. This includes an updated classification system for public contracts; clarification of EU rules on public-private partnerships; and guidance on implementation of new e-procurement rules emanating from the latest public procurement directives. The European Commission has also recently proposed strengthening the rights of rejected bidders to allow them to challenge decisions made by public authorities when selecting a supplier.

In summing up the EU position on eGovernment, it is clear that a similar type of agenda exists in Brussels to the plans of Member States to deliver domestic reforms. The position is more complicated for EU policymakers, however, as the intent must be to develop a policy that can embed

436 *Green Paper Public Procurement in the European Union: Exploring the way forward* (Communication adopted by the Commission on November 27, 1996 on the proposal of Mr Monti).

437 Directive 2004/17 of the European Parliament and of the Council of March 31, 2004 co-ordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors and Directive 2004/18 of the European Parliament and of the Council of March 31, 2004 on the co-ordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

438 See Commission Regulation 2083/2005 of December 19, 2005 amending Directives 2004/17 and 2004/18 of the European Parliament and of the Council in respect of their application thresholds for the procedures for the award of contracts.

439 The Utilities Contracts Regulations 2006 (SI 2006/ 6) and the Public Contracts Regulations 2006 (SI 2006/5).

440 See further fn.66 above.

441 See further fnn.362–371 above.

442 See further www.iggi.gov.uk. A market sounding is defined as "an opportunity to explain a proposed procurement strategy to interested parties and invite feedback on the proposals". See "frequently asked questions".

itself successfully throughout the EU, including among its new members. This has to be achieved without impinging beyond what is necessary to secure the broad objectives of the Treaties, and must not unnecessarily interfere with national policies when this can be avoided. As a separate issue the EU must, of course, apply eGovernment or "transformational" processes to its own practices and bureaucracy and do so in a manner that will meet with approval across the EU.

Conclusion

This study has set out to map the development of eGovernment policy within the United Kingdom and to do so primarily from data to be found in official publications. It has been tempered by further analysis of public statements made by the relevant officials at recent public sector conferences and through the media. Where appropriate, further insights have been gained from direct contact with officials and politicians working in the area. The result is the presentation of what this author believes is a coherent definition of the map of eGovernment in the United Kingdom up to mid-June 2006.⁴⁴³ Beyond the broad strokes of policy, it cannot be said, in truth, that a formal, separate "eGovernment strategy" necessarily continues to exist as a detailed independent policy, beyond the natural ambitions of any sensible public administration to encourage the effective and efficient use of ICT in the delivery of good government. That is entirely appropriate for a policy that began as a means to an end and has now run its initial course. Having achieved its basic objectives, at least in terms of putting the building blocks in place, the policy has now become more specific and discernable within the "transformational agenda" that took over in 2005. Strands of that policy stand out in terms of the official attention attributed. These include improving public service delivery to the citizen, creating efficiencies through shared services, and endeavouring to cut out examples of waste in public procurement and deficiencies in ICT project management, where noted difficulties have arisen.

Extensive efforts, too, are being made within local government to bring it up to date with the modernisation programme, although the problem is more complicated here, given the central/local axis of shared statutory responsibility. Care needs to be taken to ensure that central government provides the necessary support for these transformational processes, while fulfilling its responsibilities as the national government to reform local government infrastructure where impediments to progress are identified. Continuous efforts also need to be made to retain morale among the public sector work force during the process of re-organisation and change that must now be tolerated as a constant in public administration. Public officials also need to be equipped with the necessary professional skills to undertake the tasks that government has set in adapting to these changes. Much work still needs to be done to restructure public sector bureaucracy into more effective units, as demonstrated recently by ministerial admissions that parts of the Home Office were not "fit for purpose" in their present form. There are issues, too, with information policy, getting up to speed with geospatial information and addressing real public concerns about trust in public sector use of personal data. It may be that existing powers of oversight, available under data protection and freedom of information legislation, are not sufficiently robust

to satisfy a public that remains sceptical about government assurances that it "can be trusted".

With regard to eDemocracy, there appears to be no more than cautious enthusiasm within government for promoting increased public participation and debate on policy issues. Not surprisingly, greater enthusiasm exists to develop a secure scheme for online voting at elections. Nevertheless, the Government has said it welcomes the receipt of public comment on public sector reform and the Better Regulation Executive did issue, in 2004, a Code of Practice on Consultation processes designed to guide the public through the means of taking part.⁴⁴⁴ Parliament has also shown some enthusiasm for looking at participation issues during the Committee Stage of Public Bills.⁴⁴⁵ Beyond that, experiments with online communication between government and electorate appear to be limited to examining ways to improve outward information flows, while developing a range of channels for undertaking transactional services with the citizen.

On the question of public information access rights, the assumption appears to be that offering a modest increase in the scope of those rights will go a long way towards fulfilling the Government's democratic responsibilities. Present rules, however, do not seem to have created a coherent set of conditions to bind government to the timely and organised publication of official documents and reports. It is submitted that this is an equally important issue. There is certainly no independent oversight of this matter, other than what Parliament can secure from its day-to-day deliberations. Too often release of politically sensitive material—particularly that which may be critical of the Government—is either delayed or only partially published or withheld altogether. The lack of duty here has created an informal system of leaking selected facts or political spin to the media, either by official briefing or unauthorised release that, regrettably, has become endemic within UK political activity. The inevitable consequence of such processes is the complaint that government is unduly engaging in news management for political purposes.⁴⁴⁶ More transparency and clarity is essential here if accountable government and, ultimately, good government is to prevail.

Considering the broader issue of enhanced public participation through eDemocracy, some sympathy for the Government's predicament can be offered, for it is by no means clear, as yet, how information flows produced by such processes might be managed and appraised, particularly if they were to become voluminous. Indeed, bombarding Congress with emails has become a popular tactic among campaigners in the United States. Pragmatists might respond with the argument that governments must govern, so perhaps part of the answer to the participation issue might be satisfactorily addressed if government was to show greater willingness to engage with Parliamentary Select Committees, as custodian of the public interest, in securing accountability and policy review. Ideally, the executive's response might be

⁴⁴⁴ See fn.247 above.

⁴⁴⁵ *Committee Stage of Public Bills: Consultation on Alternative Options*, HC 810 (House of Commons Select Committee on Modernisation of the House of Commons, First Special Report of Session 2005–06, January 16, 2006). See further fnn.250 and 251 above.

⁴⁴⁶ A case in point concerns the Independent Police Complaints Authority report, of January 2006, into the shooting of a Brazilian in London, in 2005, who was mistaken for a suicide bomber. Some five months after the report was submitted to the Crown Prosecution Service and despite leaks to the press, no copy had been officially released to the Metropolitan Police Authority that has statutory responsibility for ensuring the accountability of London's police.

⁴⁴³ This monograph is current to June 15, 2006.

a more relaxed attitude towards the release of information and the grant of permission for ministers and officials to be examined by such committees. Governments need to realise the value and constitutional place of this process, particularly when issues are complex and difficult. While some progress has been made in the development of objective models for measuring performance in specific areas, such as HM Treasury models of trends in the national economy,⁴⁴⁷ and while the excellent work of the NAO and PAC continues, the Government must never lose sight of the fact that it is the policies themselves that ultimately need to be evaluated and politically accounted for in the public interest.

Neither can it be said that, up to this point, any concerted progress has been made in harnessing the potential of ICT in raising the quality of policies themselves or identifying connections or flaws in the way that separate policies operate and interact. It is this author's opinion that, in the longer term, information policy will be crucial to establishing such gains. The delivery of information in the right form and of the right content, delivered where it is needed and on time, must be the ultimate goal. If this can be achieved, policy insights will be gained within government that might not otherwise have been perceived had the data not been produced in a suitable form when needed. Maybe the contribution of independent bodies, such as APPSI and the GI Forum, can offer guidance on this issue, i.e. a blueprint for a style of dispassionate policy review that government could routinely incorporate into its strategic thinking. There is evidence that the official popularity of this style of consultation is growing as seen, for example, in the appointment of the Gowers review of intellectual property⁴⁴⁸; the Gershon reviews of public

sector efficiency and procurement⁴⁴⁹; the Lyons Review of public sector relocation⁴⁵⁰; and the Bichard Inquiry⁴⁵¹ into the Soham murders.

Responding to the challenge of eGovernment is complex and requires a response across all sectors of public administration. The UK Government has some clear ideas as to where it wants to go, but the speed of progress still very much depends on how successful it is going to be in coping with the minutiae of issues and questions that underpin the shift from eGovernment to the transformational agenda. Although some targets have been identified it must, of course, never be forgotten that the process of governing never ends. There is always the next concern and the next task for government to deal with. The process can never be smooth, but crisis management is and can be planned for, along with more routine forms of change management. While a successful policy on these issues can smooth the process of decision-making and promote efficient public administration, policy-makers must continue to innovate and Parliament must continue to monitor the executive's performance in what is being undertaken on the electorate's behalf. In marking the Government's card, then, there is much to commend it for its ambition and attempts to develop the right tools for "eGovernment transformation". However, whether this translates into best practice that can both live up to public expectation and offer something for other governments to take forward, remains to be seen.

449 See fnn.10, 66, 73 and 306 above, and www.hm-treasury.gov.uk.

450 See fnn.67 and 82 above and www.hm-treasury.gov.uk.

451 See fn.52 above and www.bichardinquiry.org.uk.

447 See, for example, www.hm-treasury.gov.uk.

448 See fn.431 above and www.hm-treasury.gov.uk.