

## **Property and Accountability**

The Civil Service and agencies supported by its Departments spend several hundred million euros annually in the provision of accommodation for civil servants and employees of funded agencies. The Office of Public Works (OPW) has a lead role in the provision of property for the Civil Service and holds a central role in implementing reform under the Property Asset Management Delivery Plan (PAMDP) whereby all public agencies are obliged to co-operate and share in the delivery of public service property solutions.

Members of the Society of Chartered Surveyors Ireland (SCSI) employed by the OPW have since the late 1990s voiced concern on multiple property transactions which at first view do not appear to make sense in the context of the property market of the time. The transactions invariably seem to be balanced against the State. The reasons in each case are not immediately apparent but potentially include:

- a mistaken superficial judgment by the surveyor
- hidden, but legitimate considerations
- ignorance of the market by the negotiating body or person
- poor negotiating skills
- compromised negotiating position
- corrupt actions

Without thorough investigation it is not possible to attribute a reason for apparently anomalous transactions but given the multi million euro expenditure on property, the Government Reform Unit should at the very least be concerned that - it would seem - nobody has ever been held accountable for a poor property transaction.

Most recently OPW surveyors made a broader submission to a Capacity and Capability Review of the OPW. This was being prepared in the context of OPW's new role under PAMDP. A central theme of the surveyor's submission related to accountability highlighting *inter alia* an inability of the Office to learn from mistakes and implement best practice in handling property and property transactions. The following section on accountability was contained therein. Whilst the matter was touched on by the consultants in their final report (which has only issued in part to date) to the Commissioners, the essential message appears to have been lost. It is not appropriate or relevant to include the full report for this study on accountability, although if required it can be provided.

### ***"2.1 The problem of accountability:***

*C&AG/ PAC/ political questions Even though the OPW Chairman is "The Accounting Officer" and notionally accountable to the Public Accounts Committee (PAC) through audits by the Comptroller and Auditor General (C&AG), the standard of scrutiny at best scratches the surface. The seeming glorification of often minor infractions and "grilling" of the chairman on such unimportant errors, has led to the joke - that the German word "schadenfreude" was invented for the behaviour of the C&AG/ PAC. In short, neither of these bodies has either the capacity or the capability to penetrate to the key issues. The use of external backup specialists may not have helped as their private commercial advisers were instructed by what would not amount to an "intelligent client" in the procurement sense..*

*In responding to often simplistic and superficial queries from auditors and politicians it is inevitable that OPW (and the Civil Service in general) responds through dissimulation. Unfortunately, this has become engrained in its culture and it would be surprising if the reviewers did not encounter it in their investigations. The practice is highly corrosive to staff at lower levels in the organisation breeding fatalism and cynicism. Regrettably where dissimulation becomes a necessary business tool, as in commercial negotiation, it is not recognised as being of importance and the creation of poker faced negotiators is a major challenge.*

DPER OPW's parent Department (Finance and now Dept of Public Expenditure and Reform - DPER) is similarly not adequately resourced to keep track of the annual budget it delivers to OPW. Like the banking regulator who was similarly un-resourced/ enabled to monitor bank borrowing prior to the recent Irish Banking crisis, DPER have not the capability of seeing that budget allocations are handled in a commercially accountable fashion. Similarly, parliamentary questions which should lead to making the Commissioners accountable are largely ineffective and a waste of time as nothing results other than embarrassment.

*Accountability is further diluted by mobility which determines that it is a successor who is obliged to answer for actions which occurred under the reign of a previous chairman.*

Sanctions Even if the above bodies could comprehensively audit the organisation, none can impose effective sanctions. Even cases which involved multi-million euro losses to the Commissioners have not resulted in any serious retrospective examination/external scrutiny (never mind sanction) of the Commissioners. In short despite all the problems that have occurred no Commissioner (nor anyone at MAC level) has ever been removed or lost a bonus despite presiding over numerous commercial misadventures, most of which were avoidable.

Health and safety Experience One non-commercial avenue which is not advocated by the authors but which demonstrates a non-agency means of forcing cultural change, can be drawn from the approach to safety. Prior to the onset of safety legislation OPW's approach required improvement; a matter which became critical as the accountability issue for Health and Safety matters was addressed by legislation and focussed at the top of the hierarchy. The ability bordering on enthusiasm of the Health and Safety Authority (HSA) to take criminal proceedings against the Commissioners for breaches attributable to them resulted in major changes in structure process, training and micro management. This contrasts sharply with the approach taken on financial issues where training, use of professionals and exercise of due diligence have serious shortcomings. Currently, large transactions are negotiated without professional presence and frequently with minimal input. As one moves down through the organisational tree, the same recklessness in negotiation is less commonplace but the awareness of profligacy e.g. in allocating over generous and over "spec" accommodation, is minimal."

The problems of accountability in property matters highlighted in OPW are shared by many agencies funded by Civil Service Departments. The surveyors submission to the Capacity and

Capability review advocated establishing a commercial semi-state solution for OPW in performing its property function. Such a device was used in the establishment of Coillte Teoranta in the late 1980s when the commercial forestry role was split from the Forestry Section of the Dept of Energy. The surveyors took the view that commerciality was the best method of making the Office sensitive to money issues becoming in the process commercially accountable. Thus a resourced OPW should like Coillte be capable of returning a profit to the taxpayer progressively lowering the cost of property provision for the Civil Service.

Alternative solutions for embedding accountability in property matters might be

- to provide a dedicated monitoring property professional in the C&AG or
- have OPW's professional advisers in the office routinely obliged to advise the C&AG and PAC directly. The consequences of the latter solution would be challenging for the staff concerned and would raise numerous other issues.

John Dowds

Allen Morgan

31<sup>st</sup> March 2014



copy



**Ceann Oifig**

Sráid Jonathan Swift  
Baile Átha Troim  
Co. na Mí

**Head Office**

Jonathan Swift Street  
Trim  
Co Meath

Tel/Phone: (046) 942 6000

Facs/Fax: (046) 948 1793

Iosghlao/LoCall 1890 213414

Suíomh gréasáin/website [www.opw.ie](http://www.opw.ie)

Mr. [REDACTED]

Dear [REDACTED],

I refer to your letter dated 8<sup>th</sup> March, 2018 and subsequent correspondence in relation to your submission to the Accountability Body in 2014 and subsequent report in December 2017.

Your report has been considered by senior management within Estate Management and I wish to confirm that your report will be submitted shortly to the Comptroller & Auditor General. Regarding your query relating to OPW contacts with An Garda Síochána I understand that my predecessor Ms Eilis O'Connell made contact with Trim Gardaí and undertook to revert back to them in the event of any explicit elements of corruption being identified.

If you have a specific incidence of alleged corruption outside of the scope of your recent report please revert in writing with full details of such corruption.

I note from your letter that, at the request of the Comptroller and Auditor General, you met with their representatives in July 2017, to discuss the contents of your submission to the Accountability Body. In December 2017, at the request of the Director of Corporate Services, you finalised a detailed report on the five subject cases referenced in the original submission together with references to cases where you suggested warrant review.

As you are aware a considerable restructuring of the Estate Management area has taken place in recent months together with the appointment of a new Assistant Secretary. This arose from considering the recommendations of the Capacity and Capability Review completed in 2014, in addition to taking account of the views of the Management Board and senior managers in the OPW during the first few months of the appointment of Mr Buckley, as Chairman.

In April 2017, with the agreement of the Management Board, the Chairman initiated the organisation restructuring project. The objective of this project is to continually enhance our service delivery and strengthen corporate governance. A significant element of the restructuring has been the establishment of the Project Oversight Group to ensure effective governance in decision-making,



based on option appraisals particularly in relation to larger projects similar to the types of property projects referenced in your report.

In addition, the new Planning Unit within Estate Management has responsibility for developing the strategic estate plans, planning and budgeting, pre-feasibility assessment and developing policies and standards, where required.

The introduction of the new Integrated Workplace Management System (IWMS) will, over time, provide a more centralised repository of data and information on the OPW's property portfolio. This will provide a more strategic oversight of significant programmes of work across the organisation, in addition to ensuring greater transparency of processes and outcomes. OPW believes that this new direction is enhancing and strengthening our capability to meet our objectives in providing a high quality transparent service as a State organisation.

Yours sincerely,

  
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Vincent Campbell  
Director of Corporate Services

14 June 2018



ISSUED

Ceann Oifig  
Sráid Jonathan Swift  
Baile Átha Troim  
Co. na Mi  
C15 NX36

Head Office  
Jonathan Swift Street  
Trim  
Co. Meath  
C15 NX36

Fón/Phone: (0761) 10 6000  
(046) 942 6000

Facs/Fax: (046) 948 1793

Íosghlao/LoCall 1890 213414

Suíomh gréasáin/website: [www.opw.ie](http://www.opw.ie)

Mr. [REDACTED],  
[REDACTED],  
[REDACTED]

30<sup>th</sup> April, 2018

Dear [REDACTED],

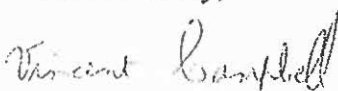
I refer to your letter dated 8<sup>th</sup> March, 2018 in relation to your submission to the Accountability Body in 2014 and subsequent report in December 2017 to this office.

I note from your letter that, at the request of the Comptroller and Auditor General, you met with their representatives in July 2017, to discuss the contents of your submission to the Accountability Body. In December 2017, at the request of the previous Director of Corporate Services, you finalised a detailed report on the five subject cases referenced in the original submission together with references to cases where you suggested warrant review.

This recent report is currently being considered within this office and we will revert to you further in due course.

I thank you for your concerns and willingness to input into issues surrounding the operation of property management.

Yours sincerely,



Vincent Campbell  
Director of Corporate Services

