

2 January, 2013.

To Heads of Departments/Offices<sup>1</sup>

**Circular 1 of 2013: Procedures to be followed by the Office of Public Works, Government Departments and certain State Agencies in relation to the maintenance of State Property Assets**

A Dhuine Uasail

## **1. Introduction**

This circular concerns arrangements and responsibilities relating to the maintenance of State property assets. It provides for the revision of existing provisions and the administration thereof with effect from 1 January, 2013 in order to better reflect the changes in regulation and in public procurement over recent years. The Government has decided that the allocation of responsibilities will be changed with effect from 1 January, 2013 to make OPW the shared service provider responsible for statutory maintenance contracts and building maintenance works. From that date onwards, the provisions of Department of Finance Circular 1/94, which sets out the current allocation of responsibilities in respect of the maintenance and refurbishment of property allocated by OPW, will be superseded by the provisions of this circular.

These changes will have resource consequences as set out at paragraph 6 below. Relevant definitions are at Appendix I.

## **2. Scope**

This Circular applies to accommodation of which OPW is the legal owner/tenant and accommodation vested in other Departments/Agencies where OPW has entered into a service provision agreement, either formally or informally. A list of the Departments/State Agencies to which the Circular applies is attached at Appendices II (a) and II(b).

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<sup>1</sup> In this Circular, the term “Department” encompasses Departments and Offices.

The key objectives of building maintenance are as follows:

- to ensure that the condition of buildings/accommodation is preserved on an ongoing basis so as to avoid serious preventable problems and related major future expense;
- to protect the intrinsic value of all State property assets;
- to ensure that building fabric-related health and safety obligations are met, and that the accommodation is fit for purpose and
- to minimise costs associated with claims on the surrender of leased properties.

OPW will continue to provide a centralised service in the allocation of appropriate accommodation in the most economic way possible while protecting the State property portfolio. OPW has the relevant expertise and trained personnel both in the procurement and undertaking of construction works. OPW will act as a shared service provider, to all occupiers of property allocated by OPW (or property vested in other State bodies for which it is a service provider), in the provision of maintenance works.

### **3. Basis for Change**

Since the last maintenance circular issued in 1994, a number of key developments and changes have altered the accommodation requirements for OPW and occupants:

- The majority of works are procured via external contractors as OPW's direct labour force has been significantly reduced and cannot fulfil the role for all property;
- Introduction of Measured Term Maintenance contract in the Dublin area provides increased efficiency in the service of reactive maintenance requests;
- Introduction of complex new Health and Safety legislation;
- Revisions to construction, planning, fire prevention and other relevant legislation have led to a greater complexity and integration of building services and fabric;
- While Accommodation Officers in Departments are still required to liaise with OPW, it has not been feasible to provide them with training and guidance on a range of complex and varying legislative and technical requirements necessary for undertaking the role in the manner foreseen by the circular;
- The costs of undertaking maintenance/capital works has increased, with no corresponding rise in thresholds;
- The costs associated with dilapidations at the end of leases have not been budgeted for and cannot be met by all clients as envisaged;
- The Capital Works Management Framework was introduced in 2008, extending the lead time on procurement of works;

- Exchequer resources have reduced and preventative maintenance is now the primary focus of OPW;
- The capacity of OPW to prioritise essential maintenance works from within available resources will result in the protection/enhancement of the value of State property assets. This will allow a more comprehensive, long-term perspective to be applied by OPW to the State property portfolio.

**See Appendix III for full listing of relevant legislation and associated websites.**

#### **4. Changes with effect from January 2013**

The following sections set out the arrangements that will take effect from 1 January 2013. The most critical change from the previous circular is that OPW will now be responsible for maintenance works. The financial limit on occupiers' liability for maintenance works has been removed and, with the exception of items specified at 4.2, works will be arranged and paid for by OPW.

##### **4.1 OPW Role**

The key responsibilities of OPW are:

- i. OPW will be the specialist service provider for building maintenance works in property owned or leased by it;
- ii. OPW will prioritise, arrange and pay for the maintenance of property owned or leased by it for agencies included in Appendices II (a) and II (b).
- iii. OPW will place works contracts, certify works and pay contractors accordingly;
- iv. OPW will act as agent for (or be consulted by) occupying Departments proposing to carry out any building works;
- v. Funding for non-elective works and reactive and planned maintenance, both internal and external, will rest with OPW;
- vi. OPW will plan a maintenance programme for property covered by this circular – to be rolled out on a phased, prioritised basis within available resources;
- vii. OPW will arrange for the maintenance, upkeep and inspection of essential mechanical and electrical building services and will also be liable for any dilapidations/reinstatement works/costs arising on the surrender of leases ;
- viii. OPW will publish annual outturn statements on the expenditure per client and building;

- ix. Where OPW initiates the relocation of an occupying Department under its office rationalisation programme, it will pay for a standard fit-out cost, the level of which will be determined in accordance with inflation, building norms etc;
- x. OPW will arrange for the provision of access to an online enquiry system for occupiers to track works requests, subject to the implementation of a new IT system.

## **4.2 Occupier Role**

The key responsibilities of occupiers are:

- i. An Accommodation Officer must be nominated by each Department/Agency to act as central point of contact for OPW on maintenance matters. Occupiers must notify OPW immediately of any change in personnel in this area;
- ii. The Safety, Health and Welfare at Work Act 2005 requires employers to ensure, as far as is reasonably practicable, the safety, health and welfare of their employees and manage and conduct their work activities in such a way as to ensure their safety, health and welfare. This requires employers to be proactive in managing their safety, health and welfare responsibilities and deal with them in a systematic way;
- iii. Occupiers are obliged to advise OPW at the earliest opportunity of any building related issue which might compromise the health and safety and welfare of their employees.
- iv. Departments/Offices will continue to be responsible for housekeeping (e.g. office cleaning), utilities and the provision of IT equipment;
- v. Furniture/fittings etc. must be procured via OPW, whether from its drawdown contracts or by tender for specialist items. Payment for same will be the responsibility of the occupier;
- vi. Occupiers are required to advise OPW of any changes to building occupancy or planned rationalisations, initiated by them, that might impact on space allocation;
- vii. Any proposal to procure building works must be approved in advance by OPW and requisitioned through the OPW helpdesk/relevant Regional Office;

- viii. Normal building maintenance works, which impact on building fabric or fixed services in the building, and which are the responsibility of OPW, must be requested of OPW by the occupiers, using the OPW helpdesk/relevant Regional Office. If this requirement is not observed, the occupier will be responsible for the costs of initial work and any reinstatement works OPW may have to carry out subsequently;
- ix. Funding of all elective projects must be met by occupiers and undertaken on a pre-funded agency basis by OPW;
- x. New accommodation fitouts, arising from specialised business requirements of the occupying Department, must be paid for by the occupier. If the occupying Department has specific fit-out requirements in excess of the standard fit-out, as set out at 4.1.x above, this element must be funded by the occupier;
- xi. All other categories of expenditure that do not come within the remit of building maintenance, remain the responsibility of the occupier.

## **5 Maintenance Management Information**

Based on information from each Department/Agency, OPW will maintain a schedule of Accommodation Officers for all Departments and will continue to make statements of expenditure available to Departments/Agencies in respect of maintenance requests submitted. In addition, OPW will arrange for the provision of access to an online enquiry system for occupiers to track all works requests and notify OPW of personnel and/or accommodation changes etc. subject to the implementation of a new IT system.

## **6. Resource effect of this circular**

The reallocation of responsibilities will be cost neutral to the Exchequer and will result in cost efficiencies in the management of property maintenance.

The proposed changes will result in works which are currently procured by OPW with costs recouped from Departments/Agencies becoming the responsibility of OPW. Therefore, the proportion of Departmental office premises (formerly A6) allocations which is currently being paid by those Departments/Agencies to OPW under the client maintenance accounts will transfer to the OPW Vote. This will, in due course, release client staff resources that are currently involved in the management of accommodation pre-funding accounts and the processing of monthly statements.

Departments/agencies must ensure that all client maintenance accounts with OPW are brought into balance with immediate effect.

The only instances where funds will remain with the Department/Agency are where OPW is acting solely as a service provider for buildings vested in that Department/Agency – see Appendix II (b).

## **7. Dissemination and Implementation**

Each Department and Office is required to bring this circular to the attention of all bodies under its aegis affected by the terms of the circular and to ensure that arrangements are put in place to implement the circular.

Mise le meas,

Deirdre Hanlon,  
Assistant Secretary

## Appendix I

### Definitions

*Capital works* are any works that could be considered to enhance the value of the property asset, i.e. they represent an investment in the property. Upgrading accommodation to comply with new statutory requirements is a capital cost.

*Dilapidations* is a term which covers two main costs which arise at the termination of a lease:

1. costs related to the reinstatement of the condition of the building in compliance with lease terms, and
2. costs related to restoring the layout of the building in compliance with lease terms i.e. removing fit-outs.

*Elective works* are any works that a Department wishes to undertake which in the opinion of OPW are not necessary for the maintenance and upkeep of the building and the omission of which would not impact on the building fabric/services in any way.

*Fit-out costs* are the costs of bringing a building into use for an organisation occupying it. In certain cases, the fit-out, though capital expenditure, does not enhance the value of the property asset.

*Maintenance works* are works that are needed to maintain the fabric of the building, and by inference the value of the property on the open market. In relation to leasehold properties, these works may be necessary to comply with contractual lease obligations. In general, maintenance is defined as general repairs or the replacement of “like with like”.

*Non-elective works* are works which must be done to meet statutory requirements or, in the opinion of OPW, are necessary for the maintenance and upkeep of the building.

*Utilities* covers internal building services supplied by third parties, for example electricity, gas and water.

## **Appendix II (a)**

### **Departments/State Agencies for whom OPW is both Accommodation and Service Provider**

Adoption Authority of Ireland  
An Coimisinéir Teanga  
Attorney General  
Bord Iascaigh Mhara  
Central Fisheries Board  
Central Statistics Office  
Charitable Donations & Bequests  
Chief State Solicitor's Office  
Citizen Information Board  
Civil Defence Board  
Civil Service Credit Union  
Commission for Aviation Regulation  
Companies Registration Office  
Competition Authority  
Comptroller & Audit General  
Crisis Pregnancy Agency  
Department of Agriculture, Food and the Marine  
Department of Arts, Heritage and the Gaeltacht  
Department of Children & Youth Affairs  
Department of Communications, Energy and Natural Resources  
Department of Defence  
Department of Education and Skills  
Department of Environment, Community & Local Government  
Department of Finance  
Department of Foreign Affairs and Trade  
Department of Health  
Department of Jobs, Enterprise and Innovation  
Department of Justice and Equality and relevant agencies  
Department of Public Expenditure and Reform  
Department of Social Protection  
Department of the Taoiseach  
Department of Transport, Tourism and Sport  
Director of Consumer Affairs  
Director of Corporate Enforcement  
Director of Public Prosecutions  
Environmental Protection Agency  
Equality Authority  
Equality Tribunal  
European Consumer Centre  
Family Support Agency



Film Censors Office  
Garda Síochána  
Health & Safety Authority  
Health Information & Quality Authority  
Health Insurance Authority  
Health Service National Partnership  
Irish Aid  
Irish Coastguard Service  
Irish Sports Council  
Irish Youth Justice Service  
Labour Court  
Labour Relations Commission  
Marine Institute  
Meteorological Office  
National Education Psychological Services  
National Archives  
National Authority for Occupational Safety & Health  
National Council for Special Education  
National Crime Council  
National Economic & Social Development Office  
National Irish Safety Organisation  
National Transport Authority  
National Employment Rights Authority  
Office of Disability Appeals Officer  
Office of the Commission of Public Service Appointments  
Office of the Pensions Ombudsman  
Oireachtas  
Ombudsman  
Ombudsman for the Defence Forces  
Ordnance Survey  
Patents Office  
Private Security Authority  
Probation & Welfare Services  
Property Registration Authority  
Public Appointments Service  
Railway Safety Authority  
Reception & Integration Agency  
Refugee Appeals Tribunal  
Residential Institutions Redress Board  
Revenue Commissioners  
Road Safety Authority  
Stadium Ireland  
State Examinations Commission  
State Laboratory  
Valuation Office

## **Appendix II (b)**

### **Departments/State Agencies who hold title in Property Assets and for whom OPW is Service Provider for specific properties**

Courts Service

Legal Aid Board

HSE

Irish Prison Service

## Appendix III

### Regulatory Framework

Fire Services Act, 1981 <http://www.irishstatutebook.ie/1981/en/act/pub/0030/index.html>  
and three associated SIs

Disability Act, 2005 <http://www.irishstatutebook.ie/2005/en/act/pub/0014/index.html>

Building Control Act, 2007

<http://www.irishstatutebook.ie/2007/en/act/pub/0028/index.html>

Building Control Regulations 1997-2009 and five associated SIs

Building Regulations 1997-2011 and 15+ associated SIs

<http://www.environ.ie/en/DevelopmentHousing/BuildingStandards/>

Planning and Development Regulations and 25+ associated SIs

<http://www.environ.ie/en/DevelopmentHousing/PlanningDevelopment/Planning/PlanningLegislation-Overview/>

Safety, Health and Welfare at Work Act 2005 and associated SIs

<http://www.irishstatutebook.ie/2005/en/act/pub/0028/index.html>

A useful summary of the main provisions is at

[http://www.citizensinformation.ie/en/employment/employment\\_rights\\_and\\_conditions/health\\_and\\_safety/health\\_safety\\_work.html](http://www.citizensinformation.ie/en/employment/employment_rights_and_conditions/health_and_safety/health_safety_work.html)

Safety, Health and Welfare at Work (Construction) Regulations 2006

[http://www.hsa.ie/eng/Legislation/Acts/Safety\\_Health\\_and\\_Welfare\\_at\\_Work/Safety\\_Health\\_and\\_Welfare\\_at\\_Work\\_Act.html](http://www.hsa.ie/eng/Legislation/Acts/Safety_Health_and_Welfare_at_Work/Safety_Health_and_Welfare_at_Work_Act.html)

Occupiers' Liability Act 1995

<http://www.irishstatutebook.ie/1995/en/act/pub/0010/index.html>

Office Premises Act, 1958

<http://www.irishstatutebook.ie/1958/en/act/pub/0003/index.html>

EU [http://simap.europa.eu/index\\_en.htm](http://simap.europa.eu/index_en.htm) and Department of Public Expenditure and Reform procurement guidelines

[http://www.etenders.gov.ie/guides/guides\\_list.aspx?Type=2](http://www.etenders.gov.ie/guides/guides_list.aspx?Type=2)

Construction procurement link <http://www.constructionprocurement.gov.ie>