

**PROPERTY SERVICES APPEAL BOARD  
ANNUAL REPORT 2016**

# PROPERTY SERVICES APPEAL BOARD

51 St Stephens Green, Dublin 2.

## ANNUAL REPORT 2016

Foreword by the Chairman

Dear Minister Flanagan,

It is my pleasure to submit this report of the Property Services Appeal Board. This is my second annual report as Chairman since my appointment on 23<sup>rd</sup> November 2015 and the third Annual Report of the Board.

The Property Services Regulatory Authority which was established on 3<sup>rd</sup> April 2012 has introduced an entirely new regime for the licensing of property services providers. That fundamental change to the regulatory framework presented many challenges for stakeholders. There was a steep learning curve for all involved and this was partly reflected in the volume of challenges by applicants to decisions of the Authority which came to the Property Services Appeal Board for determination. A new source of appeal which is emerging relates to complaints about property services providers and these represented 28 of the appeals lodged in the year covered by this report.

I would like to take this opportunity to thank my fellow Board members since their appointment to the Board on 14 February, 2017, for their work and also to express my appreciation to the Board Secretary Ms Kathleen Fitzpatrick.

The Board have also asked me to express their appreciation for your support and that of your Department officials since their appointment on 14<sup>th</sup> February, 2017.

Yours Sincerely

Anthony Ensor

Chairperson

## **SECTIONS IN THIS REPORT**

1. Period covered by this report
2. Caseload data and commentary on appeals received
3. Board Membership & Fees
4. Meetings
5. Governance and Compliance

1. Period covered by this report

This report covers the period from 1 January, 2016 to 31 December, 2016. This is the third annual report to the Minister for Justice as required under Schedule 5 at Section 11 of the Property Services (Regulation) Act 2011.

2. Caseload data and commentary on appeals received

The volume of cases considered during the period covered by this report and the types of issues involved are summarised in the chart below:

<b>Volume</b>	
Number of Cases received	51
Found to be outside remit (predominantly Renewals)	1
Refusal based on qualifications	22
Appeal of refusal by Authority to investigate a complaint	28

<b>OUTCOME OF APPEALS</b>	
Appeals allowed in full & full jurisdiction exercised	10
Remitted to PSRA for reconsideration*	1
Disallowed & PSRA decision upheld	30
Deemed Withdrawn	5
Appeal out of time	1
Cases on hand awaiting determination	4

\* remission primarily related to Qualifications refusals under SI 181 of 2012.

A new Statutory Instrument, S.I. 456 of 2015 was enacted in October 2015 dealing with Qualifications which reflects greater flexibility in the mapping of the academic credit system known as ECTS (European Credit Transfer and Accumulation System). This is a welcome development.

The Appeal Board is guided by the principles of natural justice and fair procedures. In this context, the duty to give reasons for decisions is of particular importance.

Guidance has been provided by the Superior Courts in relation to lawful decision making.

### 3. Board Membership

The terms of appointment of the previous Board members expired on 23 July, 2016.

Following advertisements in July, 2016 the Minister appointed the Members listed below on 14 February, 2017.

**Mr Anthony Ensor (Chairperson)**

**Appointed 23<sup>rd</sup> November 2015**

**Mr James Bridgeman**

**Ms Dorothy Donovan**

**Ms Dairine MacFadden**

**Mr. Philip Moynihan**

Appointments to the Appeal Board are for a four year term. The Board would suggest that future appointments should involve a staggered expiry of Warrants to assist continuity of expertise and familiarity with the legislation.

Payments to Members of the Appeal Board are made in accordance with Schedule 5 at Section 5 as below:

*5. Members of the Appeal Board shall be paid such remuneration (if any) and allowances for expenses as the Minister, with the consent of the Minister for Public Expenditure and Reform, may determine.*

Fees are not paid for Membership of the Board *per se* but for participation in sittings of the Board to determine appeals. The rates, which are subject to tax and all other levies, per sitting where that Member is in attendance are as below:

Chairperson €500

Ordinary Member €416

Board fees for 2016 totalled €16,812. Travel and Subsistence paid to members amounted to €2,785.80.

#### 4. Meetings

No meetings were held between July 2016 to March 2017.

There were 7 sittings during 2016.

#### 5. Governance and Compliance

In so far as applicable, the Members of the Board acknowledge their responsibilities under the terms of the Code of Practice for Governance of State Bodies.

At the outset of each sitting of the Appeal Board each Member is required to declare whether they consider they have any conflict of interest in relation to parties or issues scheduled for determination.

The Board is working on plans to establish a website.

The Board is registered as a data controller with the Office of the Data Protection Commissioner.

DATA PROTECTION COMMISSIONER-

Registry Details for 'Property Services Appeal Board'

**Company Name:** Property Services Appeal Board

**Ref Number:** 14727/A

**Reg Type:** DC

**Company Address:** 51 St Stephens Green Dublin 2

**Contact:** Kathleen Fitzpatrick

**Purpose:** To adjudicate on any appeals against decisions of the Property Services Regulatory Authority to refuse to issue licences for the provision of property services

**Continuation Due Date:** 11/08/2017

**Description:** Appeals against the decisions of the PSRA to refuse the issue of licences

**Disclosees:** All appeals Appeal Board Property Services Regulatory Authority

**Transfers Abroad:** None

**AN BORD ACHOMHAIRC UM SHEIRBHÍSÍ  
MAOINE  
TUARASCÁIL BHLIANTÚIL 2016**

# AN BORD ACHOMHAIRC UM SHEIRBHÍSÍ MAOINE

51 Faiche Stiabhna, Baile Átha Cliath 2.

## TUARASCÁIL BHLIANTÚIL 2016

Réamhrá leis an gCathaoirleach

A Aire Flanagan,

Tá áthas orm tuarascáil an Bhoird Achomhairc um Sheirbhísí Maoine a chur faoi do bhráid. Is í seo an dara tuarascáil bhliantúil agam i mo Chathaoirleach ó ceapadh mé an 23 Samhain 2015 agus is í tríú Tuarascáil Bhliantúil an Bhoird í.

Tá córas iomlán nua chun soláthróirí seirbhísí maoine a cheadúnú tugtha isteach ag an Údarás Rialála Seirbhísí Maoine ó bunaíodh é an 3 Aibreán 2012. Chruthaigh an bunathrú sin ar an gcreat rialála go leor dúshlán do pháirtithe leasmhara. D'fhoghlaim gach a raibh páirteach ann go leor agus léiriú air seo an líon iarratasóirí a thug dúshlán chinntí an Údaráis a cuireadh ar aghaidh chuig an mBord Achomhairc um Sheirbhísí Maoine lena gcinneadh. Údar nua achomhairc atá ag teacht chun cinn is ea gearáin faoi sholáthróirí seirbhísí maoine agus bhain 28 achomharc a cuireadh faoi bhráid sa bhliain lena an mbaineann an tuarascáil seo leis sin.

Ba mhaith liom an deis seo a thapú chun buíochas a ghlacadh le comhaltaí eile an Bhoird ó ceapadh ar an mBord iad an 14 Feabhra, 2017, as an obair a dhéanann siad agus mo chuid buíochais a chur in iúl chomh maith do Rúnaí an Bhoird, Kathleen Fitzpatrick Uasal.

D'iarr comhaltaí an Bhoird orm a mbuíochas a chur in iúl duit freisin as do thacaíocht agus as tacaíocht oifigigh do Roinne ó ceapadh iad an 14 Feabhra, 2017.

Is mise le meas

Anthony Ensor

Cathaoirleach

## **CODANNA NA TUARASCÁLA SEO**

1. An tréimhse lena mbaineann an tuarascáil seo
2. Sonraí maidir le líon na gcásanna agus cur síos ar na hachomhairc a fuarthas
3. Comhaltaí & Táillí an Bhoird
4. Cruinnithe
5. Rialachas agus Comhlíonadh

1. An tréimhse lena mbaineann an tuarascáil seo

Baineann an tuarascáil seo leis an tréimhse ón 1 Eanáir 2016 go dtí an 31 Nollaig 2016. Is í seo an tríú tuarascáil bhliantúil atá á cur faoi bhráid an Aire Dlí agus Cirt mar a éilítear faoi Sceideal 5, Cuid 11 den Acht um Sheirbhísí Maoine (Rialáil) 2011.

2. Sonraí maidir le líon na gcásanna agus cur síos ar na hachomhairc a fuarthas

Déantar achoimre ar líon na gcásanna a breithníodh le linn tréimhse na tuarascála seo agus cur síos ar na saincheisteanna a bhain leo sa chairt thíos:

Líon	
Líon na gCásanna a fuarthas	51
Líon na gcásanna a measadh nach raibh ag teacht faoinár gcúram (Athnuachaintí den chuid is mó)	1
Cásanna a diúltaíodh bunaithe ar cháilíochtaí	22
Achomhairc a rinneadh maidir le diúltú an Údaráis gearán a imscrúdú	28

TORADH NA nACHOMHARC	
Achomhairc a ceadáíodh go hiomlán & inar feidhmíodh dlínse iomlán	10
Curtha ar aghaidh chuig an PSRA lena n-athbhreithniú*	1
A dícheadaíodh & ar seasadh le cinneadh an PSRA	30
A measadh a bheith Tarraingthe Siar	5
Achomharc imithe in éag	1
Cásanna idir lámha atá fós le cinneadh	4

\* bhain loghadh go príomha le diúltú Cáilíochtaí faoi IR 181 de 2012.

I nDeireadh Fómhair 2015, achtaíodh Ionstraim Reachtúil nua, I.R. 456 de 2015 a bhaineann le Cáilíochtaí agus a léiríonn solúbthacht níos mó i dtaobh córas creidiúna acadúil a mhapáil ar a dtugtar ECTS (An Córas Eorpach d'Aistriú Creidmheasa). Fáiltimid roimh an bhforbairt sin.

Prionsabail an cheartais aiceanta agus nósanna imeachta cóir a threoraíonn an Bord Achomhairc. Sa chomhthéacs sin, tá tábhacht mhór ag baint leis an dualgas atá orainn cúiseanna a thabhairt i leith na gcinntí a dhéanaimid.

Na hUaschúirteanna a chuireann treoir ar fáil maidir le cinntí dleathacha a dhéanamh.

### 3. Comhaltaí Boird

Chuaigh téarmaí ceapacháin na gcomhaltaí Boird a bhí ann roimhe seo in éag an 23 Iúil, 2016.

I ndiaidh fógraí in Iúil 2016, cheap an tAire na Comhaltaí liostaithe thíos an 14 Feabhra, 2017.

**An tUasal Anthony Ensor (Cathaoirleach)**

**Ceaptha an 23 Samhain 2015**

**An tUasal James Bridgeman**

**Dorothy Donovan Uasal**

**Dairine MacFadden Uasal**

**An tUasal Philip Moynihan**

Téarma ceithre bliana atá sna ceapacháin chuig an mBord Achomhairc. Mholfadh an Bord go mbeadh Barántais in éag ar bhonn céimnithe ag baint le ceapacháin amach anseo chun go mbeidh fáil leanúnach ar dhaoine a bhfuil saineolas agus cur amach acu ar an dlí.

Déantar íocaíochtaí le Comhaltaí an Bhoird Achomhairc de réir Sceideal 5 i gCuid 5 thíos:

5. *Íocfar le comhaltaí an Bhoird Achomhairc cibé luach saothair (más ann) agus liúntais i leith caiteachas a chinnfidh an tAire, le toiliú an Aire Caiteachais Phoiblí agus Athchóirithe.*

Ní íoctar táillí *per se* as Comhaltacht ar an mBord ach íoctar as a bheith rannpháirteach i suíonna an Bhoird nuair atá achomhairc á meas. Is mar seo a leanas na rátaí, atá faoi réir ag cáin agus gach tobhach eile, a íoctar le Comhalta a fhreastalaíonn ar shuí:

An Cathaoirleach €500

Gnáthchomhalta €416

B'ionann táillí iomlán an Bhoird do 2016 agus €16,812. B'ionann an tsuim i ndáil le Taisteal agus Cothabháil a íocadh le comhaltaí agus €2,785.80.

#### 4. Cruinnithe

Níor tionóladh aon chruinnithe idir Iúil 2016 agus Márta 2017.

Tionóladh 7 gcinn de shuíonna le linn 2016.

#### 5. Rialachas agus Comhlíonadh

Aithníonn Comhaltaí an Bhoird na freagrachtaí a leagtar orthu faoi théarmaí an Chóid Cleachtas chun Comhlachtaí Stáit a Rialú, a mhéid is infheidhme.

Ag tús gach suí den Bhord Achomhairc, ní mór do gach Comhalta a dhearbhú má cheapann siad go bhféadfadh coinbhleacht leasa a bheith i gceist maidir le haon pháirtithe nó saincheisteanna atá leagtha amach lena gcinneadh.

Tá an Bord ag obair ar phleananna chun láithreán gréasáin a chur i dtoll a chéile.

Tá an Bord cláraithe ina rialaitheoir sonraí le hOifig an Choimisinéara Cosanta Sonraí.

## AN COIMISINÉIR COSANTA SONRAÍ

Sonraí Clárlainne don 'Bord Achomhairc um Sheirbhísí Maoine'

<b>Ainm na Cuideachta:</b>	An Bord Achomhairc um Sheirbhísí Maoine
<b>Uimhir Thagartha:</b>	14727/A
<b>Cineál an Chláraithe</b>	DC
<b>Seoladh na Cuideachta:</b>	51 Faiche Stiabhna, Baile Átha Cliath 2.
<b>Teagmháil:</b>	Kathleen Fitzpatrick
<b>Cuspóir:</b>	Achomhairc a dhéantar in aghaidh cinntí an Údaráis Rialála Seirbhísí Maoine gan ceadúnas a eisiúint chun seirbhísí maoine a chur ar fáil a bhreithniú.
<b>Spriodhata Leanúna</b>	11/08/2017
<b>Tuairisc:</b>	Achomhairc i gcoinne chinneadh an PSRA gan ceadúnas a eisiúint
<b>Nochtadh:</b>	Gach achomharc - Bord Achomhairc an Údaráis Rialála Seirbhísí Maoine
<b>Aistrithe Thar Lear</b>	Ní raibh aon aistriú thar lear i gceist.