



An Bord Achomhairc um Sheirbhísí Maoine
Property Services Appeal Board

**PROPERTY SERVICES APPEAL BOARD
ANNUAL REPORT 2018**

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51 St Stephens Green, Dublin 2.

ANNUAL REPORT 2018

Foreword by the Chairman

Dear Minister Flanagan,

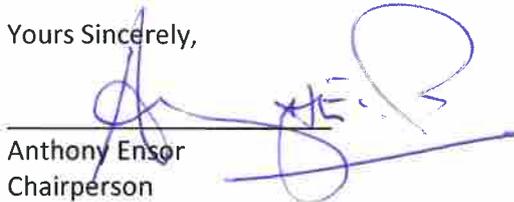
It is my pleasure to submit this report of the Property Services Appeal Board. This is my fourth annual report as Chairman since my appointment on 23rd November 2015 and the fifth Annual Report of the Board.

The Property Services Regulatory Authority which was established on 3rd 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. I repeat that a new source of appeal which is emerging relates to complaints about Property Services Providers and these represented 17 of the appeals lodged in the year covered by this report.

As mentioned in last year's report a matter that causes problems for the Authority and consequently the Appeal Board is the fact that in relation to the provision of services by licensees, Section 95 of the Act allows for regulations to be made regarding the standards to be observed in the provision of property services by licensees but to date no such regulations have been passed.

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 14th February, 2017.

Yours Sincerely,


Anthony Ensor
Chairperson

19 September, 2019

SECTIONS IN THIS REPORT

1. Period covered by this report
2. Caseload data 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, 2018 to 31 December, 2018. This is the fifth 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 on appeals received

The volume of cases considered during the period covered by this report was 47.

In 33 appeals the Board affirmed the decision of the Authority.

In 4 cases the appeals were allowed or the matter was referred back to the Authority for reconsideration.

Of the 47 appeals received during 2018, 4 were withdrawn by the Appellant, 5 were considered out of time and 1 appeal was outside the Board's remit as it related to a licence renewal.

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.

Guidance has been provided by the Superior Courts in relation to lawful decision making. Therefore, the Appeal Board being guided by the principles of natural justice and fair procedures give reasons for their decisions.

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 23rd 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. Again as last year, 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 2018 totalled €17,812.

4. Meetings

There were 9 sittings during 2018. There was 1 oral hearing in 2018 relating to an appeal against a decision of the Authority declining to investigate a complaint of alleged improper conduct against a licensee.

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 has now established a website.

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

In accordance with GDPR requirements, the Board has recently appointed Ms Eileen Tully as its Data Protection Officer.