



# Annual Report & Accounts 2009

---

## *The Residential Tenancies Act 2004 confers rights and responsibilities upon both landlords and Tenants as illustrated below*



### **Landlord Rights:**

- ▶ Receive the rent on the due date
- ▶ Issue a notice of termination without a reason within the first six months of the tenancy
- ▶ Be informed of who is living in the property
- ▶ Decide whether to allow sub-letting by the tenant
- ▶ Be informed of any repairs needed and be granted reasonable access to fix them
- ▶ Refer a dispute to the Private Residential Tenancies Board (PRTB) if the tenancy is registered
- ▶ Review the rent once a year, in line with current market rent, and on serving 28 days written notice.

### **Landlord Responsibilities:**

- ▶ Register the tenancy
- ▶ Provide a rent book (if no written lease is in place) and receipt of payments
- ▶ Ensure the property is in good condition and undertake all necessary repairs
- ▶ Insure the property
- ▶ Provide tenant with details and contact information of any agent who deals on their behalf
- ▶ Provide the tenant with the landlord's contact details if not dealing with an agent
- ▶ Give tenants 28 days' written notice of a rent review
- ▶ Give the tenant a written notice of termination of tenancy
- ▶ Refund deposits promptly if appropriate
- ▶ Give tenants notice of any impending inspections of the property
- ▶ Pay any charges related to the property e.g. taxes and duties.

### **Tenant Rights:**

- ▶ Be provided with a dwelling in good condition.
- ▶ Be entitled to peaceful occupation - landlords can only enter with permission unless it is an emergency
- ▶ Be provided with a rent book, written contract or lease
- ▶ Be given 28 days' written notice of a rent increase
- ▶ Be provided with full contact details of the landlord and or agent
- ▶ Be given a prompt refund of their deposit.
- ▶ Be given proper notice of termination of the tenancy
- ▶ Refer disputes to the Private Residential Tenancies Board (PRTB).

### **Tenant Responsibilities:**

- ▶ Pay rent on time
- ▶ Maintain the property in good order
- ▶ Inform the landlord when repairs are needed
- ▶ Not to engage in any activities that may harm other parties or the property
- ▶ Allow the landlord access to do routine inspections /repairs
- ▶ Inform the landlord of who is living in the property
- ▶ Give the landlord written notice of termination of the tenancy
- ▶ Keep a record of all payments and dealings with the landlord
- ▶ Not to do anything that could affect the landlord's insurance premium on the dwelling.

ISSN: 1649-9247

PRTN: A10/1482

# Contents

<b>Chairperson's Statement</b> .....	<b>6</b>	Geographical Spread of Tenancies.....	25
<b>Director's 2009 Executive Summary</b> .....	<b>9</b>	Data Exchange.....	26
<b>PRTB Board Members</b> .....	<b>11</b>	Funding to Local Authorities through Registration Fee Income.....	26
<b>The Board and its Sub-Structures</b> .....	<b>13</b>	<b>Dispute Resolution Activity</b> .....	<b>27</b>
Functions of the PRTB .....	14	Dispute Resolution Activities 2009.....	28
Board Members .....	14	Future Review of the PRTB Legislation.....	28
Board Members' Attendance and Remuneration 2009.....	16	Quasi – Judicial Function of the Dispute Resolution Service.....	29
PRTB Committees' Activities 2009.....	17	Appointment of Panels of Adjudicators and Mediators.....	29
1. Dispute Resolution Committee.....	17	2009 Dispute Resolution Statistics.....	29
2. Education Awareness & Research Committee .....	17	Categories of Cases Received .....	30
3. Audit Committee .....	18	Cases Taken by Tenant Clients in 2009 .....	31
4. Finance Committee .....	18	Deposit Retention Cases .....	31
5. Legislative Committee .....	18	Cases Taken by landlord Clients in 2009 .....	34
6. Section 189 Committee.....	19	Cases Taken by Third Party Clients in 2009 ...	36
Committee Membership.....	20	Determination Orders.....	37
<b>Tenancy Registration Activity</b> .....	<b>21</b>	<b>PRTB Tenancy Tribunals</b> .....	<b>39</b>
Registration Activities 2009.....	22	Tribunal Members' Attendance and Remuneration 2009.....	40
Further Part 4 Tenancies .....	22	Tribunal Statistics 2009 .....	40
Housing (Miscellaneous Provisions) Act 2009.....	23	Illegal Eviction Cases.....	40
2009 Registration Statistics.....	23	Costs Awarded to PRTB.....	42
Enforcement of Registration Requirements ....	23	<b>PRTB &amp; The Rent Tribunal</b> .....	<b>43</b>
Register of Tenancies .....	24		

<b>PRTB Enforcement Services</b> .....	<b>45</b>	Prompt Payment of Accounts Act 1997.....	66
Enforcement of Dispute Resolution		Travel and Subsistence.....	66
Outcomes in 2009 .....	46	Procurement and Tenders Sought	
New Enforcement Requests		and Awarded .....	66
Received in 2009 .....	47		
Enforcement Cases carried over		<b>Financial Statements 2009</b> .....	<b>67</b>
into 2009 from Previous Years .....	48		
Work In Progress .....	48	<b>Appendices</b> .....	<b>91</b>
Successful Outcomes.....	48	<i>APPENDIX ONE:</i>	
Legal Actions .....	48	Dispute Resolution Process.....	92
Cost Implications .....	49	<i>APPENDIX TWO:</i>	
Cautionary Tales .....	50	Members of Adjudication and	
		Mediation Panels.....	93
<b>Case Studies 2009</b> .....	<b>51</b>	<i>APPENDIX THREE:</i>	
Dispute Resolution Cases .....	52	Organisation Chart .....	94
Tribunal Cases .....	54		
<b>Corporate Governance and Administration</b> ...	<b>59</b>		
Corporate Plan 2009-11 .....	60		
ICT Strategy.....	60		
Stakeholder Consultation .....	62		
Joint Oireachtas Committee.....	62		
Corporate Services Division & Staffing.....	62		
Staff Probation .....	63		
Roll-Out of Performance Management			
and Development System .....	63		
Staff Training and Development .....	63		
Adjudicator Training.....	64		
Board Members Training .....	64		
Customer Service .....	64		
Accessibility.....	64		
Publications.....	65		
Data Protection and			
Freedom of Information .....	65		
Finance .....	65		
Tax Compliance.....	66		



## Chairperson's Statement



I am pleased to present the fifth annual report of the Private Residential Tenancies Board, and my first as Chairperson of the Board. I was honoured to be appointed Chairperson by the Minister in October 2009, having served as a Board Member for the

previous three years. Over that time I have seen at first hand, through my role on the Board and in my practice as a Solicitor, the considerable impact which the PRTB has had on the private rental residential sector in Ireland. The Residential Tenancies Act 2004 was groundbreaking in that it provided a comprehensive legislative framework for the private rental residential sector in Ireland for the first time. This framework has been further developed in the past year by the passage of the Housing (Miscellaneous Provisions) Act 2009 and by the prescription of new minimum standards for residential rental properties, which is being implemented by the local authorities. Further revisions, based on the experience of the past six years, are now planned in the amendments to the Residential Tenancies Act announced by the Minister.

The PRTB has played an important role in the development of the market by establishing a register of private residential rental properties, funding the inspections carried out by Local Authorities and advising the Minister on policy matters. However, the PRTB is probably best known for the dispute resolution service which it provides. The Board replaced the Courts for most

landlord / tenant disputes. All tenants and any registered landlord can take a case to the PRTB for €25. In my view this is a very positive development, in that it provides access to justice for tenancy related disputes at a modest cost, thus freeing up the Courts to deal with serious issues such as Criminal offences. The steady increase in the number of dispute applications to the PRTB testifies to the fact that a growing cohort of clients, both landlord and tenant, are choosing to use this service. That said, it should be acknowledged that generally the market is operating efficiently, and that less than 1% of registered tenancies result in disputes as both landlords and tenants are becoming familiar with their legal rights and obligations.

### Progress in 2009

2009 was a very productive year for the PRTB. Considerable progress was made in all areas of operation:

- ▶ There were over 234,000 tenancies registered at the end of the year.
- ▶ Over 12,000 enforcement proceedings have issued to unregistered landlords from 2005 to date.
- ▶ The number of Determination Orders issued in relation to Adjudications and Mediations increased by 78% over 2008.
- ▶ The number of Tribunal hearings increased by 74% over the previous year.
- ▶ The PRTB assumed responsibility for administration of the Rent Tribunal.
- ▶ There was a 300% increase in the number of Enforcement proceedings sought and progressed during 2009 over the previous year.

I would like to acknowledge the hard work of the PRTB staff and management and also our team of Mediators, Adjudicators and Dispute Resolution Committee (DRC) members in bringing about this considerable improvement in our services.

Deposit Retention and Rent Arrears continue to be the main issues for Tenants and landlords, accounting for 51% and 23% respectively of PRTB cases. The outcome in 75% of deposit retention cases was that the landlord was required to return part or all of the deposits which they had not refunded to their tenants. The Act<sup>1</sup> states that the Deposit must be returned unless there are rent arrears in excess of the Deposit amount, damage to the property beyond normal wear and tear or the specified notice has not been given. Unnecessary deposit related disputes have the effect of slowing the entire dispute Resolution system, thus causing inordinate delays in dealing with other cases. They also cause considerable hardship for lower income tenants. It is also notable that damages are being awarded in an increasing number of cases for the non return of deposits if the landlord is found to have unjustifiably retained them.

Similarly, the PRTB cannot condone the behaviour of tenants who refuse to pay rent thereby abusing the protections which the Act offers them. Such cases are being expedited and rigorously pursued pending a more permanent solution when the amendments to the Act are enacted.

In addition to planned legislative changes, the PRTB formed an Education and Awareness Committee in late 2009 to consider a number of issues, including greater educational awareness in relation to the handling of tenants' deposits.

## Review of the Residential Tenancies Act

One of the highlights of 2009 from a strategic perspective was the announcement by the Minister of the outcome of his review of the Residential Tenancies Act. In accordance with our remit to provide policy advice to the Minister, the Board of the PRTB had made a comprehensive submission on aspects of the legislation which needed to be amended in order to deliver an improved service to our clients. We were pleased that the Minister accepted the broad thrust of the proposed changes. They include the separation of the functions of the Board and the Dispute Resolution Committee, measures to address non-payment of rent by tenants during a dispute process (ie to terminate such a tenancy) and fixed fines where deposits are illegally retained by landlords. These amendments are informed by six years of operating the current legislation and are necessary to assist the PRTB in providing a more effective and efficient service.

## ICT Strategy

The Board approved an ICT Strategy in late 2008 and considerable progress was made in implementing this during 2009.

The PRTB developed a detailed Request for Tender, which was approved by the Department of Finance in June 2009. Given the size of the project we were obliged to advertise in the EU Official Journal, under public procurement rules. Direct Marketing Technologies, trading as Vulcan Systems, based in Galway, were awarded the contract in December 2009. The project is being overseen by a strong ICT Steering Committee which includes PRTB Senior Management, ICT experts from NTMA (National Treasury Management Agency), Revenue and LGMA (Local Government Management Agency) and it is

<sup>1</sup> Section 12(1)(d) and 12(4)



chaired by a Board Member who is a Principal Officer. The new Tenancy Management System will greatly enhance customer service, most notably with the introduction of On-Line Registration in 2010.

### Corporate Governance

The PRTB Board takes Corporate Governance very seriously and adheres to the highest standards possible in an organisation of our size. The newly appointed Board participated in training on the Code of Practice for the Governance of State bodies, the Ethics in Public Office Act and other relevant training to ensure that we are aware of the onerous responsibilities of our role. We also have a number of very active sub-committees including an Audit Committee, a separate Finance Committee and a Legislative Committee.

### Board Members

I would like to take the opportunity to thank the Board Members whose terms of appointment ended last October, viz Anne Colley, Mary Heaslip, Fintan McNamara, Dervla Quinn, Bairbre Redmond and Tony Taaffe. I would particularly like to acknowledge the very significant contribution of my predecessor Tom Dunne under whose careful stewardship the PRTB was established. I would also like to welcome our new Board Members, Gene Feighery, Finian Matthews, John Tiernan, Joan O'Dowd, Aidan Brennan and Vincent P Martin.

### Conclusion

The PRTB has contributed significantly to the development of a well regulated private residential rental sector in Ireland. This has involved considerable challenge and culture change for all of the stakeholders in the sector. In the early years

the organisation experienced considerable difficulties in meeting that demand. However, we now have a three year strategic vision in our Corporate Plan 2009 – 2011, there is a comprehensive amendment of the Residential Tenancies Act underway and our ICT strategy will provide us with state of the art technology to leverage greater efficiencies, including on-line services for clients. The processing rates and times have been considerably improved during 2009. The demand for the PRTB's services continues to grow and notwithstanding the public sector staffing moratorium which has affected the filling of vacancies, the staff and Board of the PRTB are committed to delivering the best possible service in the years ahead.

**Orla Coyne**

*Chairperson*

## Director's 2009 Executive Summary



As Director of the PRTB I am pleased to present the 2009 Business Review. We have made considerable progress in the implementation of our Corporate Plan 2009 – 2011 in year one of this strategy. PRTB Staff are extremely committed to

achieving the “cheap, speedy and efficient service” which the Residential Tenancies Act aspires to and they have demonstrated innovative thinking and flexibility in work practices to bring about the improvements in our processing times and to increase productivity, as set out below. We are determined to build on that progress in 2010 whilst implementing the Tenancy Management System to introduce on-line services and to automate a number of labour intensive processes.

### Registrations

By end-2009 the PRTB had 234,582 tenancies on the Register. Due to changes in the Housing (Miscellaneous Provisions) Act 2009 there has been a considerable reduction in the number of incomplete application forms submitted by landlords, from 30% in 2008 to 19% in 2009. The PRTB issued 4000 Enforcement Notices to unregistered landlords in 2009, bringing to 12,000 in total the number of cases followed up on.

### Disputes Resolution Services

The PRTB has replaced the Courts for the vast majority of landlord and tenant disputes in the

private residential sector. We offer Mediation or Adjudication Services in the first instance, for a fee of €25. The decision of the Adjudicator may be appealed to a three person Tribunal at a cost of €40. Hearings are held country wide. I would now like to examine each area in more detail.

### Mediations and Adjudications

Applications received during 2009 increased by 13% over 2008. Despite increasing demand the backlog in cases awaiting hearing reduced during 2009 from 1,388 cases to 730 cases, a 47% decrease. This significant improvement was achieved by staff in the disputes section setting up 1,618 hearings (a 45% increase) with a consequent increase in the number of Determination Orders to 922, which represents a 78% increase over 2008. As a result the average case processing time decreased from 18 months at end December 2008 to 12 months at end December 2009. We are pleased with the progress made during the year towards our 2009 – 2011 Corporate Plan objective of providing a 5/6 month processing time for our clients.

In line with previous years, 68% of 2009 cases were referred by Tenants, 29% by landlords and the remaining 3% by third parties. Deposit Retention continues to be the main cause of dispute representing 51% of cases. Rent arrears related cases are the next largest category at 23%.

### Tribunals

If any of the parties involved in a dispute case appeal the findings within 21 days of receipt of the Adjudicator/Mediator report the dispute will be

referred to a three person Tenancy Tribunal. This is a more formal hearing, with evidence given under oath and a stenographer present. Thereafter cases may only be appealed on a point of law to the High Court. In 2009 there were 176 Tenancy Tribunals held. This represents an increase of 74% compared to Tribunals in 2008, whilst still maintaining the improved timescale of two/three months processing time. Of the Tribunals convened the appeal was from the tenants in 34% of instances, 61% from landlords, 3% from both parties and 2% from third parties.

## Enforcement

Compliance with Determination Orders made by the PRTB can be enforced by way of civil or criminal proceedings through the Courts. A total of 307 new enforcement requests were received in 2009, which exceeds the previous three years combined. 124 of these requests were from landlords and 173 requests were from tenants. The remainder were from Third Parties. The two main areas of enforcement involved recovery of Rent Arrears and Deposits.

## Finance and Corporate Affairs

During the course of 2009 the PRTB collected €8.4 million in Registration fees of which €3.8million was set aside for dispersal to Local Authorities for inspections. We also made considerable progress on further developing our Corporate Government Structures, including completion of four internal audits, and the preparation of a detailed Data Protection Plan.

I would like to thank the PRTB Board Members, both past and present, and the Department of Environment officials for their support and guidance during the year. I would also like to thank the staff of the PRTB for their commitment and

hard work in a challenging work environment. As in 2008 our Mediators, Adjudicators and Dispute Resolution Committee members have worked with us to implement a series of initiatives to streamline the disputes process and their cooperation and flexibility is greatly appreciated. On a personal note I would like to thank my Senior Management team Kathryn Ward, Carmel Diskin, Máire O'Mahony and Frank Gallagher, for their support to me and for the leadership they have shown in the development and delivery of an ambitious Work Programme for 2009. This has laid a solid foundation for the roll out of further improvements we have committed to in our Corporate Plan in 2010/2011.

**Anne Marie Caulfield**  
*Director*

## PRTB Board Members

MEMBERS OF THE BOARD AS AT DECEMBER 2009



Orla Coyne  
*Solicitor (Chairperson from 1 October 2009)*



Aidan Brennan  
*Civil Servant, Department of Environment, Heritage & Local Government*



Gene Feighery  
*Environmentalist*



Aideen Hayden  
*Solicitor*



Ciaran McNamara  
*Assistant City Manager, Dublin City Council (resigned June 2010)*



Vincent P. Martin  
*Barrister-at-Law*



Finian Matthews  
*Retired Civil Servant*



Cian Ó Lionáin  
*Civil Servant, Department of Environment, Heritage and Local Government*



Dr Eoin O'Sullivan  
*Lecturer in Social Policy, School of Social Work and Social Policy, Trinity College Dublin*



Thomas J Reilly  
*Property Professional*



John Tiernan  
*Former County Manager*

Joan O'Dowd, *Civil Servant, Department of Social Protection (resigned Jan 2010)*

## PRTB Board Members

### MEMBERS OF THE BOARD UP UNTIL 30 SEPTEMBER 2009

- ▶ Tom Dunne  
*Head of School of Real Estate and Construction  
Economics, Dublin Institute of Technology  
(Chairman up until 30 September 2009)*
  
- ▶ Anne Colley  
*Solicitor*
  
- ▶ Mary Heaslip  
*Auctioneer and Valuer*
  
- ▶ Fintan McNamara  
*Property Professional*
  
- ▶ Dervla Quinn  
*Solicitor*
  
- ▶ Prof. Bairbre Redmond  
*Vice Principal, College of Human Sciences,  
University College Dublin*
  
- ▶ Tony Taaffe  
*Solicitor*

# The Board and its Sub-Structures

## The Functions of the PRTB

The Private Residential Tenancies Board (PRTB) is a statutory body established under the Residential Tenancies Act 2004 (as amended).

The PRTB's principal functions include:

- ▶ resolution of disputes between tenants and landlords in accordance with the provisions of Part 6 of the Residential Tenancies Act 2004
- ▶ registration of particulars in respect of tenancies in accordance with the provisions of Part 7 of the Residential Tenancies Act 2004
- ▶ provision to the Minister of advice concerning policy in relation to the private rented residential sector
- ▶ development and publication of guidelines for good practice by those involved in the private rented residential sector
- ▶ collection and provision of information relating to the private rented residential sector, including information concerning prevailing rent levels
- ▶ conducting research into the private rented residential sector and monitoring the operation of various aspects of the private rented residential sector or arranging for such research and monitoring to be done where the Board considers it appropriate;
- ▶ review of the operation of the Residential Tenancies Act 2004 and any related enactments and the making of recommendations to the Minister for the amendment of the Act or those enactments; and
- ▶ performance of any additional functions conferred on the Board by the Minister.

The PRTB mission statement is to regulate and support the private rented residential sector by

providing efficient and equitable dispute resolution, tenancy registration, and information services to tenants, landlords, the Minister and other stakeholders and to promote best practice in the sector.

## The Board Members

The PRTB is committed to maintaining the highest standards of corporate governance in compliance with the Code of Practice for the Governance of State Bodies. The Board has prepared and adopted Codes of Business Conduct for its Board Members, Director and Staff and for Adjudicators and Mediators.

The Board met on 35 occasions during 2009 to deal with matters relating to both policy and disputes. In addition there were 21 meetings of the Board's 6 committees.

In 2009, Board members were paid fees under deduction of PAYE tax totalling €329,186, of which €104,951 was in respect of attendances at board meetings (policy, disputes & committees) and €224,235 for work associated with Tribunals.

Board members were also paid a total of €18,901 for travel and subsistence incurred for attendances at meetings and Tribunals in accordance with the Department of Finance guidelines.

Board fees were reduced by 10% as of 1 May 2009.

The fees payable in 2009 for Board related duties were as follows:

ACTIVITY	FEES effective from 1 September 2008 until 30 April 2009	FEES effective from 1 May 2009 onwards
Board Meetings/Committee Meetings/Training	€218	€196
Board Meetings/Committee Meetings/Training – Chairperson	€241	€217
Dispute Meetings / Tribunal Hearings	€387	€348
Dispute Meetings / Tribunal Hearings - Chairperson	€603	€543

#### Board Members Appointed/Re Appointed to the Board in 2009

BOARD MEMBER	START DATE	EXPIRY DATE
Aidan Brennan	7 Jan 09	31 Dec 2012
Finian Mathews	01 May 09	31 Dec 2012
John Tiernan	1 Oct 09	30 Sep 2013
Vincent P. Martin	16 Dec 09	31 Mar 2013
Gene Feighery	16 Dec 09	31 Mar 2013
Joan O'Dowd	1 Oct 09	Resigned
Aideen Hayden*	1 Oct 09	31 Dec 2012
Dr. Eoin O'Sullivan*	1 Oct 09	30 Sep 2013

\* These Board Members were re-appointed upon the expiry of their original term.



**Board Members' Attendance and Remuneration 2009**

The attendance of Board Members at meetings and participation in other Board related work throughout 2009 is set out below along with the fees received by them for the period 1 January to 31 December 2009.

BOARD MEMBERS	NUMBER OF MEETINGS ATTENDED IN 2009			Fees received in 2009
	Board Policy	Board Disputes	Committees & Training	
Orla Coyne	9	19	34	€12,338
Tom Dunne *	7	8	36	€10,771
Aidan Brennan ***	12	10	16	N/A
Anne Colley *	8	10	27	€8,243
Gene Feighery	1	0	0	0
Aideen Hayden	12	13	46	€10,658
Mary Heaslip *	8	14	27	€8,526
Ciaran McNamara **, ***	8	8	10	N/A
Fintan McNamara *	6	9	25	€6,713
Vincent P. Martin	1	0	0	0
Finian Matthews	8	11	24	€6,528
Joan O'Dowd **, ***	3	0	0	N/A
Cian Ó Lionáin ***	13	3	23	N/A
Dr. Eoin O'Sullivan	13	14	34	€11,056
Dervla Quinn *	9	12	27	€8,026
Prof Bairbre Redmond *	3	9	11	€4,177
Thomas J Reilly	12	17	31	€10,124
Tony Taaffe *	7	10	15	€5,963
John Tiernan	3	3	5	€1,828
<b>Total Number of meetings</b>	<b>14</b>	<b>21</b>		<b>€104,951</b>

\* Term of Membership Expired on 30 September 2009

\*\* Offered their resignation to the Board upon retirement in 2010

\*\*\* These board members were not paid fees as they are full-time public servants.

## PRTB Committees 2009 Activity

In accordance with Section 157 of the Residential Tenancies Act 2004, the Board has established a number of committees to assist in the discharge of its responsibilities:

- 1. Dispute Resolution Committee**
- 2. Education, Awareness and Research Committee**
- 3. Audit Committee**
- 4. Finance Committee**
- 5. Legislative Committee**
- 6. Section 189 Committee.**

### 1. Dispute Resolution Committee

The dispute Resolution Committee (DRC) of the PRTB is the panel from which the members of the three person Tenancy Tribunals are drawn. One hundred and seventy six such Tribunals were held during 2009. The dispute Resolution Committee held its annual meeting in December 2009. Since Tribunal Determinations can only be appealed on a point of law to the High Court, members of the DRC perform an important quasi-judicial function. The Tribunal issues Determination Orders that are approved by at least a quorum of the Board Members. Section 159 of the Residential Tenancies Act empowers the Board of the PRTB to establish a dispute Resolution Committee and to delegate functions and appoint members to that Committee.

### 2. Education, Awareness and Research Committee

The Board established a Research Committee in June 2005. The Research Committee decides what research is necessary, appropriate or desirable for the Board to undertake and with

Board approval makes arrangements for the carrying out of such research and considers the findings of research studies and reports on these to the Board. The Research Committee utilises the Centre for Housing Research (CHR) to conduct its identified research projects. The Centre is a joint initiative between the DoEHLG (Department of Environment, Heritage and Local Government), local authorities and the voluntary and co-operative housing sector.

In March 2009, in recognition of the need to promote greater public awareness, the Board established an Education and Awareness Committee and following this in April 2009 the Board merged the Education and Awareness Committee with the Research Committee. In total (before and after the merge) the Education, Awareness and Research Committee met four times in 2009.

The PRTB engaged in collaborative research with key partners. "*The role of the private rented sector in meeting the needs of third level students*" is a case in point and this research was conducted in collaboration with the DoEHLG, Department of Education and Science and the Students Union of Ireland. A survey of almost 1,200 students in third level colleges in Dublin was undertaken and this was complemented by a review of international practice. This report was published in 2009 and launched in October 2009 by Mr John Gormley, T.D., Minister for Environment, Heritage and Local Government, and Mr Batt O' Keffe, T.D., Minister for Education and Science.

Commissioned as part of a research programme to help inform the Housing Strategy for People with

Disabilities, the PRTB funded a study on the potential of the Private Rented Sector for people with a disability. This study involved interviews with 27 stakeholders, two focus groups and an international literature review. It is expected that this report will be published in 2010.

Additionally the PRTB awarded a PhD scholarship to Ms. Mairead Finn in 2009 to allow her conduct research on migration and the private rented sector in Ireland.

### 3. Audit Committee

The Board established an Audit Committee in March 2006. This consists of four members, two of whom are Board members and two who are external to the PRTB. The Committee is chaired by a qualified accountant, Mr Noel O'Connell.

The role of the Audit Committee is to advise and make recommendations to the Board and senior management on any matter pertaining to the Internal Audit function within the PRTB as the Committee considers necessary or appropriate. In addition, it considers whether processes are in place to manage risks in accordance with organisational guidelines and business plans. The Audit Committee met five times in 2009. An Internal Audit Plan was agreed and DFK Crowleys, Chartered Accountants, conducted the following reviews during the year:

- ▶ Review of Disputes Resolution Service
- ▶ Review of Strategic Management
- ▶ Follow up Review of Financial Management
- ▶ Follow up Review of Corporate Governance

### 4. Finance Committee

Established by the Board in May 2006, the function of the Finance Committee is to assist the PRTB in discharging the individual and collective

legal responsibilities that arise principally in the areas of financial reporting and control. The Committee met three times during 2009. During the year, the Finance Committee monitored the development of the ICT Strategy, together with monitoring the income and expenditure of the PRTB. The Finance Committee also guided the continued development of the Corporate Plan which charts a clear strategic direction for the PRTB for the period 2009 – 2012.

### 5. Legislative Committee

The Board established a Legislative Committee in 2006 to examine and propose amendments to the Residential Tenancies Act 2004. In February 2009, Mr. Michael Finneran T.D., Minister for Housing & Local Services announced a review of the operation of the Residential Tenancies Act, 2004. A fundamental principle of the review was to ensure that the balance between landlords' and tenants' rights established by the Residential Tenancies Act 2004 would not be disturbed. As a result the Legislative Committee had been given a new impetus to reflect on the Act and the Committee met eight times in 2009 and recommended a range of legislative proposals which were submitted to the DoEHLG in 2009. The drafting of this legislation is underway and is a very significant objective for the Private Residential Tenancies Board and the Department of Environment in 2010.

On 4 November 2009 the Minister announced the outcome of the review of the Residential Tenancies Act 2004. The proposed new amendments include *inter alia*:

- ▶ The introduction of fixed fines where deposits are illegally retained by landlords
- ▶ Measures to address non-payment of rent by tenants during a dispute process, in particular to introduce scope for the legal termination of such a tenancy.

- ▶ Measures that will encourage the greater use of mediation as a means of settling disputes
- ▶ The simplification of procedures in general, including those for the registration and termination of tenancies
- ▶ The inclusion within the remit of the Residential Tenancies Act of those segments of the voluntary and co-operative housing sector that most closely parallel the current remit of the Residential Tenancies Act 2004, i.e. standard social housing.

## 6. Section 189 Committee

Section 189 of the Residential Tenancies Act provides for the Board to apply to the Circuit Court for interim or interlocutory relief where the Board considers it appropriate to do so (for example in cases of serious anti-social behaviour or illegal evictions).

The Board established a Section 189 Committee in May 2005. The Committee meets whenever called upon by the Director on foot of a request received by the Board for an application under section 189 of the Act. The function of the Committee is to decide whether or not the Board should make an application to the Circuit Court under section 189 of the Act. Decisions of the Committee are not subject to further confirmation by the Board.

## Membership of PRTB Committees

### Dispute Resolution Committee

Cian Ó Lionáin (Chair)  
 Aidan Brennan  
 Anne Colley  
 Charlie Corcoran  
 Orla Coyne  
 Gus Cummins  
 Keara Donnelly  
 Tom Dunne  
 John C. Elliott  
 Michael Farry  
 Geraldine Feeney  
 Paul Good  
 Aideen Hayden  
 Mary Heaslip  
 Bill Holohan  
 Nesta Kelly  
 John Lynch  
 Fintan McNamara  
 Ciaran McNamara  
 Mary Morris  
 Henry Murdoch  
 Liam Nolan  
 Liam O'Donnell  
 Dr Eoin O'Sullivan  
 Dervla Quinn  
 Prof Bairbre Redmond  
 Thomas J Reilly  
 Pat Riney  
 Tony Taaffe

### Audit Committee

Noel O'Connell (Chair)  
 Dermot Byrne  
 Aideen Hayden  
 Cian Ó Lionáin

### Finance Committee

Tom Dunne (Chair until Sept)  
 Orla Coyne (Chair after Sept)  
 Aideen Hayden  
 Ciaran McNamara  
 Fintan McNamara  
 Eoin O'Sullivan  
 Aidan Brennan

### Education, Awareness & Research Committee

Dr Eoin O'Sullivan (Chair)  
 Orla Coyne  
 Tom Dunne  
 Aideen Hayden  
 Mary Heaslip  
 Ciaran McNamara  
 Fintan McNamara  
 Dervla Quinn  
 Bairbre Redmond  
 Thomas J Reilly

### Legislative Committee

Tom Dunne (Chair)  
 Anne Colley  
 Orla Coyne  
 Cian Ó Lionáin  
 Dervla Quinn

### Section 189 Committee

Tom Dunne (Chair)  
 Orla Coyne  
 Aideen Hayden  
 Cian Ó Lionáin  
 Thomas J Reilly

The Education & Awareness Committee amalgamated with the Research Committee on 8 April 2009.

# PRTB Tenancy Registration

*234,582 Tenancies on the  
Register of the PRTB at end 2009*

## Registration Activities 2009

Under the Residential Tenancies Act 2004, landlords are required to apply to the Board to register tenancies with the PRTB within one month of their commencement. Landlords of unregistered tenancies are precluded from referring a dispute to the PRTB. Non-registration does not affect Tenant rights and Tenants will have access to the dispute resolution service irrespective of whether the tenancy is registered.

### Tenancy Registration Fees

The following fees are applicable to the registration of tenancies:

- ▶ **€70** per tenancy provided it is registered within one month after the commencement of the tenancy or
- ▶ **€300** for multiple tenancies in the one building being registered at the same time by the one landlord within one month of the commencement date of the first tenancy (i.e. first tenant moved in on 01/01/09, then all forms must be submitted by 31/01/09). If, in the 12 months following the payment of a composite fee, one of the tenancies included in the set of multiple tenancies ends and a new tenancy is created, the application to register the new tenancy does not have to be accompanied by a fee provided it is made within one month of the commencement of the tenancy.

No fee is payable where two payments in respect of the tenancy have been made to the Private Residential Tenancies Board in the previous 12 months. No fee is payable for an update of details of a tenancy already registered. The fees have not changed since the PRTB was established in 2004. A late fee of **€140** applies where a tenancy is

being registered more than one month after the commencement of the tenancy.

The Residential Tenancies Act 2004 requires that a landlord shall apply to the PRTB to register a tenancy within one month of the commencement of the tenancy. In all circumstances where the application to register is made beyond this one month period, the late fee applies.

### Further Part 4 Tenancy

Registration lasts the length of the tenancy but subject to a maximum of four years. Part 4 of the Residential Tenancies Act 2004 provides that a “further Part 4” tenancy will commence on the expiry of four years from the commencement of a tenancy.

This means that tenancies must be re-registered where they have existed for four years. Failure to do so is an offence and in addition the landlord will not be able to avail of the PRTB’s dispute resolution services.

The first 4-year cycle expired on the 31 August 2008 and the PRTB informed landlords of their obligation to re-register the further Part 4 tenancy as appropriate. In 2009 over 29,000 reminder letters were issued to landlords who had registered tenancies with 2005 start dates.

The average volume of forms received by the PRTB during 2009 was in the region of 400-500 per day. However, during the four months from September to the end of the year, the average volume of forms received each day increased substantially and reached over 1,000 forms per day for some weeks.

## Housing (Miscellaneous Provisions) Act 2009

Part 7 of the Housing (Miscellaneous Provisions) Act 2009 (which came into law on the 15th July 2009) contained a number of amendments to the Residential Tenancies Act 2004.

In relation to Tenancy Registrations an amendment to Section 135 (5) of the Act provided that a landlord has 1 month from the tenancy commencement date to apply to the PRTB to register a tenancy. If the form submitted is incomplete it will be returned by the PRTB and the late fee will apply unless it is resubmitted within the month. However the Board have decided to adopt a practical approach in relation to this change in legislation until such time as the online system is up and running in September 2010.

Section 135 (2) of the Residential Tenancies Act has been deleted. This removes the requirement for landlord and tenant signatures on the tenancy registration form and was introduced to facilitate online registration. This only applies to applications which were received by the PRTB on or after the commencement of the legislation, i.e. the 15th of July 2009.

**2009 saw a big reduction in the number of incomplete Tenancy Registration Application Forms submitted to the PRTB.**

## 2009 Tenancy Registration Statistics

In 2009, the PRTB registered almost 96,000 new tenancy agreements, which was an increase of 10,000 over the previous year. While some of this increased activity was down to landlords re-registering tenancies that had existed for 4 years “further part 4 tenancies” there would also appear to have been an increase in movement of tenants in general throughout the year.

## Number of tenancies registered each year

DATE	TENANCIES
Sept 2004 to December 2005	85,000
2006	54,000
2007	80,849
2008	85,904
2009	95,969

The total number of tenancies registered with the Board at the end of 2009 was in excess of 234,000 which is representative of 116,000 landlords and more than 399,000 tenants. These figures however should be read with caution as there is no requirement for a landlord to notify the PRTB where a tenancy has ceased.

By year end the number of incomplete applications received by the PRTB and returned to landlords had reduced to 19% which was a big improvement on the previous year. This is partly due to the removal of the requirement for the tenant's signature but is also due to landlords and their agents taking greater care when filling out the PRTB Registration Form. However applications are still being returned as incomplete where the landlord or tenant's PPS number is missing or invalid; an incorrect fee is submitted; or the tenancy commencement date has not been inserted.

## Enforcement of Registration Requirement and Action Plan on Non-Compliance

The PRTB actively pursues landlords for non-registration, within the constraints of the resources available. Staff members follow up on information received from a variety of sources including the Department of Social Protection<sup>2</sup>, the Local Authorities & members of the public.

<sup>2</sup> Formerly titled the Department of Social and Family Affairs



**REGISTRATION STATISTICS AT 31 DECEMBER 2009**

Number of tenancies registered	234,582
Number of landlords	116,577
Number of tenants	399,283
Average number of applications received daily	429
% of applications received daily that are complete	81%
% of applications returned daily as being incomplete	19%
Amount of phone calls answered by Registration in 2009	36,134

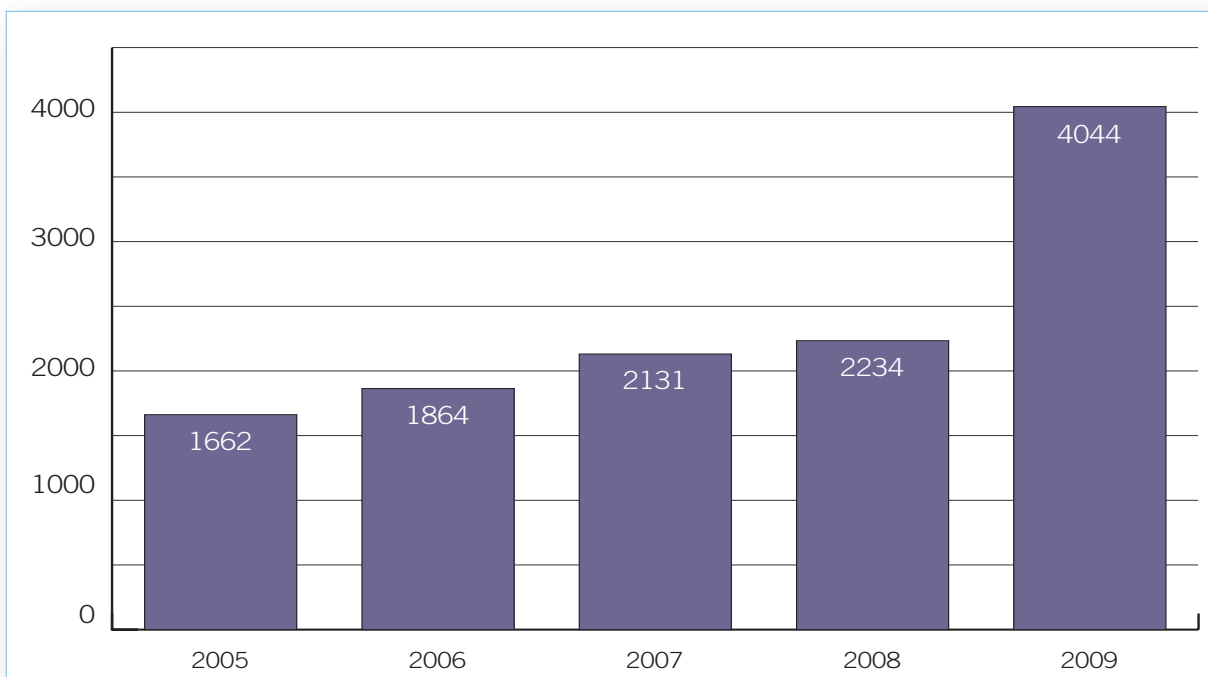
The steps being taken by the PRTB are in accordance with the provisions of the Residential Tenancies Act 2004 and, in particular, sections 144 and 145. They include the obligation to issue two notices to landlords of the dwellings in question, and the prosecution of offenders for non-compliance with the notices.

To date the Board has served almost 12,000 enforcement notices on landlords. Over 1,500 solicitors' letters were also issued.

**Register of Tenancies**

The PRTB is required to maintain a register of tenancies in accordance with the Residential Tenancies Act 2004 and to provide and manage an up-to-date database for information, policy-making and statistical purposes.

The published register is an extract from the register of tenancies and contains details from the Registration form that is supplied by the landlord

**ENFORCEMENT NOTICES SERVED ON LANDLORDS**

or Agent. The register provides the address of the rented dwelling; a description of the dwelling; the number of bedrooms and bed spaces; and the floor area. The published register does not contain any information that could lead to the disclosure of the identity of the landlord or the Tenant or the rent payable.

### How to check if a rented property is registered?

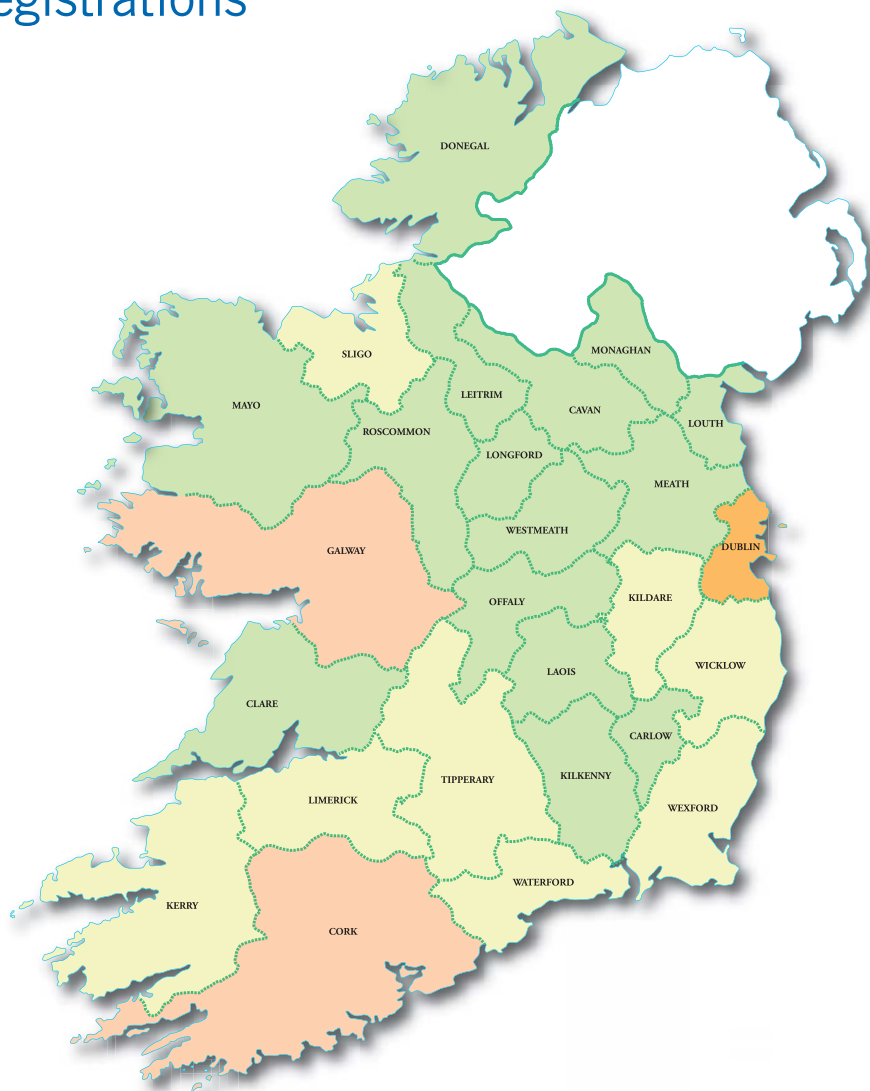
To check the published register, log on to the PRTB's website at [www.prtb.ie](http://www.prtb.ie). Go to Tenancy Registration and click into the Published Register and then the appropriate county and search

under the address of the rented dwelling. The register is available in both PDF and excel format. It is important to note that the published register is a snapshot of the register at a point in time, generally extracted from the database twice a year and accordingly it will not include any tenancies registered after the latest extraction date. If you are aware of a rented property which is not registered you can report this to the PRTB, in strict confidence, at [Enforcement@prtb.ie](mailto:Enforcement@prtb.ie)

Over 40% of all tenancies registered with the PRTB in 2009 were in Dublin County, Cork County is next highest with 12%, Galway with 7% and Limerick 5%.

## Tenancy Registrations

- under 2%
- 2% < 7%
- 7% < 40%
- 40% or over



## Data Exchange

Data is exchanged between the PRTB and various external bodies in accordance with the Residential Tenancies Act 2004 (as amended) and other relevant legislation.

**Department of Social Protection:** The PRTB receives data periodically from the Department of Social Protection in relation to dwellings where the tenants are in receipt of rent supplement. The Board cross checks this information with the tenancy registration database and initiates enforcement proceedings where landlords are not registered. The Department of Social Protection receives an extract from the PRTB's register of tenancies on request for the purpose of assisting them with regard to rent reviews and for the purpose of prevention and detection of fraud in social welfare payments.

**Revenue Commissioners:** An amendment to the Residential Tenancies Act 2004 has been included in the Housing (Miscellaneous Provisions) Act 2009 that gives the Revenue Commissioners full access to the PRTB's register relating to landlords and the corresponding tenancies and Tenants as required.

**Local Authorities - enforcement of housing standards:** An extract from the Register of Tenancies is supplied to each Local Authority twice yearly to assist them in their responsibilities with regard to inspections and the enforcement of minimum standards in rented accommodation.

**Local Authorities - Non Principal Private Residence Levy:** The PRTB facilitated the introduction of the Non Principal Private Residence levy in 2009. The PRTB was represented at Senior Management level on the Committee which oversaw the implementation of the scheme. Information on second properties

from the PRTB register was supplied to the Local Authorities. All data exchange is conducted in accordance with the Local Government (Charges) Act 2009.

**Central Statistics Office:** Information from the Register of Tenancies was supplied to the Central Statistics Office under Section 30 of the Central Statistics Act 1993 for statistical purposes.

## Funding to Local Authorities through Registration Fee Income

In accordance with the provisions of the Residential Tenancies Act 2004, funding is provided to the Local Authorities to meet the cost of inspections of private rented accommodation. The situation in 2009 was for the first three months of the year, five-sevenths of the registration fee income was allocated to the Local Authorities. This was revised to three-sevenths on foot of specific payment directions by order made by the Minister for Housing & Local Services. The remainder was retained by the PRTB to defray its own operating costs. The PRTB holds this money in a fiduciary capacity and the amount disbursed to local authorities in 2009 under instruction from the DoEHLG was €3,600,001 bringing the total disbursed to Local Authorities by the PRTB to €12,219,007 since 2004.

Further information on Local Authority inspection rates and the new minimum standards in Private Rental Accommodation is available on the DoEHLG's website: [www.environ.ie](http://www.environ.ie).

Details of funds recouped to each of the local authorities are also available at the following link: <http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,21058,en.xls>

## **PRTB Dispute Resolution**

*(13% Increase in applications  
for Dispute Resolution Services in 2009)*

## Dispute Resolution Activities 2009

### Dispute Resolution Services

The PRTB Dispute Resolution Service replaces the courts in relation to the majority of landlord and Tenant disputes in the private rented residential sector. The Board operates a two-stage dispute resolution process outlined as an explanatory flowchart in Appendix 1. The first stage of the process consists of either adjudication or mediation. However, mediation is only an option if chosen by both parties. Mediation hearings and their outcomes are confidential to the parties involved. Although adjudication hearings are held in private and the reports are only issued to the parties involved or their representatives, the Determination Orders resulting from Adjudication hearings are published on the PRTB website.

Either party has the right to appeal their case to a second stage public Tribunal hearing if they do not accept the outcome of the first stage of the dispute resolution process. In 2009, 261 appeal requests were submitted to the Board and 222 were admitted. The Board may also refer some cases directly to a Tribunal in certain circumstances. In 2009 no cases were directly referred by the Board.

The Board also publishes information on its website, in relation to landlords' and Tenants' rights and responsibilities under the Act, in order to assist parties in resolving their dispute without recourse to the formal dispute resolution service. The PRTB is committed to an improved focus on educating landlords and Tenants on good practice, with the ultimate objective of preventing disputes arising in the first place. During 2009, the PRTB's Educational & Awareness Committee developed initiatives to educate and inform its stakeholders

on good practice and the implications of the Act vis-à-vis tenant and landlord obligations. This included the publications of leaflet entitled "*Good Landlord, Good Tenant*".

### Future Review of the PRTB Legislation

One of the functions of the PRTB's Board is to advise the Minister for the Environment, Heritage and Local Government in relation to policy in the Irish private residential rental sector. The PRTB made a comprehensive submission to the Minister in relation to the need to review and amend the Residential Tenancies Act 2004. In November 2009, the Minister announced that the main issues addressed by the amending of the legislation in relation to the disputes resolution service would involve:

- ▶ A statutory objective of 6 months to be set for the PRTB for the issuing of determination orders arising out of dispute resolution applications
- ▶ The introduction of substantial fixed fines where deposits are illegally retained by landlords
- ▶ Measures to address non-payment of rent by tenants during a dispute process, in particular to introduce scope for the legal termination of such a tenancy
- ▶ Measures that will encourage the greater use of mediation as a means of settling disputes
- ▶ The separation of the governance and quasi-judicial functions of the Board
- ▶ The simplification of procedures in general, including those for the registration and termination of tenancies
- ▶ A number of issues will require further research such as including third party complaints under

the Act, the Act's engagement with anti-social behaviour matters and how best to address issues surrounding the retention of deposits, will also be considered in detail.

### Quasi – Judicial Function of the Dispute Resolution Service

As a State body exercising a quasi-judicial function, the PRTB must act strictly in accordance with the terms of the Act to ensure that its Determination Orders are legally enforceable in the Courts in the event of non-compliance. The PRTB and its staff have no operational discretion in relation to any matters which are prescribed under the Act. In order to provide a fair and neutral service to both parties, the PRTB cannot provide legal advice or specific guidance to either party in relation to their dispute. The PRTB website refers parties onto other bodies which can provide landlords and tenants with advice and guidance in their particular dispute case.

### Appointment of Panels of Mediators and Adjudicators

The PRTB appoints independent Adjudicators and Mediators to resolve tenancy disputes.

Adjudicators and Mediators are selected from a panel that has been constituted in accordance with the Residential Tenancies Act 2004. The current three year panel, which was established following an open competition in December 2007, expires in December 2010. Adjudicators and Mediators are paid a flat daily fee for all cases they hear on a day and are subject to a Code of Business Conduct. Members of both the adjudication and mediation panels are listed in Appendix 2.

### Training

The PRTB provides adjudicators with training and feedback on an ongoing basis in order to provide the best possible service to parties involved in the dispute resolution process. In September 2009, the PRTB hosted a full day training seminar, whereby Adjudicators were updated on developments in the operation of the PRTB's Dispute Resolution Service and ongoing initiatives to improve the services of the PRTB to all its customers.

The seminar, presented by PRTB management, staff and legal advisers, also focused on quality assurance standards and the examination of pertinent aspects of the Act as well as legal precedents, judicial reviews principles and enforcement issues.

### 2009 Dispute Resolution Statistics

During 2009, 1,859 applications for dispute resolution were received by the PRTB. This was a 13% increase on the number received in 2008. In line with previous years, 56% of cases received in 2009 related to the Dublin area, whilst 44% of cases related to the rest of the country. On average, approximately 36 dispute applications were received on a weekly basis in 2009. At the end of 2009, the total number of outstanding dispute cases awaiting a hearing was 730 compared to 1388 in 2008, representing a 47% improvement.

#### “13% Increase in applications for Dispute Resolution Services in 2009”

The PRTB acknowledges that the Dispute Resolution Service provided by us is not yet the 'speedy' and reliable service specified in the Act. However, we have been working hard at improving the service for our clients within existing staffing levels and in the past year we have made considerable progress as outlined in the table below:

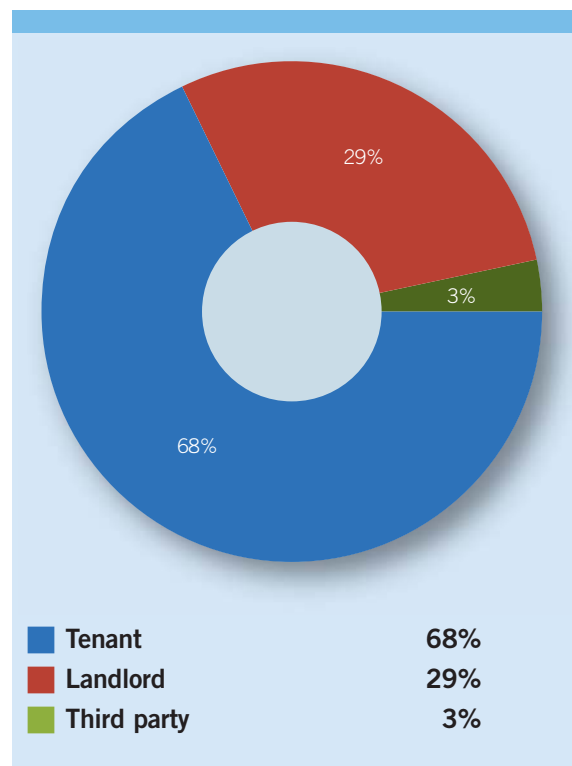
	End December 2008	End December 2009	% Change
Applications Received	1,650	1,859	+ 13%
Hearing Backlog	1,388 cases	730 cases	- 47%
Annual Hearings	1,116 cases	1,618 cases	+ 45%
Determination Orders Made	516	922	+ 78%
Avg. Processing Times	18 Months	12.5 Months	- 30%

In accordance with our Business Plan the PRTB aims to bring the average case processing times from 12.5 months down to 8 months by the end of 2010 and to 6 months or less in 2011, depending on the level of engagement with on-line services.

### Types of Cases Received

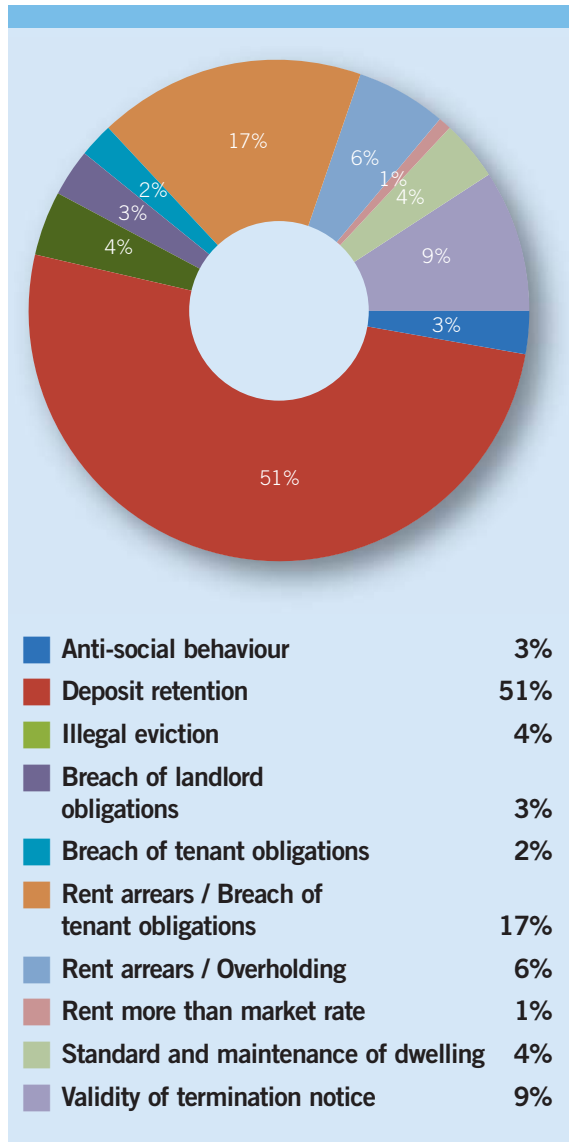
In line with previous years, 68% of 2009 dispute applications were made by the Tenant, 29% by the landlord and the remaining 3% by directly affected third parties, such as neighbours.

### Breakdown of all 2009 Cases by Applicant Party



The most common categories of dispute cases submitted by landlords and Tenants are summarised in the chart below. The two largest causes of dispute were due to deposit retention (51%) and rent arrears related disputes (23%), which are discussed in more detail on the following page.

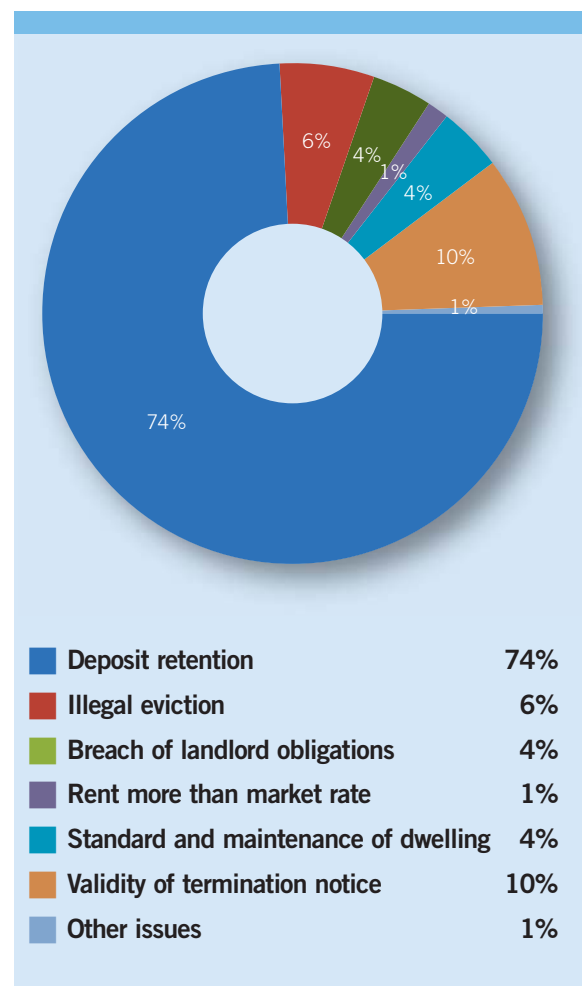
### Breakdown of all 2009 Cases by Dispute Type



### Breakdown of all 2009 Cases by Tenant

#### Cases referred by Tenants during 2009

Deposit Retention continues to be the biggest complaint by tenants.



### Deposit Retention Cases

Deposit retention complaints have consistently been the single largest category of cases submitted to the PRTB for dispute resolution. Deposit cases increased from 43% to 51% of all cases between 2008 and 2009. Deposit retention cases represented 74% of Tenants' cases during 2009, an increase from approximately 61% over 2008. In 75% of such cases determined during 2009, it

was determined that landlords should refund part or all of the deposits which they had retained from their Tenants.

Deposits should only be retained by a landlord, either fully or partially, in circumstances and in a manner consistent with the Residential Tenancies Act 2004. Deposits should only be used to offset rent arrears where they may exist following the termination of the tenancy or to defray the cost of



damage to the dwelling by the Tenant that is beyond normal wear and tear. Landlords are advised to inspect the dwelling prior to the Tenant vacating in order to resolve any issues in relation to damage.

Similar to our findings in 2008, the PRTB was concerned that a significant number of landlords were still unjustifiably withholding deposits in 2009. Deposits are the Tenants' and not the landlords' property and must be returned to Tenants in a timely manner. There are potential serious consequences for Tenants on low incomes when landlords do not refund deposits in a timely manner as it can increase the risk of homelessness for this category of tenant. Deposit retention cases contribute significantly to the workload of the PRTB. Resources would be freed up to process other categories of disputes by the PRTB if landlords refunded deposits (partial or full) as required under the Act.

To address the problem of landlords unjustifiably withholding tenants' deposits, the following measures were introduced during the year:

- (a) In order to inform landlords of their obligations in relation to tenants' deposits, the PRTB has taken out advertisements in the Irish Property Owners' Association (IPOA) Newsletter and on [www.irishlandlord.com](http://www.irishlandlord.com). PRTB senior management also addressed seminars of landlords/property professionals during 2009 and took part in two TV and one Radio Show on renting in the private sector.
- (b) The Board of the PRTB has reminded all of its Adjudicators that under Section 115 of the Residential Tenancies Act 2004, that they have the discretion to award damages against landlords who unjustifiably retain deposits.
- (c) In response to submissions made by the PRTB requesting fixed fines for unjustifiably retaining deposits, the Minister for Housing &

Local Services announced in November 2009, a review of 2004 Residential Tenancies Act which will include an examination of imposing fixed fines for illegal retention of deposits by landlords.

## DEPOSIT RETENTION AND REFUND

Deposits are the property of the tenant. Tenants are legally entitled to a refund of their deposit where there is no rent / utilities owing and where there is no damage to the dwelling beyond normal wear and tear at the end of a tenancy. Landlords are required by the Residential Tenancies Act 2004 to refund the deposit promptly less any deductions in respect of outstanding rent, utilities and damage/replacements in excess of normal wear and tear. It is advisable to inform tenants in advance of any deductions.

### Normal Wear and Tear

Normal wear and tear occurs where deterioration, depreciation or loss takes place over a period of time due to ordinary and reasonable use of the dwelling and appliances. For example, where a house is rented to a family with young children or to a larger number of people, it is more likely, that there will be some additional wear and tear. Damage to furniture & fittings, breakages and wear & tear beyond reasonable use are common complaints received from landlords. However, while these complaints may well be genuine and in need of redress, landlords must supply proper evidence that supports their case.

### Verification required to prove excessive wear and tear

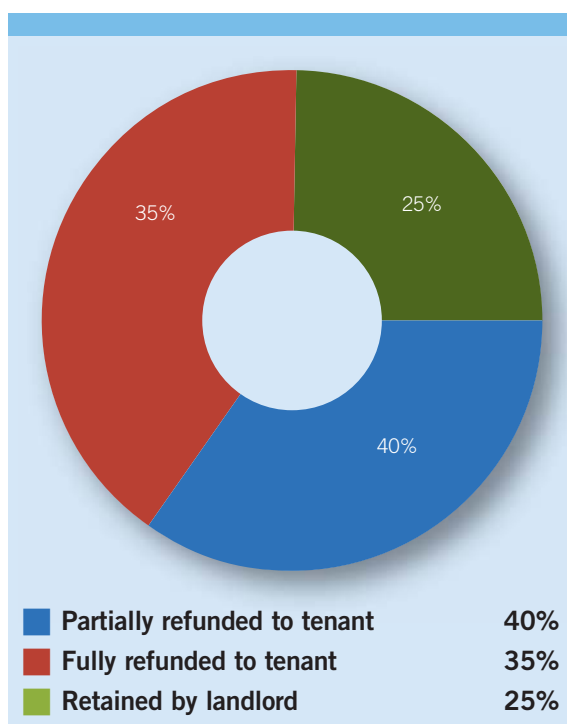
Best practice supports the provision of an inventory of contents of the property and their condition to the tenant at the commencement of

the tenancy. This inventory should be supported by photographic evidence and be signed and dated by both landlord and tenant. Before the end of the tenancy it is again recommended that the landlord and tenant go through the inventory and agree how much, if any, of the deposit is due to be retained. It should be noted that landlords have the right to inspect the rented dwelling during the course of the tenancy provided appropriate notice is given to the tenants.

If furniture has to be replaced (or other repair/decoration is required), then proper invoices (i.e. dated, specifying the dwelling, the work undertaken and be on headed paper) should be kept in the event of a subsequent PRTB dispute resolution case in relation to deposit retention.

More information and can be found on the PRTB website [www.prtb.ie](http://www.prtb.ie)

## 2009 Determinations on Deposit Retention Dispute Cases



## Early Termination of Fixed Term Tenancies

During 2009, the PRTB received a number of queries in relation to the early breaking of fixed term tenancies (e.g. lease agreements entered into for a defined period). There are only 3 circumstances pursuant to which a fixed term tenancy may validly be terminated during the fixed term:

### 1. Where there has been a breach of obligations by either the landlord or the tenant (Section 58(3)).

Before serving a notice of termination, where there has been a breach of obligations under the tenancy agreement and/or under the 2004 Act by the tenant, the landlord must serve a notice on the tenant requiring the tenant to remedy the stated breach of obligation within a specific time period, failing which a notice of termination will be served (other than in cases involving serious anti-social behaviour). Where the tenant has breached the obligation to pay rent, a notice must be served advising that an amount of rent is due and affording 14 days to discharge the arrears, failing which a notice of termination may be served;

### 2. Where the tenant has requested to assign or sub-let the tenancy and the landlord refuses to consent to the assignment or sub-letting (Section 186);

The 2004 Act does not specifically require the refusal of consent to assign or sub-let to be unreasonable in order to facilitate a tenant under a fixed term tenancy serving a notice of termination giving the required period of notice.

### 3. Where the fixed term tenancy agreement includes a specific provision permitting termination of the fixed term tenancy and that provision is consistent with the 2004 Act.

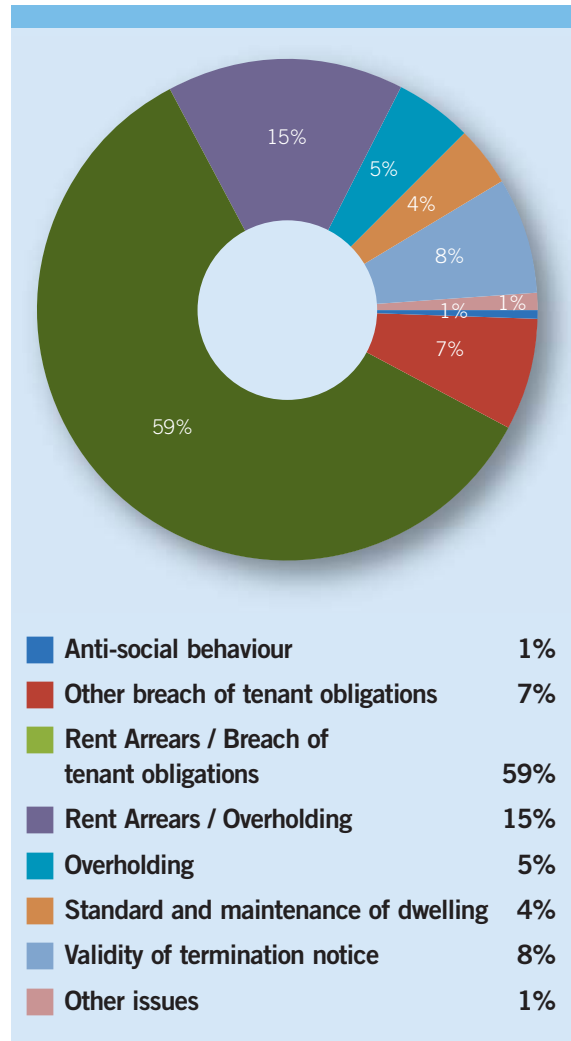
The parties may agree on specific circumstances on foot of which the fixed term

tenancy may be terminated and a notice of termination may be served accordingly, provided this agreement does not contravene the 2004 Act. Where a Part 4 (i.e. in excess of 6 months) tenancy is in existence, the grounds that could be inserted to this effect to be relied upon by a landlord must be those grounds as set out in section 34 of the 2004 Act.

Where a tenant breaks a fixed term tenancy agreement before the expiry of the fixed term, the landlord may make an application for dispute resolution services to the PRTB pursuant to Part 6 of the 2004 Act to seek compensation in respect of any loss or damage suffered as a result of this breach. However, there is no automatic entitlement to the rent that would have been due for the remainder of the fixed term and a landlord must display efforts to mitigate any loss or damage suffered, e.g. by re-letting the dwelling to a new tenant as soon as possible.

Also, there is no automatic right of forfeiture of a deposit provided under the 2004 Act. A deposit may only be withheld in accordance with section 12(4) of the 2004 Act (i.e. to compensate for rent due under the tenancy and/or for repairs and replacements in respect of damage to the dwelling in excess of fair wear and tear). The landlord must seek to re-let the dwelling as soon as possible to mitigate their loss and then refund the remainder of the deposit to the tenant, where there are no outstanding tenant utility bills or damage in excess of fair wear and tear.

### Breakdown of all 2009 Cases referred by Landlord



### Rent Arrears and Overholding Cases

Dispute cases involving Tenants' rent arrears; either solely or partially, represented the largest aggregated category of cases (74%) submitted to the PRTB by landlords in 2009. Under the Residential Tenancies Act 2004, tenants are required to pay their rent when it falls due and their tenancy may be terminated for non-payment of rent. Tenants are required under the Act to pay their rent even if there is an ongoing dispute with their landlord. Registered landlords should apply to

the PRTB for dispute resolution in cases where a tenant fails to vacate the rental dwelling after the expiry of valid notices of rent arrears and termination i.e. the tenant is overholding. The PRTB will prioritise such cases for an adjudication hearing. Landlords or their agents must never remove a tenant or their property from a rental dwelling themselves or interfere with their utilities e.g. cut off electricity or water supply as this will be treated as an unlawful termination of tenancy with potential awards of damages in favour of the tenant of up to €20,000. It is very important that landlords who find themselves in this situation serve notices as prescribed by the Act – sample notices of rent arrears/termination are provided on the PRTB Website (<http://www.prtb.ie/disputes.htm>).

Landlords cannot take a case to the PRTB unless the tenancy, the subject of the dispute, is registered. Non compliance with tenancy registration can cause unavoidable delays if a dispute later arises.

If a tenant is in receipt of rent supplement but is not paying the rent or has cancelled direct payment to the landlord's account, the landlord may inform the local Community Welfare Officer (CWO). A crime should neither be inferred nor implied in these cases. The CWO may decide to suspend this payment and in certain circumstances the landlord may later be able to recover these payments from the CWO, when a PRTB Determination Order has issued in relation to the case. The PRTB has no formal role in this process so it is a matter for individual landlords to liaise directly with the CWO based in their local Health Centre. Details of local Health Centres can be found on [www.citizensinformation.ie](http://www.citizensinformation.ie), or by contacting the Department of Social Protection in relation to rent supplement issues.

## Service of notices of rent arrears and termination

Landlords must serve a valid 14 day notice for rent arrears and subsequently a valid 28 day notice of termination on tenants in cases where the arrears have not been paid within the 14 day period and they want a tenant to vacate the rental property. Landlords should take appropriate measures to verify that their tenants received these notices on the date of service in the event that this is later contested by their tenants. The Act specifies the precise format for such notices and PRTB adjudicators will only uphold the validity of notices that are in the correct format.

If a rent arrears notice is found to be valid and the notice of termination is not valid, the PRTB adjudicator can make a determination on rent arrears but the tenant's right to remain in the property is unaffected as an adjudicator cannot terminate a tenancy, where no valid notice has been served. It should also be noted that if a tenant pays their rent arrears within the notice periods and falls into rent arrears again at a later date, a new 14 day notice must be issued to them. Both notices of rent arrears and termination should have the names of the tenants and the address of the rental property on them and must be in the prescribed formats on the PRTB website (<http://www.prtb.ie/disputes.htm>).

Unfortunately in 2009, a minority of Tenants appear to have misused the PRTB's dispute resolution process in order to remain in their rental accommodation without paying rent, while their case was being processed. However procedural improvements by the PRTB have resulted in a concerted effort to eliminate this abuse by prioritising rent arrears and overholding cases for hearing. Furthermore in November 2009, the Minister for Housing and Local Services announced that amendments would be made to

the Residential Tenancies Act 2004 to combat the escalating problem of non-payment of rent by tenants during a dispute process.

**Tenants are obliged by law to pay rent, even if they are in dispute with their landlords. They could end up with a Criminal Conviction if they do not pay rent arrears on foot of a PRTB Determination Order.**

### Cases taken by Third Parties during 2009

Approximately 3% of all PRTB Dispute cases in 2009 were submitted by third parties. Under Section 15(1) of the Residential Tenancies 2004, a landlord of a rental dwelling owes to each person, who could be potentially affected (e.g. by anti-social behaviour; noise, nuisance, criminality and threats of violence), a duty to enforce the obligations of the tenant under the tenancy. In cases where a landlord fails to enforce a tenant's obligation under Section 16 of the Act, a directly and adversely affected individual may take a case against the landlord through the Private Residential Tenancies Board (PRTB).

The case will be heard by an independent PRTB adjudicator, who can direct the landlord to enforce their tenants' obligations. Landlords can also be ordered to make payments to affected parties for the distress caused by their failure to enforce their tenants' obligations. Please note that third party issues in relation to the standard and maintenance of a rental dwelling are a matter for local authority enforcement and the PRTB does not have jurisdiction to deal with such complaints

The affected individual must first attempt to resolve the matter directly with the landlord and may be required to verify this if they subsequently make a formal PRTB dispute application. If the

affected party is unable to identify or contact the landlord, they can make a formal request for the landlord's and/or letting agent's (where applicable) name and address (if registered) from the PRTB under Section 77(3) of the Act. If the rental property in question is not registered, the PRTB may take enforcement action against the landlord in question.

If the initial attempt to satisfactorily resolve the matter directly with the landlord or his/her agent fails, the affected individual may make an application for dispute resolution to the PRTB. In accordance with the Act, this application can only be made by the affected individual and not by a representative or a residents' committee. A copy of the Dispute Application form is available on [www.prtb.ie](http://www.prtb.ie) and there is a €25 application fee. The applicant should enclose relevant documentary evidence in support of their case e.g. log of events, photographs, witness statements or Garda reports (where applicable). The applicant must also submit evidence that they informed the landlord of the alleged breach of the tenants' obligations.

It should be recognised that, in the interest of fair procedures, the Dispute application form (including the applicant's name but not address) and all supporting documentary evidence must be copied in full to the landlord and tenant(s), who will also be invited to attend the Dispute Resolution Hearing. Tenants may attend hearings and rebut claims made. The PRTB adjudicator can only consider documentation circulated to all parties. The applicant may send a representative to the PRTB hearing in their place, or alternatively submit a written statement in their absence for circulation to the parties at the hearing, so long as the PRTB is notified sufficiently in advance.

PRTB adjudication proceedings and the subsequent adjudicator's report are confidential to the parties. However, the subsequent

determination order in the case will be published on the PRTB's website and will list the names of the case parties and the rental property address.

### Determination Orders Made During 2009

By the end of 2009, the PRTB had made final binding Determination Orders in respect of a total of 2,324 cases comprised of 99 in 2005, 387 in 2006, 400 in 2007, 516 in 2008 and 922 in 2009 as illustrated in the chart below. The PRTB is pleased to record that due to improved processing procedures 78% more Determination Orders were made in 2009 compared to 2008. The graph below illustrates the PRTB's commitment to continued improvement and attaining timely outcomes for its customers and stakeholders.

The PRTB does not publish Determination Orders reflecting agreements reached at Mediation

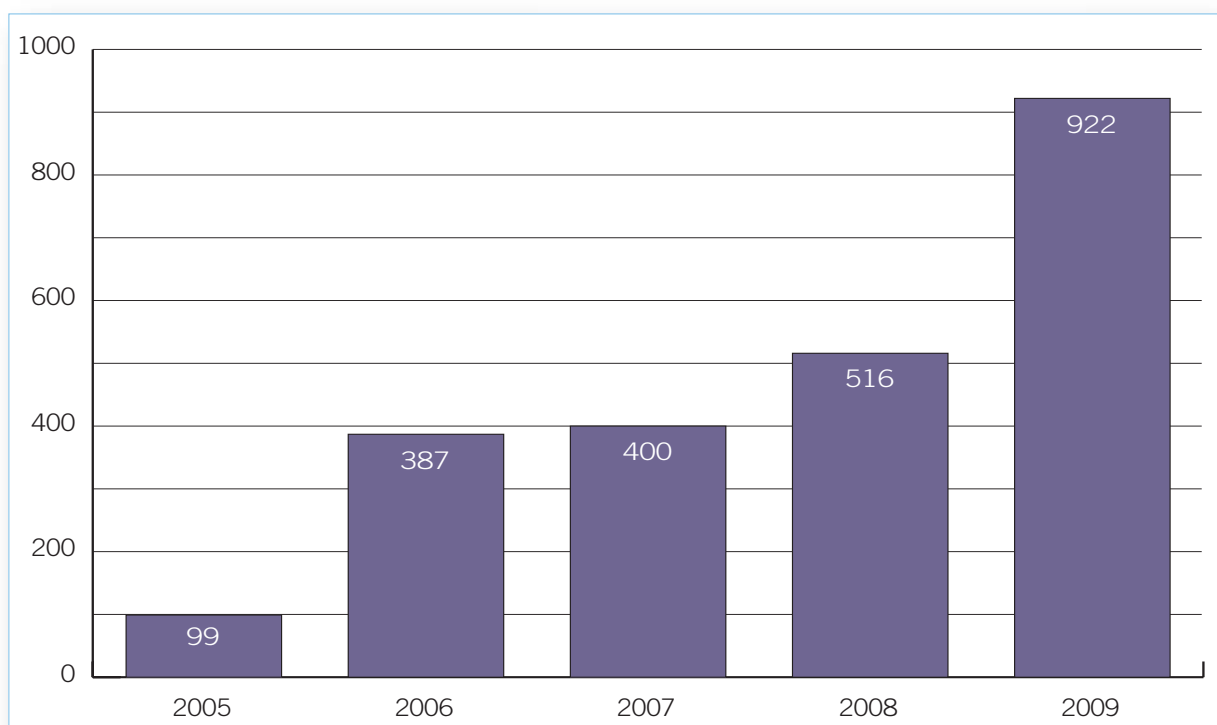
although it does publish Orders reflecting outcomes of Adjudications and Tribunals. All Determination Orders have legal effect and may be enforced through the Courts, if necessary (see Enforcement section of this report)

### Improvements in Dispute Case Processing

The PRTB is encouraged by the considerable improvements in its service delivery during 2009. During 2009, 1859 applications for dispute resolution were received by the PRTB which represented a 13% increase on the number received in 2008. The PRTB also continues to receive high volumes of telephone queries (in fact, over 19,500 calls were answered in the Disputes Section alone).

Despite increased demands on its resources, the PRTB has reduced case processing times in 2009 compared to previous years through

### NUMBER OF DETERMINATION ORDERS MADE



ongoing service delivery improvement initiatives. The following measures have resulted in quantifiable improvements to the PRTB's Dispute Resolution Service:

- ▶ Dispute Prevention: The PRTB has stepped up education & awareness initiatives informing Tenants & landlords of their respective obligations so as to avoid disputes occurring in the first instance.
- ▶ Prioritisation of certain categories of files: The PRTB has a process in place for fast-tracking serious dispute cases to Adjudication, where there is evidence of serious anti-social behaviour, an illegal eviction or significant rent arrears where a tenant is still over-holding in the rented dwelling.
- ▶ Increased initial screening of disputes applications and earlier contact with case respondents in order to encourage parties to settle
- ▶ Ongoing streamlining of internal procedures and processes, including processing targets for staff
- ▶ Paper Based Adjudications, where appropriate, primarily in deposit retention cases.

## Role of Stakeholders

The PRTB would like to acknowledge the role of its stakeholders representatives, Threshold, the MakeRoom Campaign and the Union of Students in Ireland, the IPOA, IPAV, IAVI, Irish Landlords.com and Home Locators in working with us to improve services to our clients. We would like to acknowledge the role of stakeholder bodies in providing advice to the public in relation to landlord/tenants disputes. In order that the PRTB provides a fair and neutral service to all parties and in recognition of the fact that we have replaced the Courts for landlord/tenant disputes we are precluded from providing legal advice or guidance to either party in relation to their dispute.

## PRTB Tenancy Tribunals

*2009 saw a 74% increase in Tribunal hearings in 2009 while still maintaining the two to three month processing time.*



## PRTB Tenancy Tribunals 2009

In 2009, 176 Tenancy Tribunals were held. This shows an increase of 74% compared to 2008. Even with this increase in Tribunal hearings for 2009 the Tenancy Tribunal Unit continued to maintain the time scale for these hearings of an average of two to three months.

A dispute will be referred to a Tenancy Tribunal (i) if any of the parties wishes to appeal the Adjudicator's decision within 21 days or (ii) in the event that Mediation is unsuccessful and any of the parties request a Tribunal hearing. In exceptional cases, the PRTB may refer a dispute directly to the Tribunal where there appears to be imminent risk of damage to the dwelling or danger to one of the parties.

Each Tenancy Tribunal consists of three persons who have relevant professional knowledge and experience. All three people are members of the Dispute Resolution Committee of the Board. The Tenancy Tribunal holds its hearings in public and its functions are quasi-judicial.

The attendance of Members of the Dispute Resolution Committee at Tribunals throughout 2009 is set out on the next page along with the fees received by them during the period 1 January to 31 December 2009.

The total fees in the table are the fees actually paid in 2009 under deduction of PAYE. These payments include payments for prior year activities and do not include fees payable at year end. The fees charged in the 2009 Financial Statements (€363,053) reflect fees payable or paid for work actually carried out in the year.

### Tribunal Statistics 2009

During 2009, 17 Tribunals were carried forward from 2008 to 2009 and 261 fresh appeals for a Tenancy Tribunal were received by the PRTB. 222 appeals were considered and granted by the Board and 39 were refused. There were 176 Tribunals convened in total in 2009. This represents a 74% increase in 2009 over 2008.

29% of appeals in 2009 were referrals from Paper Based Adjudication cases, 64% from Adjudication cases and 7% were referrals from Mediation. 68% of Tenancy Tribunals heard in 2009 relate to the Dublin area, while 32 % of Tenancy Tribunals relate to the rest of the country. Of the Tribunals convened in 2009, the appeal was received from tenants in 34% of the instances, 61% from landlords, 3% were from both the landlord and tenant and 2% of appeals were from third parties. At the end of 2009, the total number of outstanding Tribunals carried forward to 2010 was 29. One of these cases carried forward was a re-hearing of a tribunal held in 2009.

### Illegal Eviction Cases

An unlawful termination of tenancy may occur where a landlord through force, intimidation or otherwise denies a Tenant from accessing a rented dwelling or removes a Tenant's belongings from the dwelling whether or not a valid Notice of Termination had been served in respect of the tenancy. 11 % of Tribunals convened in 2008 were illegal eviction cases in which awards were made to tenants against landlords for distress and inconvenience caused as a result of the unlawful termination of the tenancy. These awards ranged from €511 to €13,000 and averaged €4,000.

DRC MEMBER	NUMBER OF TRIBUNALS ATTENDED IN 2009		Total Fees Received
	As a Member	As a Chairperson	
Aidan Brennan	4	2	0
James Bridgeman	3	2	€2,799
Anne Colley	11	14	€21,267
Charles Corcoran	17	0	€10,062
Orla Coyne	7	18	€26,523
Gus Cummins	19	0	€9,675
Keara Donnelly	18	3	€13,284
Tom Dunne	1	4	€5,985
John Elliott	13	0	€6,192
Michael Farry	22	1	€16,299
Geraldine Feeney	19	1	€11,610
Paul Good	17	2	€14,022
Aideen Hayden	2	9	€7,407
Mary Heaslip	9	11	€16,488
Bill Holohan	15	0	€9,288
Nesta Kelly	25	0	€16,254
John Lynch	16	0	€11,223
Finian Matthews	4	4	€1,809
Ciaran McNamara	0	0	0
Fintan McNamara	5	3	€10,377
Mary Morris	16	0	€12,771
Henry Murdoch	13	3	€9,378
Liam Nolan	21	0	€12,384
Liam O'Donnell	10	0	€5,805
Cian O Lionáin	0	0	0
Eoin O'Sullivan	11	28	€31,734
Dervla Quinn	13	40	€48,186
Bairbre Redmond	3	18	€22,824
Thomas J. Reilly	6	4	€8,910
Patrick J. Riney	20	0	€11,610
Tony Taaffe	12	9	€22,725
<b>Total</b>		<b>176</b>	<b>€396,891</b>

### Costs awarded to the PRTB

In special circumstances Tribunals have the power to direct that whole or part of the costs or expenses incurred by the Tribunal shall be paid by one or more of the Parties. Examples of Tribunals where costs may be awarded include *inter alia* where there is no co-operation by a party to the dispute or in particular, where the appellant/applicant is not present without good cause. The Tribunal may also deem that the holding of the hearing resulted from an abuse of the Dispute Resolution process. In 6 % of the Tenancy Tribunals convened in 2009 costs were awarded to the PRTB as a contribution towards the expenses of the Tribunal. These costs ranged from €1,500 to €5,000 and averaged €2,750. In one Tribunal during 2009, €5,000 was awarded to the PRTB as a contribution towards the costs incurred. In the majority (66%) of these instances the appellant/applicant did not attend the hearing and did not provide good cause for his/her non attendance. However there are cases where the appellant, their agent or their representative did attend the hearing yet costs were awarded to the PRTB. For instance costs were awarded to the PRTB where the appellant attended the Tribunal hearing but by his own admission accepted the adjudicator's findings. His appeal resulted in an unnecessary tribunal hearing. In another case costs were awarded where an appellant's agent attended the Tenancy Tribunal but had no knowledge of the dispute and presented no new evidence to assist the tribunal in dealing with the appeal application.

# PRTB & The Rent Tribunal

On 1 October 2009 the administrative functions of the Rent Tribunal were transferred from the Department of the Environment, Heritage and Local Government to the PRTB in accordance with one of the recommendations made in the McCarthy Report.

The Rent Tribunal, established in August 1983, was set up to fix the terms of tenancy including the rent of the dwellings formally controlled under the Rent Restrictions Acts 1960-1981. The Tribunal may determine new cases or may review cases previously determined by the District Court or by the Tribunal itself. The Tribunal determines applications on the basis of written submissions made and can include oral hearings. An inspection of the dwelling will normally be carried out by the Tribunal, which would usually include a member who has valuation expertise. The decision of the Rent Tribunal on an application will be communicated in writing to both parties in the form of a signed order of the Tribunal and will include the terms of tenancy of the dwelling. The Rent Tribunal prepares an independent Annual Report and Accounts.

The 2009 membership of the Rent Tribunal comprised a Chairperson, two vice Chairpersons and two ordinary Members. Four of the members have a legal background and one has a background in property valuation. The Members were:

Moya Quinlan, Chairperson.

Mary Doyle, Vice-Chairperson.

Louise Moloney, Vice-Chairperson.

Kieran Buckley, Member.

Morette Kinsella, Member.

A separate Annual Report is published each year by the Rent Tribunal in accordance with its governing legislation.

## **PRTB Enforcement Services**

*A total of 307 new enforcement requests were received in 2009 – in excess of the number of requests received in the previous three years combined.*

## PRTB Enforcement Services 2009

The Residential Tenancies Act 2004 stipulates that failure to comply with a Determination Order (DO) made by the PRTB may be enforced by either a criminal prosecution or civil proceedings, or both. In either eventuality there are potentially serious implications for a party who does not comply with a PRTB Order.

As regards criminal prosecution in the District Court, in addition to substantial fines and potential imprisonment, a conviction might adversely affect a person's ability to secure loan approval from lending institutions. It is also conceivable that a person with a criminal conviction wishing to travel into some overseas countries will encounter entry restrictions. In 2009 alone 30 people received a criminal conviction for non-compliance with a PRTB Determination Order (i.e. in 27 prosecutions there were 3 cases involving 2 Defendants). Criminal prosecutions can only be initiated by the PRTB, and are brought to the District Court. The penalties for a Criminal Conviction can be severe, comprising a fine of up to €3,000 and/or a period of imprisonment of up to six months, plus a further fine of €250 per day for the continuing offence of non-compliance. In addition to the criminal prosecution, where an amount of money is owed by the non-compliant party, it is the policy of the PRTB to seek a Compensation Order up to the maximum limit of the District Court (i.e. almost €6,350).

Civil proceedings, on the other hand, are brought in the Circuit Court, and are generally, although not exclusively, taken by the Board in cases where a Tenant is overholding. In this regard, Section 124 of the Act provides that the PRTB or another party

(i.e. the party seeking to have the Determination Order enforced) may apply to the Circuit Court for an Order directing the non-compliant party to comply with the PRTB's Determination Order. Please note that if the PRTB succeeds in obtaining an Order of the Circuit Court and there is a continuing failure to comply, it is open to the PRTB to apply for an Order for attachment and committal of the non-compliant party. While such matters rest with the discretion of the Court, an application for attachment and committal may result in imprisonment. Please note also that in cases of serious non-compliance, where the PRTB has initiated civil proceedings, it is the Board's policy to apply for an Order for attachment and committal. In addition, it is important to note that the PRTB will also proceed to enforce an Order of the Circuit Court, directing payment of arrears of rent.

In either type of legal proceeding it is the PRTB's policy to seek to recover all administrative and legal costs incurred, and in general the Courts have tended to be receptive to costs recovery. Consequently, it is in the best interests of a non-compliant person to comply with a PRTB Determination Order as, apart from any financial amounts stipulated in a Determination Order, they also risk having substantial monetary Orders made against them by the Courts.

Finally, it should be noted that the above information relates to the extant Board policies in place for the period in question. However, enforcement is discretionary as the legislation places no onus on the Board to enforce its Determination Orders, and it is open to the Board to make changes to its policy at any time.

## New Enforcement Requests Received in 2009

### Details of Parties requesting enforcement

A total of 307 new enforcement requests were received in 2009. This total exceeded that for the previous three years combined! It is probable that this significant increase was due, in part, to the recent economic downturn. On the other hand, however, it is believed that the sizeable rise in enforcement referrals also reflects, in part, the strides made in the PRTB's Disputes and Tribunals sections, in terms of numbers of dispute cases processed, and the consequential increase in Determination Orders made by the Board.

Details of Parties requesting enforcement	
Landlords	124
Tenants	173
Third Party	5
Tribunal Referrals	5
	<b>307</b>

### New Enforcement requests received in 2009 categorised by Type of Dispute

From a review of the 307 requests received in 2009, it is evident that the principal problems experienced by landlords related to rent arrears and overholding. The most frequent difficulties experienced by Tenants revolved around deposit retention and unlawful terminations. Of these new requests, 124 were received from landlords, of which some 108 involved rent arrears (including 13 cases involving overholding by Tenants). Additionally, 6 other enforcement requests received from landlords involved overholding only. A total of 173 new enforcement requests were received from Tenants. In 140 of these (i.e. some 80%) involved deposit retention by the respective landlords, whilst 27 referrals by Tenants (including 10 of the deposit retention cases) also concerned unlawful terminations on the part of the landlords in question. Only 5 enforcement requests were received from Third Parties. Some 17 of these new referrals proceeded into the legal arena before the end of the year.

### DETAILS OF THE MAIN TYPES OF ISSUES REFERRED FOR ENFORCEMENT IN 2009

NON-COMPLIANCE	AMOUNT	TOTAL
<b>Complaints referred by Landlords</b>		
Rent Arrears	95	
Rent Arrears + Overholding	13	
Overholding	6	
Breach of Tenant Obligations	3	<b>117</b>
<b>Complaints referred by Tenants</b>		
Deposit Retention	130	
Deposit Retention/Unlawful Termination/Invalid NoT	10	
Unlawful Termination/Invalid NoT	17	
Breach of Landlord Obligations	5	
Overpayment of Rent	3	<b>165</b>
<b>General (Not Categorized)</b>		
Rent Arrears / Deposit Retention, Overpayment of Rent & Unlawful Termination	2	
Miscellaneous (e.g. Damages/Costs/ Replacements/ Repairs/Cleaning/3rd Party)	22	
Costs Awarded to PRTB only	1	<b>25</b>
<b>TOTAL</b>		<b>307</b>



### Enforcement Cases carried into 2009 from previous years

In addition to the 307 new enforcement requests received in 2009, the PRTB's Enforcement section also dealt with 68 cases that were carried over from previous years. This number of cases represented approximately 22% of the total enforcement requests (i.e. in the order of 300) received during the period 2006-2008.

### Work in Progress

The combination of new requests and enforcement cases carried over led to 375 enforcement cases being dealt with during 2009, and at year end 197 of these cases remained ongoing – 110 were being processed through the Enforcement section, 55 were awaiting information, and 32 were being handled by the PRTB's legal advisers.

Status of Case	Received in 2009	Carried over to 2009	Total
In progress in Enforcement section	107	3	110
Awaiting information	39	4	43
Contact Information problems	12	0	12
Referred to legal advisers (criminal)	16	3	19
Referred to legal advisers (civil)	12	1	13

### Successful Outcomes

Compliance or settlement was achieved in a total of 115 enforcement cases during 2009. In addition, there were 7 cases in which there was part compliance, and these cases were carried into 2010 with the objective of encouraging full compliance in due course.

Status of Case	Received in 2009	Carried over to 2009	Total
Cases settled/ Compliance achieved	96	19	115
Part-Compliance achieved (case ongoing)	7	0	7

### Legal Actions

The PRTB undertook 42 successful legal actions during 2009. In this context, a total of 13 Determination Orders were upheld by the Circuit Court, and there were 27 successful prosecutions in the District Court (30 people were actually convicted, as two Defendants were involved in 3 of the cases being prosecuted). Additionally, the District Court applied the Probation Act in 2 criminal prosecutions.

Furthermore, a number of cases (i.e. 11) in which legal proceedings were initiated did not proceed to a court hearing, as the threat of legal proceedings ultimately encouraged settlement.

As regards appeals, there was one appeal (to the Circuit Court) of a District Court conviction. Effectively, this involved a re-hearing of the dispute in the Circuit Court, in which it was necessary for

the PRTB to prove its case all over again. At the appeal hearing the PRTB was able to prove its case, and the appeal was unsuccessful. In another dispute case the PRTB was successful in defending an appeal to the High Court.

Finally, one criminal prosecution undertaken by the PRTB was Struck Out (the PRTB believes) erroneously, and in this regard the Board resolved to initiate a Judicial Review of the Judge's decision. This Judicial Review was ongoing into 2010, and the PRTB has every reason to be confident that it will be successful.

Type of Proceedings	Initiated in 2009	c/f from 2009	Total
Civil – DOs Upheld in Circuit Court	7	6	13
Criminal – Convictions in District Court	6	21	27
Criminal – District Court Convictions where Probation Act applied	0	2	2
Successful Defence of Appeal to High Court	0	1	1
Successful Defence of Appeal to Circuit Court	0	1	1
Judicial Reviews undertaken by PRTB (c/f to 2010)	1	0	1

Finally, a number of proceedings (i.e. 8 in total) were initiated by outside parties during 2009, and these remained ongoing moving into 2010. However, it is anticipated that the PRTB will be called on to defend its position in such matters.

Type of Proceedings	Received in 2009	Carried over to 2009	Total
Judicial Reviews in progress	2	2	4
High Court Appeals ongoing	0	1	1
Appeals to Circuit Court (of District Court conviction) ongoing	1	2	3

### Cost Implications

It should be noted that the Courts, generally, appear to have been amenable to making costs awards in favour of the PRTB. Relating this back to the information provided above, this may be best illustrated in the following tabular format.

Type of Proceedings	Total No. of Proceedings	Inc. Costs Awards
Civil – DOs Upheld in Circuit Court	13	13
Criminal – Convictions in District Court	27	24
Criminal – District Court Convictions where Probation Act applied	2	1
Successful Defence of Appeal to High Court	1	1
Successful Defence of Appeal to Circuit Court	1	1

Therefore, in all of the 13 civil proceedings, the Judge made a Costs Order against each Defendant. In 24 of the 27 Convictions obtained in the District Court Costs awards were also made, whilst 1 Costs Order was made in the 2 cases in which the

Probation Act was applied. Additionally, it should be noted that in one particular dispute case where late compliance was achieved after it was deemed necessary to initiate legal proceedings, having incurred the cost of the proceedings the PRTB continued with its prosecution, and the Judge convicted the Defendant on the costs issue. There were also Costs awards in both of the appeal cases that the PRTB successfully defended.

On the subject of costs it is also worth noting that, of the 11 previously mentioned cases that did not proceed to a court hearing due to settlement/late compliance, there was a requirement to satisfy costs requirements in 10 of these cases.

To summarise, therefore, apart from the penalties set out in the legislation, it can be shown that failure to comply with a Determination Order has far-reaching implications in terms of costs, which can often be significant. In each relevant case, had the Board's Determination Order been complied with, there would have been no need for the PRTB to institute legal action, and by complying with the requirements of each Determination Order the respective non-compliant parties could have derived substantial benefit in terms of costs savings.

### Cautionary Tales

It is not unusual for tenancies to be registered late by landlords, but this may be counter-productive in the long term. To illustrate this point, during 2009 the PRTB's Enforcement section was required to deal with a notification of non-compliance in respect of a Tenant who had vacated the rented dwelling, and whose whereabouts could not be determined through the normal channels. This seriously affected the PRTB's ability to enforce the Determination Order made in the dispute, to the detriment of the landlord's interests. Ultimately, the Tenant in question was traced when he was registered in

his next tenancy. However, this registration was submitted by the new landlord almost 1 year after the Tenant took up his new tenancy, and the difficulties encountered by the Enforcement section and the former landlord were exacerbated by the late registration of the new tenancy, and might have been avoided if it had been registered earlier.

Therefore, it may be worth noting that landlords who do not register tenancies in a timely fashion may be doing a disservice to their fellow landlords.

Landlords should also be aware that the PRTB processed a number of cases in which an Agent purportedly acted on the respective landlords' behalf (i.e. registering tenancies, attending hearings and submitting appeals, etc.), but in some such cases where the determination went against the landlord the PRTB subsequently discovered that the Agent had not kept the relevant landlord informed. Whilst some sympathy may be felt for landlords finding themselves in these circumstances, as the Board's Determination Orders are legally binding, ultimately these landlords were faced with the choice of either complying with the requirements of the Determination Orders affecting them, or facing the consequences in the PRTB's ensuing legal proceedings. In these circumstances, claims of ignorance on the part of the affected landlords are not generally considered sympathetically by the Courts, where the view is normally taken that it is the responsibility of landlords to familiarise themselves with what is happening in the context of their business. In this context, it should be stressed that only a small number of Agents have come to the PRTB's attention in this way, but such cases have emphasised that it is in landlords' best interests to ensure that they maintain an awareness of the activities of Agents claiming to act on their behalf.

Landlords experiencing difficulties with Agents may wish to contact the National Property Services Regulatory Authority ([www.npsra.ie](http://www.npsra.ie)).

## Case Studies 2009

*All PRTB Determination Orders are published on*

*[www.prtb.ie](http://www.prtb.ie)*

## Dispute Resolution Case Studies

These cases reflect the nature and range of PRTB disputes dealt with during 2009 and illustrate typical Determination Orders made.

### Case One - Rent arrears and Overholding

#### Background

The landlord lodged an application for dispute resolution services against his tenant in relation to rent arrears, standard and maintenance of the rental dwelling, breach of tenant obligations and overholding. A lease had been entered into between the parties. The respondent tenant had allegedly started going into rent arrears two months after taking up occupancy and the landlord had received complaints from the neighbours regarding anti-social behaviour. The landlord issued a 14 day notice of rent arrears and subsequently issued a notice of termination. The tenant did not vacate the dwelling following the expiration of the notice of termination.

#### Adjudication Hearing

An adjudication hearing was convened at which the respondent tenant failed to appear to defend the claim. The adjudicator examined the evidence provided by the applicant landlord, which included reports from the neighbours regarding anti social behaviour and the notice of termination served on the tenant.

#### Determination

The adjudicator determined as follows:

- (a) The Tenant was to vacate the dwelling within 10 days of the date of issue of the PRTB's Determination Order.

- (b) The Tenant was to pay €14,000 to the landlord within seven days from the date of issue of the Order being, €10,000 for rent arrears and €4,000 in damages.

### Case Two – Illegal Eviction

#### Background

A hearing was held in March 2009 relating to a dispute application by a tenant regarding invalid notice of termination, illegal eviction, deposit retention, standard and maintenance of dwelling and breach of landlords obligations. The respondent landlord did not attend but the hearing proceeded as it was confirmed that the landlord had been fully notified.

#### Adjudication Hearing

The tenant claimed that the landlord entered the property, on numerous occasions throughout the tenancy, without giving any notice. The tenant claimed that around 5th January 2009, the landlord told the tenant that she had to leave the property and on 7th January 2009, the landlord turned off the gas. The tenant claimed that the respondent turned off the ESB on 1st or 2nd February 2009. On 5th February 2009, the tenant returned to the property to find a man packing her belongings into bags. When questioned, this man told the tenant that the landlord had hired him to clean up the property. The man apologised and left. Later on the same day, the tenant claims that the landlord illegally evicted her by changing the locks on the property and dumping her possessions outside the property. The tenant claimed that some of her possessions were missing.

**Determination**

The adjudicator determined as follows:

- ▶ The landlord shall pay €10,000 to the Tenant within 14 days of receiving the Determination Order as issued by the PRTB.
- ▶ The landlord shall also pay €1,300, being the applicant's deposit, to the applicant within 14 days of receiving the Determination Order as issued by the PRTB.

**Case Three – Third party application for anti social behaviour****Background**

The applicant, a third party lodged an application for dispute resolution against a neighbouring landlord in relation to alleged anti-social behaviour by the landlord's tenants.

**Adjudication Hearing**

The applicant had lived in her house without incident until the respondent landlord bought the adjoining house. Two tenants took occupation in the dwelling. For the first four months there were no problems but thereafter their behaviour allegedly changed. They regularly had late night parties which resulted in loud music being played along with shouting and screaming. The applicant had complained directly to the tenants and the landlord. However, no action was taken. The adjudicator reviewed all evidence provided by the parties which included a log of events. Both parties were given an opportunity to make their cases.

**Findings and Determination**

The adjudicator determined as follows:

- ▶ The respondent landlord took no action to ensure the tenants complied with their obligations. The respondent landlord should pay €2,000 to the Applicant Third Party within seven days of receipt of the Determination Order.

**Case Four – Deposit Retention****Background**

The tenant lodged an application for dispute resolution services in relation to deposit retention. A lease was entered into between the tenant and the landlord. On expiration of the lease the tenant vacated the dwelling but the deposit was retained by the landlord.

**Adjudication Hearing**

If they made their cases then they must have been in attendance and been given the opportunity to do so. The adjudicator reviewed the evidence submitted by the parties which included invoices in relation to cleaning, painting and decorating costs. The landlord claimed that the property was left in a state of disarray and that carpets had to be cleaned and walls had to be washed. The landlord also submitted that it was the tenant's responsibility to pay the apartment service charge. The applicant disputed that there was any damage in excess of normal wear and tear and that it was not their responsibility to pay services charges in the apartment block.

**Determination**

The adjudicator determined as follows:

- (a) The respondent landlord shall pay to the applicant tenant within 14 days of the date of the order, the sum of €700, being the deposit paid by the tenant.
- (b) The respondent landlord shall pay to the applicant tenant within 14 days of the date of the order, the sum of €150 in respect of the loss of the use of the deposit and €150 in respect of damages for breach of his obligation to repay the deposit promptly.

## Tenancy Tribunal Case Studies

### TR 02/DR831/2009 – Costs awarded to the PRTB where no new evidence given to Tribunal

#### Background:

The Tenant lodged an application for dispute resolution services in relation to an invalid notice of termination, illegal eviction forcing him to sleep in his van for one night and subsequently in friends' houses, retention of the deposit, standard and maintenance of dwelling and breach of landlords obligations. The matter came before the Adjudicator who determined that the Notice of Termination was invalid and that the landlord had carried out an illegal eviction and should pay to the Tenant the sum of €6,201.55 being the deposit of €1,200, €601.55 in respect of general expenses incurred by the Tenant, €2,400 arising from expenses incurred by the Tenant as a result of the illegal eviction and €2,000 general damages in respect of the distress and discomfort incurred by the Tenant as a consequence of being unlawfully locked out. The landlord did not attend the adjudication and appealed to the Adjudicator's decision on the grounds that the Tenant had made false claims.

#### Tribunal Hearing – Submissions of the Parties

A Tribunal hearing was convened and the landlord alleged damage to the property; however, the landlord had not brought any evidence by way of photographs or receipts to support his evidence in this regard. In Addition the landlord confirmed that the Adjudicator had in fact been correct in finding that no valid notice of termination had been served and that the Tenant had been illegally evicted.

The Tenant refuted any allegations as to the poor condition or otherwise of the dwelling arguing he/she had not been afforded an opportunity to tidy and repair the dwelling as would have been the case had the landlord terminated the letting in accordance with the provisions set out in the Act.

#### Findings of Tribunal and Determination

The Tribunal Determination Order is as follows:

- (a) The appellant landlords shall pay the sum of €2,000 to the respondent tenant by way of damages for unlawful termination of his tenancy of the dwelling;
- (b) The appellant landlords shall pay the sum of €1,800 to the respondent tenant by way of damages for domestic necessities consequent on having to vacate the dwelling following the illegal eviction;
- (c) The appellant landlords shall refund the sum of €700 to the respondent tenant, being the security deposit of €1,200 less the sum of €500 for the cost of refilling the oil tank as agreed in the tenancy agreement between the parties;
- (d) The appellant landlords shall further refund the sum of €601 to the respondent tenant for the cost he incurred in carrying out repairs to the front door of the dwelling;
- (e) The appellant landlords shall further pay the sum of €2,000 to the PRTB as a contribution to the costs of this Tribunal in accordance Section 115(2) (i) of the Act within 21 days from the date of issue of this determination; as by his own admission he agreed with the findings of the adjudicator.

### TR100/DR466/2009 – Doctor Subpoenaed to give Evidence at Tenancy Tribunal

#### Background:

The Tenants made an application to the PRTB in respect of the retention of their security deposit of €1,400. The matter was referred to adjudication, where the landlord claimed that he retained the security deposit on the grounds that the cost of cleaning, repair and redecoration works were required to the dwelling. The Tenants claimed that

there were deficiencies in the dwelling from the outset of their tenancy, that they were denied peaceful occupation of the dwelling and that they were not facilitated in obtaining tax relief on their rent payments. They further claimed that they had made every effort to maintain the dwelling in good condition and they were therefore entitled to have their deposit returned in full. The Adjudicator determined that the landlord pay the balance of the Tenants' deposit paid at the commencement of the tenancy. The Adjudicator did not find that the Tenants were responsible for damage to the dwelling necessitating repair and redecoration works in a schedule submitted to the Adjudicator over normal wear and tear. The landlord obtained a schedule of works some ten months after the Tenants had vacated the dwelling and at the date of the Adjudication, the works listed had not been carried out. Subsequently a valid appeal was received from the landlord by the PRTB on a variety of grounds including his entitlement to retain the deposit and errors he claimed in Adjudication report.

#### **Tribunal Hearing – Submissions of the Parties**

A Tribunal hearing was convened. The Tribunal was originally scheduled for the 15 June 2009, but was adjourned following a submission from the landlord that he would be unable to attend on medical grounds. The Tribunal was re-scheduled for 18 August 2009, but was again adjourned following a further submission from the landlord that he would be unable to attend on medical grounds. The Tribunal was re-scheduled for 13 November 2009 and the PRTB again received a request from the landlord for an adjournment on medical grounds.

Two medical certificates were received by the Tribunal prior to the hearing: stating that the landlord would be unable to attend 'court' for at least six months and one unsigned certificate from the same GP practice stating that the landlord was involved in a road accident and would be unable to attend. The Tribunal issued a subpoena to the Doctor from the GP Practice to allow the Tribunal

to satisfy itself that the landlord was unable to attend the Tribunal.

The Doctor informed the Tribunal that she met the landlord and that he placed considerable pressure on her to write a certificate specifying a six-month deferral period for attending the Tribunal. She stated that on reflection that a period of six months was probably excessive.

Evidence was also presented to the Tribunal that the Tenants witnessed the landlord enter the foyer of O'Connell Bridge House, (the same building as the Tribunal Hearing) on the day of the Tribunal, 13 November 2009, at 1.55 p.m. and further witnessed him converse with a member of the security personnel.

Following a recess, the Tribunal determined that they did not accept that the landlord was unable to attend the hearing either in person or that he was unable to provide written submissions or have a representative attend on his behalf and that no adequate grounds existed for granting the requested adjournment resulting in the Chairperson continuing with the hearing.

#### **Findings and Determination of Tribunal**

The Tribunal did not accept the landlord's appeal that he was entitled to retain the security deposit as no new substantive evidence was produced that would allow the Tribunal to alter the determination of the Adjudicator. Consequently the Tribunal determined that the Tenants were entitled to the return of the full amount of the deposit paid.

#### **TR 80/DR1234/2009 – Damages Awarded for wrongfully retaining the security deposit**

##### **Background:**

The PRTB received a dispute application from the Tenant alleging deposit retention. Adjudication took place at which the adjudicator determined that the landlord should return the full deposit of €6,000



together with a further sum of €1,000 damages.

The landlord lodged an appeal to the adjudicator's decision on the grounds that the Tenant had 2 legal advisers representing him which shadowed the landlord's representative and further that the landlord had more evidence to submit which he did not have at the time of the adjudication.

#### **Tribunal Hearing: - Submissions of Parties:**

A Tribunal hearing convened where the representative of the landlord's claim was based on the fact that the Tenant had benefited from the security guards and the well maintained common areas which were paid for by the management charge. There was further a claim regarding a rent shortfall and repairs and replacements in excess of normal wear and tear.

The Tenant confirmed to the Tribunal that he had no knowledge of a management charge at the start of the letting and that there was no reference to same in the letting agreement. He further refuted the fact that on leaving the dwelling at the end of the letting it was in a good condition. The Tenant argued that the works carried out by the landlord were to prepare the property for sale and did not relate to the letting.

#### **Findings of the Tribunal and Determination**

1. The landlord had not made any evidence available to the Tribunal to allow it to review or vary in any way the findings of the Adjudicator.
2. The cleaning, garden repair and other costs were not supported by appropriate invoices and the Tribunal accepted the Tenants invoices as proof that the Tenant did leave the dwelling in good order.
3. Tribunal was persuaded by the Tenants evidence that he was not aware of a management charge nor had he received any invoices for this amount during the course of

the letting.

4. The Tribunal finds that the Adjudicator was correct in finding that the security deposit of €6,000 should be returned to the Tenants. The Tribunal also upholds the order of €1,000 by way of compensation for wrongfully retaining the deposit.

#### **TR94/DR41/2009 - Legal Personal Representative of the deceased Tenant to pay damages for breach of tenant's obligations**

##### **Background:**

The appellant landlord had let the dwelling to a Tenant for four years. Upon the Tenant's death, the Tenant's representative contacted the landlord to return the keys and to look for the return of the deposit. The landlord then noted that the apartment was in a very poor state, refused to return the deposit and applied to the PRTB for dispute resolution services. A mediation hearing was held at which agreement was not reached. The landlord then appealed to refer the matter to a Tenancy Tribunal.

##### **Tribunal Hearing – Submissions of the Parties:**

There was no appearance on behalf of the estate of the deceased Tenant.

The landlord gave evidence as to the poor condition that the dwelling had been left in. She claimed compensation from the estate of the late Tenant for removal of waste from the apartment cleaning, repainting, new wood flooring replacement of carpets and other flooring and the costs of fitting the flooring. Further claims were for replacement of furniture, fittings and electrical items. A further claim for loss of rent was for six weeks, amounting to €1,350.

**Findings of the Tribunal and Determination:**

1. The Tribunal found that appellant landlord was entitled to damages in respect of breaches of the Tenant's obligations under Section 16(f) of the Residential Tenancies Act 2004 as her case was clearly proven in that regard.
2. The Tribunal found that the landlord was entitled to be compensated for the removal of waste, cleaning and repainting of the apartment, new flooring and furniture that has actually been replaced, half the cost of providing a new fridge and cooker due to them being already a number of years old, and two weeks only loss of rent, taking into account that there would normally be a period for refurbishment after such a long letting.
3. No damages were allowed for the counter top in the kitchen that is still *in situ*, for the armchair, again not yet replaced, for the call out charge by the refrigeration engineer, and for the miscellaneous items purchased.

The Tribunal determined that: the Legal Personal Representative of the deceased Respondent Tenant shall pay the sum of €6,191.17 to the appellant landlord being damages for breach of tenant's obligations under Section 16(f).

**TR10/DR1463/2009 - Power of Tribunal to enquire fully into all matters: - Appeal disputing deposit retention which resulted in award for an illegal eviction**

The tenant lodged an application for dispute resolution services in relation to the retention of the deposit. The matter came before the Adjudicator who determined that the landlord was entitled to retain part of the deposit being €420 in respect of replacing the blinds. The Adjudicator ordered that the sum of €830 be returned to the tenant.

Subsequently the landlord lodged an appeal of the Adjudicator's decision on the grounds that the landlord was justified in withholding the full amount of the deposit.

**Tribunal Hearing – Submissions of the Parties****Landlord's Case:**

The Tribunal commenced with the landlord stating that he would provide written evidence to support his refusal to return the deposit to the tenant. The landlord began by attempting to submit receipts and photographs of the dwelling. The Tribunal drew the landlords attention to section 15 of the Tribunal procedures which stated that Parties should give all evidence to the PRTB at least 10 days before the hearing or at the earliest possible date after that. The Tribunal will only consider evidence given in on the day in exceptional circumstances and only if necessary in the interests of justice. The landlord confirmed that the photos were taken in August of 2007. The tenant objected strongly to the production of such photos. On the grounds that there were no exceptional circumstances to allow for the delay in submitting the evidence and further that the landlord could give his own first- hand account of the condition of the dwelling the Tribunal did not allow into evidence the photographs or the receipts.

The landlord confirmed to the Tribunal that the he had attended the dwelling on 17 August 2007 and forced the tenant and her family to leave. By letter dated 31/07/07 the landlord wrote advising the tenant that he intended moving back in on 16 August 2007. By his own admission the landlord carried out an illegal eviction in breach of section 58(1) of the Act which states that a tenancy may not be terminated by the landlord by any process not set out in Part 5 of the Act.

The landlord went on to give detailed evidence of the condition of the dwelling after the tenant and

her family had left. In particular the landlord stated that the garden was full of numerous large items of rubbish. The landlord went on to claim that as of the date of the eviction the tenant was 2 months in arrears of rent. The tenant disputed this but both parties were able to confirm that within a week of the eviction no rent was due or owing in respect of the letting.

**Tenant's Case:**

The tenants evidence confirmed to the Tribunal that the landlord had carried out an illegal eviction on 17 August 2007. However the tenants evidence in relation to the condition of the dwelling directly contradicted the evidence of the landlord on every point with the exception of the damage to the blinds which was admitted. The tenant stated that had she been given an opportunity she would have ensured that everything was left in good order.

**Findings of Tribunal and Determination:**

1. The evidence of both parties confirmed to Tribunal that the landlord had carried out an illegal eviction. As the tenant had been in occupation for over 6 months she was entitled to the benefit of a part 4 tenancy in accordance with section 28 of the Act. Although she neglected to notify the landlord of her intentions regarding her Part 4 tenancy in accordance with section 195 of the Act, this omission on her part did not entitle the landlord to turn up at the dwelling and force her and her family to leave. The tenant was entitled to general damages for the pain and upset that the unlawful eviction would have caused to her and her family.
2. The Tribunal was at a disadvantage in considering its finding as to the condition of the dwelling at the end of the letting as both parties gave conflicting evidence. The Tribunal notes that had the letting been properly terminated the tenant would have

had the opportunity to clean the dwelling and replace any items damaged. The tenant informed the Tribunal that she would have made sure to leave the dwelling in good order. The landlords actions in attending the dwelling and forcing the tenant to leave meant that this was not possible.

The Tribunal determined, that the landlord carried out an illegal eviction and that the landlord should pay the tenant the sum of €6,250 in general damages together with the deposit of €1,250 less the sum of €420 for the repairs to the blinds.

# Corporate Governance & Administration Activities 2009

The Private Residential Tenancies Board is a statutory body, established following the enactment of the Residential Tenancies Act 2004. While the PRTB operates within its own governing legislation, we are also required to comply with a range of both national and EU statutory and administrative requirements. Procedures have been put in place to ensure compliance with such requirements and throughout 2009 the PRTB worked to both adhere to and to develop and monitor its systems of governance. The principal requirements are:

1. Code of Practice for the Governance of State Bodies
2. Ethics in Public Office Act, 1995
3. Safety, Health and Welfare at Work Act 2005
4. Employment Equality Acts, 1988 and 2004
5. Official Languages Act 2003
6. Data Protection Acts, 1988 and 2003.

The implementation of data protection procedures by the PRTB ensures that the individual's fundamental right to privacy is adhered to, and the sharing of personal information is controlled in line with Data Protection Act requirements. In 2009, the PRTB had not yet been brought under the remit of the Freedom of Information Act.

### Corporate Plan 2009-2011

The PRTB's Corporate Plan is quite specific in terms of what the PRTB aims to achieve, and when it is to be achieved. It provides a very clear self-analysis of the organisation and provides us with a useful road map for the future. Having previously recognised the pressures on our services, we now have a clear perspective on how we aim to deliver our services in as efficient a manner as possible. By identifying clear areas of activity, and related targets and performance measurement indicators, we have set real benchmarks against which our progress can be measured. Our plan also sets out clear targets in

relation to all areas including Corporate Governance, which will ensure that we adhere to best practice in financial and administrative matters. The Board Members and the staff of the Private Residential Tenancies Board were closely involved in the development of the Corporate Plan & are deeply committed to its implementation. The Corporate Plan looks ahead and aims to strengthen the organisation's approach in delivering its goals from a quality-service and value-for-money perspective. The Key Result Areas identified for the life of the Plan are to:

1. Provide a professional, accessible and speedy dispute resolution service supported by effective case management principles and within the provisions of the Residential Tenancies Act 2004
2. Maintain a register of tenancies in accordance with the Act and to provide and manage an up-to-date database for information, policy-making and statistical purposes
3. Promote best practice in the sector through our research, information, publications, policy advice and dialogue with stakeholders
4. Foster an outward looking organisation based on innovation and use of ICT in service delivery and with an emphasis on team and staff development
5. Build the organisation's leadership and governance capacity at all levels
6. Ensure that the PRTB has the appropriate human and financial resources in order to deliver on its mandate based on a value for money ethos.

### ICT Strategy

The PRTB published a comprehensive ICT Strategy in autumn 2008 (available on our website). The initial steps in implementing this started with a Business Process Improvement

(BPI) exercise which was completed in May 2009. This involved taking the outputs of the Current State Assessment report, prepared by Mazars in September 2008 and at a high level to map all the PRTB business processes to what they should be in the future. This was done giving particular regard to where modern IT systems could facilitate opportunities for increases in productivity, accuracy, cost savings and profitability. These BPI processes then became the backbone of an EU procurement process for a new Tenancy Management System (TMS).

An ICT Steering Committee (which includes PRTB senior management, ICT experts from the NTMA, LGMA<sup>3</sup> and Revenue, and a Board member) was established in January 2009 to oversee the project. The tender documentation was approved by Centre for Management & Organisation Development (CMOD) in the Department of Finance in late June 2009 and the tender went into the EU journal on 1st July. The winning tenderer was Direct Marketing Technologies trading as Vulcan Systems from Galway. Their solution is based around the well known Microsoft CRM (Customer Relationship Management) V4 suite of products and the Microsoft SharePoint 2007 collaboration platform. Vulcan have encompassed this with their own skill sets in ecommerce based internet portal development and other tools such as highly secure and encrypted databases to provide a comprehensive application dealing with the registration, disputes and enforcement businesses of the organisation. The ICT project will also involve the introduction of a Document Management System (DMS). The DMS will facilitate those clients who continue to use paper forms for registration by processing their applications using OCR and ICR (Optical

Character Recognition and Intelligent Character Recognition). DMS will also assist by constructing electronic case files for the disputes side of the business from physical paperwork submitted by parties to a dispute.

The contract with Vulcan Systems was signed on 22nd December 2009. The on-line registrations piece of the system is due to go live in Q4 2010 with other business requirements being fulfilled up to Q1 2011, when the final element of the Disputes and Tribunals system is projected to go live.

Part of the knock on affect of implementing a new and comprehensive system such as TMS/DMS is the demands it places on the IT infrastructure.

As such, tenders will be placed on the government eTenders website in early 2010 to fulfil server, storage, networking, disaster recovery and other requirements befitting such an implementation. These elements will need to be in place prior to the TMS/DMS going into the final testing phase which is scheduled for Q3 2010.

Integral to the design is that all users (e.g. staff, mediators, adjudicators, tribunal members, legal firms, Government Departments, board members, special interest groups etc.) will be able to access a secure web portal to obtain the information and documentation pertinent to their function. The new solution is based around the latest web technologies and will complement the introduction of a new PRTB website which is planned for 2011 after TMS/DMS beds down.

<sup>3</sup> The Local Government Computer Services Board (LGCSB) has been merged with its sister agency, the Local Government Management Services Board (LGMSB), to create the Local Government Management Agency (LGMA) in 2009-2010

## Stakeholder Consultation

The PRTB values the opportunity to meet with its stakeholders to exchange views and obtain feedback and held quarterly stakeholders meetings in 2009. The Stakeholders involved are the Irish Property Owners Association, the Institute of Professional Auctioneers and Valuers, the Irish Auctioneers and Valuers Institute, Irishlandlord.com, Homelocators, Money Advice and Budgeting Service, Threshold, Makerroom (the campaign alliance of Focus Ireland, The Simon Communities of Ireland, the Society of St. Vincent de Paul and Threshold), the Union of Students in Ireland and the Property Services Regulatory Authority. The PRTB also met with staff of the Threshold National Housing Organisation who provides a free advocacy service to tenants.

During 2009, members of the PRTB management team also addressed a meeting of the Irish Property Owners Association and a seminar organised by Irish Landlord.com and provided training on the Residential Tenancies Act 2004 to members of the Institute of Professional Auctioneers and Valuers Association on a number of occasions.

## Joint Oireachtas Committee Appearance

The PRTB was invited to appear before the Joint Oireachtas Committee on Environment, Heritage and Local Government on the afternoon of the 25th of June 2009. The Director, Chairperson and four Assistant Directors attended. The PRTB delivered an opening statement, followed by a questions and answers session. The Committee was also addressed by the Irish Property Owners Association.

A full report of the proceeding is available on the Oireachtas website.

## Corporate Services Division and Staffing

The Corporate Services and Finance divisions perform the PRTB's central administrative and support functions. This includes corporate governance support to the Board, human resource management, training and development, financial management and budgeting.

All aspects of PRTB staffing including the grades of staff; the numbers in each grade; the level of remuneration for each grade; and the terms and conditions of employment are subject to the consent of both the Minister for the Environment, Heritage and Local Government and the Minister for Finance. Section 167 of the 2004 Act allows the Minister to provide services to the Board including the services of staff.

In accordance with this section, the Board has been primarily staffed by personnel that were recruited directly in 2008 and Departmental officials in a combination of formal assignments and through loaned and temporary personnel.

The PRTB recruited one permanent Clerical Officer and one temporary Clerical Officer early in 2009. However, in March 2009 the Department of Finance announced the recruitment and promotion moratorium that has been in operation in respect of the civil service, local authorities, non-commercial state bodies, the Garda Síochána and the Permanent Defence Forces. For this reason there was no further recruitment in the PRTB during 2009.

In September 2009, an ICT Manager joined the PRTB under a secondment arrangement for a period of 18 months (approx) from the Local Government Management Agency (LGMA). This is to assist with the rollout of our ICT Strategy. The secondment of two staff from Dublin City Council continued during 2009 and has since been

extended for a further period of 12 months. During the year the Board continued to use the services of agency staff to undertake specific duties mainly in relation to the Registration System.

### Staff Probation

The permanent appointment of PRTB staff is subject to a one year probation period. During this time, the Probationer's performance is assessed by their immediate line manager in conjunction with the Human Resource Unit. Formal reviews are carried out at three monthly intervals, allowing both the line manager and the Probationer to exchange feedback. A probation report is compiled and signed by the Probation Officer (the line manager) and the Head of the Business Unit and submitted to Human Resources. The accumulated probation reports allow Human Resources to assess the Probationer's overall performance during the probation period and to determine their suitability for permanent appointment in a transparent manner. A total of 16 staff passed their probationary period during 2009 in the PRTB.

### Roll out of Performance Management Development System

The PRTB formally introduced the Performance Management Development System (PMDS) for staff in January 2009 following the provision of training to staff. Staff actively participated in the system with role profile forms and personal training plans being completed and role profile meetings taking place in the first quarter of the year. The system assists staff and management in aligning individual and team performance with the goals of the organisation, through setting objectives and targets for individuals and teams and monitoring progress in their achievement.

The annual assessment of overall staff performance will take place as part of the PMDS annual review/role profile meeting in early 2010. It is envisaged that PMDS and HR policies and processes will to be integrated. Annual assessments made under PMDS will be used for the probation assessment and award of increments. Assessments made at the 2010 meeting will be based on 2009 work.

### Staff Training and Development

The PRTB aims to ensure that the organisation has a motivated and skilled workforce with a customer service focus. Key to delivering on the PRTB's objectives is the provision of training and development to staff and Board Members designed to ensure they have the competencies to carry out their duties in a professional manner while ensuring value for money and return on investment for the organisation.

Provision of training in 2009 was based on a training plan for the year agreed with senior management. The plan ensured that training delivered was prioritised by organisational need in addition to the organisational duty of care to staff members i.e. health and safety issues.

The Refund of Fees scheme introduced in 2008 was extended to the academic year 2009 to 2010. Under this scheme staff can apply to have their fees paid in full or in part for attendance at part-time courses that are relevant and beneficial to the work of the organisation and its staff. During 2009, the PRTB funded courses such as a Post Graduate Diploma in Conflict and Dispute Resolution Studies, Diploma in Accounting and Finance, Chartered Accountancy (ACCA) modules, Certificate in Civil Service & State Agency Studies and Bachelor of Science in Information Technology.



A range of internal and external training courses and presentations were provided in 2009. These incorporated presentations on the Residential Tenancies Act 2004, Data Protection, Freedom of Information and new Minimum Housing Standards. Especially tailored training courses were provided on various subjects including Telephone Skills, Managing People and Managing Stress. Staff also attended various external training courses including a Certificate Course on Public Sector Employment Law, Public Procurement course and Courtroom Skills Training.

### Adjudicator Training

The PRTB provides adjudicators with training and feedback on an ongoing basis in order to provide the best possible service to parties involved in the dispute resolution process. In September 2009, the PRTB hosted a full day training seminar, whereby Adjudicators were updated on developments in the operation of the PRTB's Dispute Resolution Service and ongoing initiatives to improve the services of the PRTB to all its customers.

The seminar, presented by PRTB management, staff and legal advisers, also focused on quality assurance standards and the examination of pertinent aspects of the Act as well as legal precedents, judicial reviews principles and enforcement issues.

### Board Members Training

Presentations and Training was provided to Board Members on the Guidelines for compliance with the Ethics in Public Office Act 1995 & 2001; the Code of Practice for the Governance of State Bodies and the Residential Tenancies Act 2004. In addition, induction training was provided to the Board members in 2009.

### Customer Service

The nature of the work of the PRTB requires staff to correspond with tenants, landlords, Agents and various other stakeholders on a daily basis. Each day the PRTB receives an average 420 items of post and receives an average of 306 telephone calls.

All staff members receive on-going training on customer service and telephone skills. A specially tailored telephone and conflict management skills course was provided to both permanent and agency staff in the first quarter of 2009. *A Guide to Handling Irate Callers* issued to staff following training to assist them in dealing with difficult callers. Information sessions on the relevant sections of the Residential Tenancies Act 2004 and training on internal procedures including one on telephone procedures were also provided to staff to assist them in providing an efficient and professional service to the PRTB's customers.

The PRTB is mindful of the need to reduce the time it takes to respond to requests for Registration and Dispute Resolution, and has set ambitious but achievable targets which are reflected in the Corporate Plan 2009 - 2011. It made considerable progress towards those goals in 2009. See sections on Disputes and Tribunals for further details.

It is hoped that the development of the PRTB's ICT Strategy will greatly improve the efficiency of the PRTB and will ultimately benefit our customers and stakeholders. This project is currently underway with on-line registration due in October 2010.

### Accessibility

The PRTB continued to ensure optimum accessibility in the office premises at O'Connell Bridge House, Dublin 2. The fees charged to

applicants to avail of the Dispute Resolution services are low (i.e. €25 for a Dispute Application and €40 for an Appeal) and parties to a dispute do not need to be legally represented to avail of the services.

The PRTB provides modern and accessible offices and meeting rooms that fully meet with occupational, health and safety standards.

The offices are fully wheelchair accessible and sign language and other language interpretation are available when sought, and hearing rooms are air-conditioned. For customers outside Dublin, Mediators, Adjudicators and Tribunal members travelled to hearings in numerous different locations to facilitate complainants and respondents.

## Publications

As part of its remit, the PRTB funded research on the issues facing third level students in the private rented sector. This research was carried out by the Centre for Housing Research and their publication "Students in the Private Rented Sector - what are the issues?" was published in April 2009.

The PRTB has also produced a leaflet which gives guidance to both landlords and tenants on their rights and obligations. This is available in a number of languages through the website. All publications can be downloaded from the PRTB's website [www.prtb.ie](http://www.prtb.ie).

## Data Protection & Freedom of Information

The PRTB consulted with and sought advice from the Data Protection Commissioners Office on a number of issues in 2009 including the publication of Determination Orders and Tribunal Reports on our website and data exchange with other

Government Departments. In May 2009 the PRTB engaged consultants to undertake an audit to assess current procedures and determine Data Protection compliance within the PRTB and to produce a Code of Practice for the organisation. The audit was completed in the second quarter of 2009 and much work done on drafting the Code of Practice by the end of the year. It is envisaged that the Code of Practice and comprehensive Guidelines will be finalised in 2010 to ensure that staff, contractors and data processors protect all personal information retained, kept or processed by the PRTB.

The PRTB received six requests under the Data Protection Act in 2009. All requests were dealt with and copies of information supplied to the requesters where required. The PRTB does not come within the terms of the Freedom of Information Acts at this point.

## Finance

Up until 2009, the PRTB was partially funded by an annual grant from the Department of the Environment, Heritage and Local Government, and by retaining a portion of fee income generated from tenancy registrations. In 2009 the grant was €954,415, which was primarily used to pay the salary costs for the seconded department staff.

Prior to 1st April 2009, the PRTB was entitled to retain 2/7 of the registration fee income. The Minister for Housing & Local Services authorised the doubling of this to 4/7 with effect from 1st April 2009. The total amount earned from fees in 2009 was €8.4m or which €4.6m was retained by the PRTB for offset against total expenditures of €7.4m. The PRTB made a loss of €1.2m which was funded from opening reserves of €5.2m.

The Code of Practice for the Governance of State Bodies published in July 2009 provides that the State bodies should publish, with their annual

reports, their audited annual accounts. These are included at the end of this report.

The Code of Practice also states that in the interests of transparency and good governance, State Bodies should publish details of the salary of the CEO. In accordance with Section 160(1) of the Residential Tenancies Act 2004, the PRTB considers its Director is the equivalent of the CEO. The Director's salary in 2009 was in compliance with Government pay policy and was equivalent to the remuneration of a Principal Officer (Standard Scale). The Director was not in receipt of any bonuses in 2009.

### Tax Compliance

The PRTB is compliant with its obligations under taxations laws, and all tax liabilities are paid on or before the relevant due dates. The PRTB is exempt under Section 227 of the Taxes Consolidation Act 1997 in respect of income which would otherwise be chargeable under Case III, IV or V of Schedule D.

### Prompt Payment of Accounts Act, 1997

The PRTB complies with the requirements of the Prompt Payment of Accounts Act, 1997. The PRTB's procedures provide reasonable but not absolute assurance against material noncompliance with the Act. During the year ended 31st December 2008, the PRTB incurred interest on late payments of €1,272. The overall proportion in monetary terms of late payments to total invoiced payments was 0.03%

### Travel and Subsistence

The PRTB is committed to complying with the policies outlined by the Department of Finance in ensuring that travel and subsistence procedures

and claim rules are strictly adhered to for its staff, board members and other office holders. The PRTB ensures that only essential travel is undertaken, and that the number of staff members on an official journey is kept to the minimum. Hearings are held around the country to facilitate our clients but travel is predominantly by public transport.

### Procurement and Tenders Sought and Awarded

Under the Residential Tenancies Act 2004, the Board is permitted to engage consultants or advisors as it may consider necessary for the performance of its functions. Any person who wishes to be engaged by the Board as a consultant or adviser may notify the Board in writing of this fact and any notification for that purpose shall include particulars of the person's qualifications and experience. However, the PRTB follows public procurement requirements when seeking tenders or quotations. During 2009, the Board or Director approved of a number of key services as outlined below:

- ▶ **Tenancy Management ICT system** - the contract for the Tenancy Management ICT system was awarded to Direct Marketing Technologies (t/a Vulcan Solutions) in November 2009.
- ▶ **Accountancy and Bookkeeping Services** - HLB Nathans Chartered Accountants won the contract to provide Accountancy and Bookkeeping Services in June 2009
- ▶ **Internal Audit Services** - the contract for delivering Internal Audit Services to the PRTB was awarded to Crowleys DFK in November 2009
- ▶ **Data Protection Audit** - the contract to carry out an audit of Data Protection Services in the PRTB was awarded to Arcline in May 2009.
- ▶ **Various Tenancy Registration Letters** - the contract for the issue of various Tenancy Registration Letters was awarded to Printpost Ltd. in September 2009.

# Private Residential Tenancies Board

*Report and Financial Statements*

*for the year ended 31 December 2009*

---

<b>CONTENTS</b>	<b>PAGE</b>
Report Of The Comptroller And Auditor General	69
Statement Of Responsibilities Of The Board	71
Statement On Internal Financial Control	72
Statement Of Accounting Policies	74
Income And Expenditure Account	76
Statement Of Total Recognised Gains & Losses	77
Balance Sheet	78
Cashflow Statement	79
Notes To The Financial Statements	80

## Report of the Comptroller and Auditor General for presentation to the Houses of the Oireachtas

I have audited the financial statements of the Private Residential Tenancies Board for the year ended 31 December 2009 under the Residential Tenancies Act 2004.

The financial statements, which have been prepared under the accounting policies set out therein, comprise the Statement of Accounting Policies, the Income and Expenditure Account, the Statement of Total Recognised Gains and Losses, the Balance Sheet, the Cash Flow Statement and the related notes.

### Respective Responsibilities of the Board and the Comptroller and Auditor General

The Board is responsible for preparing the financial statements in accordance with the Residential Tenancies Act 2004 and for ensuring the regularity of transactions. The Board prepares the financial statements in accordance with Generally Accepted Accounting Practice in Ireland. The accounting responsibilities of the Members of the Board are set out in the Statement of Responsibilities of the Board.

My responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

I report my opinion as to whether the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland. I also report whether in my opinion proper books of account have been kept. In addition, I state whether the financial statements are in agreement with the books of account.

I report any material instance where moneys have not been applied for the purposes intended or where the transactions do not conform to the authorities governing them.

I also report if I have not obtained all the information and explanations necessary for the purposes of my audit.

I review whether the Statement on Internal Financial Control reflects the Board's compliance with the Code of Practice for the Governance of State Bodies and report any material instance where it does not do so, or if the statement is misleading or inconsistent with other information of which I am aware from my audit of the financial statements. I am not required to consider whether the Statement on Internal Financial Control covers all financial risks and controls, or to form an opinion on the effectiveness of the risk and control procedures.

I read other information contained in the Annual Report, and consider whether it is consistent with the audited financial statements. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements.

### Basis of Audit Opinion

In the exercise of my function as Comptroller and Auditor General, I conducted my audit of the financial statements in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board and by reference to the special considerations

which attach to State bodies in relation to their management and operation. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures and regularity of the financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgments made in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Board's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations that I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements.

## Opinion

In my opinion, the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland, of the state of the Board's affairs at 31 December 2009 and of its income and expenditure for the year then ended.

In my opinion, proper books of account have been kept by the Board. The financial statements are in agreement with the books of account.

### *Emphasis of Matter - Deferred Pension Funding*

Without qualifying my opinion I draw attention to note 11 (c) to the financial statements. The Board recognises an asset in respect of deferred pension funding - the current value of the funding it

anticipates will be provided in the future by the State to meet pension liabilities as they fall due. Inherent in this accounting treatment is an assumption that any income generated by the Board will in the first instance be applied towards current expenses and that State funding will meet any current or future shortfall in resources including future pension liabilities.

**Gerard Smyth**

*For and on behalf of the*

*Comptroller and Auditor General*

*27 October 2010*

## Statement of Responsibilities

Section 178 of the Residential Tenancies Act, 2004 requires the Financial Statements to be prepared by the Director in such form as may be specified by the Minister for the Environment, Heritage and Local Government and in accordance with generally accepted accounting principles. The Financial Statements must be approved by the Board.

In preparing those financial statements, the Director and the Board are required to:

- ▶ Select suitable accounting policies and then apply them consistently;
- ▶ Make judgements and estimates that are reasonable and prudent;
- ▶ State whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements;
- ▶ Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Board will continue in operation.

The Director, under the direction of the Board, is responsible for keeping proper books of account which disclose with reasonable accuracy at any time the financial position of the Board and which enable it to ensure that the financial statements comply with section 178 of the Act. The Board is responsible for ensuring that the business of the Board is conducted in a proper and regular manner and for safeguarding all assets under its operational control and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

**Anne Marie Caulfield**  
*Director*

**Orla Coyle**  
*Chairperson*



## Statement on Internal Financial Control

### Responsibility for the system of Internal Financial Control

On behalf of the members of the Private Residential Tenancies Board, I acknowledge our responsibility for ensuring that an effective system of internal financial control is maintained and operated.

The system can only provide reasonable, and not absolute, assurance that the assets are safeguarded, transactions authorised and properly recorded, and that material error or other irregularities are either prevented or would be detected in a timely period. In considering the effectiveness of internal financial controls, the Board and its Audit Committee have regard among other things, to the requirements of the Code of Practice for the Governance of State Bodies.

### Key control procedures

The Private Residential Tenancies Board has taken steps to ensure an appropriate control environment by:

- ▶ ensuring the Board complies with its Financial obligations under the Act;
- ▶ ensuring that assets and liabilities of the Board are properly accounted for;
- ▶ clearly defining management responsibilities;
- ▶ establishing formal procedures for reporting significant control failures and ensuring appropriate corrective action;
- ▶ the establishment of appropriate sub-committees of the Board to give greater focus on specific areas.

The members of the Board have agreed that the Director and staff of the Board (subject to delegation by the Director) are responsible for operational matters.

The system of internal financial control within the Private Residential Tenancies Board is based on a framework of monthly management information, administrative procedures (including segregation of duties and authorisation limits), and a system of delegation and accountability. In particular it includes:

- ▶ a comprehensive budgeting system with an annual budget, which is reviewed and agreed with the Executive and the Board;
- ▶ regular review by the Executive and the Board of periodic and annual financial reports which indicate financial performance against targets;
- ▶ clearly defined procurement, tendering and capital investment guidelines.

The Board's monitoring and review of the effectiveness of the system of internal financial control is informed by the Audit Committee, the Executive management team, who have responsibility for the development and maintenance of the financial control framework, and comments made by the Comptroller & Auditor General in his management letter or other reports.

The Board has continued its work to establish the extent and likelihood of business risk in 2009 and this work will continue in 2010.

### Annual Review of Controls

I confirm that the Board conducted a review of the effectiveness of internal controls for the year ended 31 December 2009.

**Orla Coyle**  
*Chairperson*

## Statement of Accounting Policies

The significant accounting policies adopted in these financial statements are as follows:

### 1. General

The general functions of the Board are:

- ▶ the operation of a national registration system for all private residential tenancies that come under the remit of the Residential Tenancies Act, 2004;
- ▶ the operation of a dispute resolution service and;
- ▶ the provision of information, carrying out of research and the provision of policy advice to the Minister regarding the private rented sector.

### 2. Basis of Accounting

The financial statements have been prepared under the accruals basis of accounting in accordance with generally accepted accounting principles and under the historic cost convention. The statements are in a form approved by the Minister for the Environment, Heritage and Local Government. The accounts are stated in euro.

### 3. Income

#### State Funding

State funding represents cash received in the year from the Department of the Environment, Heritage and Local Government and the cost of staff seconded to the Board by the Department for the period.

#### Registration & Dispute Fees

Fees in respect of registrations and disputes are recognised at the point when a valid application is received.

#### Other Income

Other income represents interest accruing on exchequer notes held currently with the National Treasury Management Agency and deposits held with other financial institutions; and any legal costs recovered in the year.

### 4. Tangible Fixed Assets

Tangible fixed assets are stated at cost less accumulated depreciation.

Depreciation is provided on a straight line basis at rates which are estimated to write off the cost of the assets over their expected useful lives as follows:-

Leasehold Improvements	5%
Straight Line	
Furniture & fittings	10%
Straight Line	
Office equipment	20%
Straight Line	
Computer equipment	20%
Straight Line	

## 5. Foreign Currencies

Transactions denominated in foreign currencies are translated into euro at the rates of exchange prevailing at the transaction date. Any difference arising on translation between transaction dates and payment dates are charged to the Income and Expenditure account.

## 6. Capital Account

The capital account represents the unamortised amount of income used to finance fixed assets.

## 7. Staff Pensions

In accordance with section 163 of the Residential Tenancies Act 2004 a draft scheme for the granting of superannuation benefits to staff of the Board has been prepared and submitted to the Minister for approval but has not yet been approved.

The Private Residential Tenancies Board operates a defined benefit pension scheme which is funded annually on a pay as you go basis from monies available to it, including monies provided by the Department of Environment, Heritage and Local Government and from contributions deducted from staff salaries.

Pension costs reflect pension benefits earned by employees in the period and are shown net of staff pension contributions which are treated as payable to the Department of the Environment, Heritage and Local Government. An amount corresponding to the pension charge is recognised as income to the extent that it is recoverable, and offset by grants received in the year to discharge pension payments.

Actuarial gains and losses arising on scheme liabilities are reflected in the Statement of Total Recognised Gains and Losses and a corresponding adjustment is recognised in the amount recoverable from the Department of Environment, Heritage and Local Government.

Pension liabilities represent the present value of future pension payments earned by staff to date. Deferred pension funding represents the corresponding asset to be recovered in future periods from the Department of Environment, Heritage and Local Government.

## Income and Expenditure Account

for the year ended 31 December 2009

	Notes	Year Ended 31 December 2009 €	Year Ended 31 December 2008 €
<b>Income</b>			
State Funding	1	974,415	3,801,051
Deferred Pension Funding	11	175,000	104,000
Registration Fees	2	8,391,708	7,897,364
Less Recoupments due to local authorities	7	(3,764,325)	(5,640,974)
Disputes Fees		46,847	44,844
Other Income	3	334,016	609,551
Transfer (to)/from Capital Account	8	54,773	(337,972)
		<b>6,212,434</b>	<b>6,477,864</b>
<b>Expenditure</b>			
Staff Costs	4a	(3,158,359)	(2,780,682)
Administration Costs	4b	(4,034,183)	(3,534,938)
Depreciation	5	(198,903)	(187,756)
		<b>(7,391,445)</b>	<b>(6,503,376)</b>
Excess of Expenditure over Income	9	<b>(1,179,011)</b>	<b>(25,512)</b>

The Statement of Accounting Policies and Notes 1 to 17 form part of these Financial Statements.

All income and expenditure for the year ended 31 December 2009 relate to continuing activities.

**Anne Marie Caulfield**  
Director

**Orla Coyle**  
Chairperson

## Statement of Total Recognised Gains & Losses

for the year ended 31 December 2009

	Notes	Year Ended 31 December 2009 €	Year Ended 31 December 2008 €
(Deficit) / Surplus for the year		(1,179,011)	(25,512)
Experience (loss)/gain on pension scheme Liabilities	11	18,000	(346,000)
Changes in assumptions underlying the present value of pension scheme liabilities		(43,000)	-
Actuarial loss recognised		(25,000)	(346,000)
Adjustment to deferred pension funding		25,000	346,000
<b>Total recognised (loss) / gain for the year</b>		<b>(1,179,011)</b>	<b>(25,512)</b>

**Anne Marie Caulfield**  
Director

**Orla Coyle**  
Chairperson

## Balance Sheet

as at 31 December 2009

	Notes	31 December 2009 €	31 December 2008 €
<b>Fixed Assets</b>			
Tangible assets	5	2,023,386	2,078,159
<b>Current Assets</b>			
Debtors	6	62,452	46,948
Cash at Bank		14,354,435	15,180,449
		<b>14,416,887</b>	<b>15,227,397</b>
<b>Creditors</b>			
Amounts falling due within one year	7	(10,396,800)	(10,028,299)
Net Current Assets		4,020,087	5,199,098
<b>Total Assets Less Current Liabilities Before Pensions</b>		<b>6,043,473</b>	<b>7,277,257</b>
Pension Liabilities	11	(650,000)	(450,000)
Pension Assets	11	650,000	450,000
<b>Total Assets Less Current Liabilities</b>		<b>6,043,473</b>	<b>7,277,257</b>
<b>Financed By</b>			
Accumulated excess expenditure over income	9	4,020,087	5,199,098
Capital Account	8	2,023,386	2,078,159
		<b>6,043,473</b>	<b>7,277,257</b>

The Statement of Accounting Policies and Notes 1 to 17 form part of these Financial Statements.

**Anne Marie Caulfield**  
Director

**Orla Coyle**  
Chairperson

## Cashflow Statement

for the year ended 31 December 2009

	Notes	Year Ended 31 December 2009 €	Year Ended 31 December 2008 €
<b>Reconciliation of operating surplus to net</b>			
<b>Cash inflow from operating activities</b>			
Operating (deficit) for year	9	(1,179,011)	(25,512)
Depreciation	5	198,903	187,756
Interest Earned	3	(300,554)	(494,688)
Loss on disposal of fixed assets	5	-	24,216
Transfer (from) / to Capital Account	8	(54,773)	337,972
(Increase) / Decrease in debtors	6	(15,504)	86,527
Increase in creditors	7	368,501	2,529,177
Net cash (outflow) / inflow from operating activities		<b>(982,438)</b>	<b>2,645,448</b>
<b>Cashflow Statement</b>			
Net cash (outflow) / inflow from operating activities		(982,438)	2,645,448
<b>Returns on Investment and Servicing of Finance</b>			
Interest Received	3	300,554	494,688
<b>Net Capital Expenditure</b>			
Payments to acquire tangible fixed assets	8	(144,130)	(549,944)
<b>(Decrease)/Increase in cash</b>		<b>(826,014)</b>	<b>2,590,192</b>
<b>Reconciliation of net cashflow to movement in net funds</b>			
Net funds at 1 January		15,180,449	12,590,257
Net funds at 31 December		14,354,435	15,180,449
<b>(Decrease)/Increase in cash</b>		<b>(826,014)</b>	<b>2,590,192</b>

The Statement of Accounting Policies and Notes 1 to 17 form part of these Financial Statements.

**Anne Marie Caulfield**  
Director

**Orla Coyle**  
Chairperson



## Notes

(forming part of the financial statements)

### 1. STATE FUNDING

State funding was provided through the Office of the Minister for the Environment, Heritage and Local Government and amounted to €974,415 (net of employee pension contributions of €30,866) for the year ended 31st December 2009 (2008 - €3,801,051, net of employee pension contributions of €14,328).

### 2. REGISTRATION FEES INCOME

Fees which were received from landlords as payment for the registration of their tenancies amounted to €8,391,708 (2008 - €7,897,364).

As per Ministerial direction, made under Section 176(5) of the Residential Tenancies Act, 2004, registration fee income received by the PRTB is dealt with in the following manner:

To Local Authorities:

- ▶ 5/7ths in the period to 31 March 2009 which amounted to €1,044,697;
- ▶ 3/7ths in the period from 1 April 2009 which amounted to €2,719,628;

Retained by the PRTB towards its administration costs:

- ▶ 2/7ths in the period to 31 March 2009 which amounted to €417,878.
- ▶ 4/7ths in the period from 1 April 2009 which amounted to €4,229,505.

### 3. OTHER INCOME

	31 December 2009	31 December 2008
	€	€
Interest income	300,554	494,688
Legal costs recovered	33,462	114,863
	<b>334,016</b>	<b>609,551</b>

## 4a. STAFF COSTS

	Year Ended 31 December 2009	Year Ended 31 December 2008
	€	€
Seconded & PRTB Staff	1,751,461	1,299,490
Agency Staff	1,147,122	1,296,666
Pension Costs	144,134	89,672
Training of Staff and Office Holders	35,294	55,273
Social Welfare Costs	80,348	39,581
	<b>3,158,359</b>	<b>2,780,682</b>

**Staff numbers:**

The average number of staff employed by the Board in the year was 25 (2008: 22). A further 13 staff were seconded to the Board by the Department of the Environment, Heritage and Local Government (2008: 15), 2 by Dublin City Council (2008: 2), 1 by the Central Statistics Office (2008: 1) and 1 from the Local Government Computer Services Board (2008: 0).

**Pension Levy:**

€27,908 of pension levy has been deducted and paid over to the Department of the Environment, Heritage and Local Government.

## 4b. ADMINISTRATIVE EXPENDITURE

	Year Ended 31 December 2009	Year Ended 31 December 2008
	€	€
Board Members fees	147,147	151,368
Tribunal Members fees	363,053	269,182
Adjudicators and Mediators fees	449,057	305,900
Travel & Subsistence	36,359	37,000
Legal & Professional fees	1,335,983	1,124,797
Audit fees	10,340	11,000
Accountancy	85,254	155,123
Stenography costs	140,751	69,261
Meeting Expenses	9,190	9,895
Office Supplies	78,876	83,822
Postage & Distribution costs	217,839	177,872
Printing & Translation costs	254,931	277,437
Telephone expenses	21,511	23,150
Public Information & Education	3,829	51,886
Computer Expenses & Maintenance	85,136	60,651
Establishment costs	602,354	497,786
Cleaning services	23,158	27,247
Research Studies	140,817	134,451
Late Payment in Commercial Transactions	1,272	12,526
Loss on disposal of fixed assets	-	24,216
Miscellaneous	27,326	30,368
	<b>4,034,183</b>	<b>3,534,938</b>

## 5. TANGIBLE FIXED ASSETS

	Computer Equipment €	Leasehold Improvements €	Furniture & Fittings €	Office Equipment €	Total €
<b>COST</b>					
Opening Balance	390,081	1,746,933	190,437	83,833	2,411,284
Additions	139,364	-	4,766	-	144,130
Disposals	-	-	-	-	-
<b>At 31 December 2009</b>	<b>529,445</b>	<b>1,746,933</b>	<b>195,203</b>	<b>83,833</b>	<b>2,555,414</b>
<b>DEPRECIATION</b>					
Opening Balance	177,480	81,092	18,359	56,194	333,125
Charge for the year	78,017	87,347	19,175	14,364	198,903
Depreciation on disposals	-	-	-	-	-
<b>At 31 December 2009</b>	<b>255,497</b>	<b>168,439</b>	<b>37,534</b>	<b>70,558</b>	<b>532,028</b>
<b>NET BOOK VALUE</b>					
At 31 December 2008	212,601	1,665,841	172,078	27,639	2,078,159
<b>At 31 December 2009</b>	<b>273,948</b>	<b>1,578,494</b>	<b>157,669</b>	<b>13,275</b>	<b>2,023,386</b>

## 6. DEBTORS

Amounts falling due within one year	31 December 2009 €	31 December 2008 €
Prepaid expenses	8,293	22,484
Interest receivable	39,647	11,398
Sundry Debtors	14,512	13,066
	<b>62,452</b>	<b>46,948</b>

## 7. CREDITORS

Amounts falling due within one year	31 December 2009	31 December 2008
	€	€
Creditors & Accruals	1,022,192	818,015
Amounts Due to Local Authorities	9,374,608	9,210,284
	<b>10,396,800</b>	<b>10,028,299</b>

### Analysis of amounts due to local authorities:

The table below sets out fees received in the relevant financial year and amounts paid over to the particular local authorities for the performance of their functions under the Housing Standards and Rent Book Regulations;

Fees allocated to local authorities in 2005 financial year	3,507,944
Fees allocated to local authorities in 2006 financial year	4,282,694
Fees allocated to local authorities in 2007 financial year	4,397,678
Fees allocated to local authorities in 2008 financial year	5,640,974
Fees allocated to local authorities in 2009 financial year	3,764,325
	<b>21,593,615</b>
Fees disbursed in the 2005 financial year	1,582,350
Fees disbursed in the 2006 financial year	1,009,250
Fees disbursed in the 2007 financial year	2,527,406
Fees disbursed in the 2008 financial year	3,500,000
Fees disbursed in the 2009 financial year	3,600,001
	<b>12,219,007</b>
Amounts Due to Local Authorities	<b>9,374,608</b>

The amounts due to be paid over to particular local authorities will be in accordance with the criteria set by and at the direction of the Minister for the Environment, Heritage and Local Government.

## 8. CAPITAL ACCOUNT

	31 December 2009	31 December 2008
	€	€
Opening Balance	2,078,159	1,740,187
<b>Transfer (to) / from Income and Expenditure Account</b>		
Funding to acquire Assets	144,130	549,944
Amortisation in line with asset depreciation	(198,903)	(187,756)
Loss on disposal of fixed assets	-	(24,216)
	(54,773)	337,972
<b>Closing Balance at 31 December</b>	<b>2,023,386</b>	<b>2,078,159</b>

## 9. ACCUMULATED EXCESS INCOME OVER EXPENDITURE

	31 December 2009	31 December 2008
	€	€
Opening Balance	5,199,098	5,224,610
Excess expenditure over income	(1,179,011)	(25,512)
<b>Closing Balance at 31 December</b>	<b>4,020,087</b>	<b>5,199,098</b>

## 10. ACCOMMODATION

In October 2007 the Private Residential Tenancies Board signed a 20 year leasehold agreement in respect of the second and third floors of O'Connell Bridge House, D'Olier Street, Dublin 2. The lease contains a break clause at the end of year 5. The Annual commitment under this lease at year end was €433,476.

## 11. SUPERANNUATION

### a) Analysis of total pension costs charged to Expenditure

	31 December 2009	31 December 2008
	€	€
Current service cost	150,000	90,000
Interest on pension scheme liabilities	25,000	14,000
Employee contributions	(30,866)	(14,328)
	<b>144,134</b>	<b>89,672</b>

**b) Movement in net pension liability during the financial year**

	31 December 2009	31 December 2008
	€	€
Net pension liability at 1 January	(450,000)	-
Current service cost	(150,000)	(20,000)
Past service costs	-	(70,000)
Interest costs	(25,000)	(14,000)
Actuarial (loss) / gain	(25,000)	(346,000)
Deficit at end of year	(650,000)	(450,000)

**c) Deferred Funding for Pensions**

The PRTB recognises amounts owing from the State for the unfunded deferred liability for pensions on the basis of the set of assumptions described in (e) and a number of past events. These events include the statutory basis for the establishment of the superannuation scheme, and the policy and practice currently in place in relation to funding public service pensions including contributions by employees and the annual estimates process. While there is no formal agreement and therefore no guarantee regarding these specific amounts with the Department of Environment, Heritage & Local Government, the PRTB has no evidence that this funding policy will not continue to meet such sums in accordance with current practice.

The Net Deferred Funding for Pensions recognised in the Income and Expenditure Account was as follows:

	2009	2008
	€	€
Funding recoverable in respect of current year pension	175,000	104,000
State Grant applied to pay pensions	-	-
	<b>175,000</b>	<b>104,000</b>

The deferred funding asset for pensions as at 31 December 2009 amounted to €650,000 (2008: €450,000).

**d) History of defined benefit obligations**

	2009	2008
	€	€
Defined Benefit Obligations	650,000	450,000
Experience (gains)/losses on Scheme Liabilities Amount	(18,000)	346,000
Percentage of Scheme Liabilities	(3%)	77%

The cumulative actuarial loss recognised in the Statement of Total Recognised Gains and Losses amounts to €371,000.

### e) General Description of the Scheme

At 31 December 2009 the PRTB employed 42 staff, of which 13 were civil servants on secondment from the Department of the Environment, Heritage and Local Government, 2 were on secondment from Dublin City Council, 1 on secondment from the Central Statistics Office, 1 on secondment from the Local Government Computer Services Board and 25 were members of staff of the PRTB.

Civil Servants on secondment are covered by Civil Service pension arrangements. The Civil Service Superannuation Schemes are defined benefit schemes which are unfunded and administered by the Department of Finance. There is no charge in the financial statements for any further superannuation liabilities which may arise in respect of these staff.

A defined benefit superannuation scheme applies to the staff of the PRTB and is operated on an administrative basis pending approval by the Minister for the Environment, Heritage and Local Government. Benefits are financed on a “pay as you go” basis. Staff pension entitlements do not extend beyond the standard entitlements in the model public sector defined benefit superannuation scheme.

The valuation used for FRS 17 disclosures has been based on a full actuarial valuation by a qualified independent actuary to take account of the requirements of FRS 17 in order to assess the scheme liabilities at 31 December 2009.

The financial assumptions used to calculate scheme liabilities were:

	31 December 2009	31 December 2008
Discount rate	5.5%	5.5%
Salary increase assumption	4.0%	4.0%
Pension increase assumption	4.0%	4.0%
Price inflation	2.0%	2.0%

## 12. LATE PAYMENTS IN COMMERCIAL TRANSACTIONS

The Board is aware of its responsibilities under the Late Payments in Commercial Transactions Regulations 2002 and has established appropriate procedures and processes to ensure that all payments are made in accordance with the Regulations. The Board has calculated its liability for the year ended 31 December 2009 to be €1,272 (2008: €12,526).

## 13. CONTINGENT LIABILITIES

The Board had 791 dispute resolution cases awaiting hearing at 31 December 2009. As the cost of the dispute resolution process varies greatly from case to case no provision for these unresolved cases registered prior to 31 December 2009 is included in the Financial Statements. In addition approximately 190 cases are at various stages of enforcement proceedings through the courts, the costs of which are not yet known and no provision exists in the Financial Statements.



## 14. CAPITAL COMMITMENTS

The Board has authorised the construction of a new IT system for the processing of online registrations. At 31 December 2009 discussions were ongoing with potential vendors and a number of commitments had been made. The total capital commitments contracted for but not provided for in the accounts were €721,000. There is also a further amount of €284,000 authorised by the Board but not yet contracted for.

## 15. BOARD MEMBERS INTERESTS

The Board adopted procedures in accordance with guidelines issued by the Department of Finance in relation to the disclosure of interests by Board Members and these procedures have been adhered to in the year. There were no transactions in the period in relation to the Board's activities in which the Board Members had any beneficial interest.

## 16. DIRECTORS & BOARD MEMBERS REMUNERATION

### Directors' Remuneration

Directors' Salary	€98,971
-------------------	---------

The Director is engaged under a secondment arrangement from the Department of Environment, Heritage and Local Government which pays her salary. The amounts disclosed above were paid to the Department as reimbursement of salary. The Director was not in receipt of any bonuses or benefit in kind in 2009. The Directors' pension entitlement does not extend beyond the standard entitlements in the model public sector defined benefit superannuation scheme.

Board Member	Fees €
Orla Coyne, Chairperson	12,338
Aidan Brennan	0
Anne Colley	8,243
Tom Dunne	10,771
Gene Feighery	0
Aideen Hayden	10,658
Mary Heaslip	8,526
Vincent P Martin	0
Finian Matthews	6,528
Ciarán McNamara	0
Fintan McNamara	6,713
Joan O'Dowd	0
Cian O Lionáin	0
Dr Eoin O'Sullivan	11,056
Dervla Quinn	8,026
Bairbre Redmond	4,177
Thomas J Reilly	10,124
Tony Taaffe	5,963
John Tiernan	1,828
<b>Total</b>	<b>€104,951</b>

The above figures refer to actual payments made to Board Members during 2009. As a result of their nature some of these payments relate to meetings attended in 2008. The figure included in Note 4b for Board Members Fees is calculated on an accruals basis for all meetings attended during 2009, regardless of when the payments were made.

Furthermore, fees have not been paid to Board Members who are also full-time public servants.

Board members were also reimbursed a total of €18,901 for travel and subsistence incurred for attendances at meetings and Tribunals. These were paid in accordance with the Department of Finance guidelines.

## 17. APPROVAL OF FINANCIAL STATEMENTS

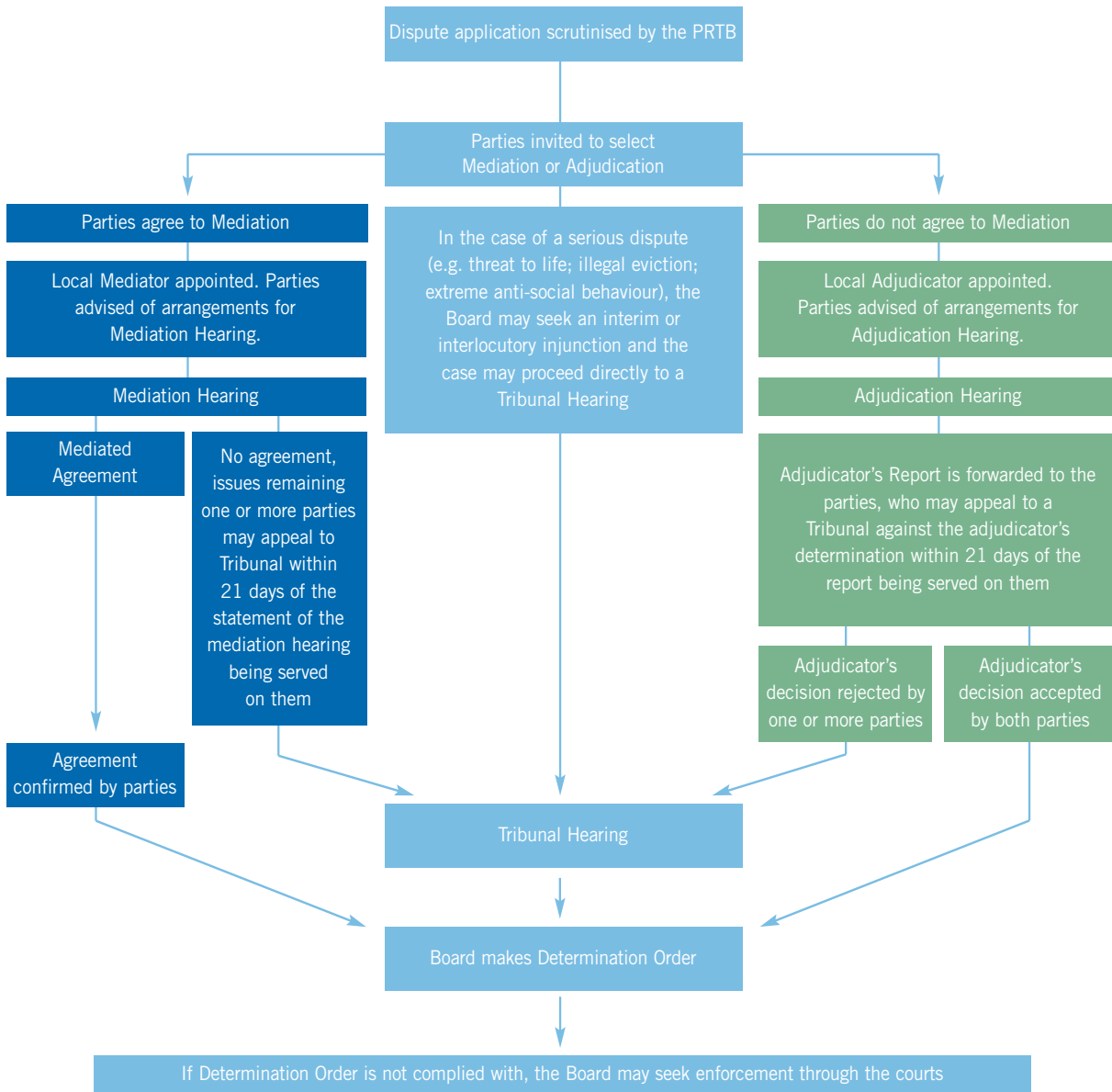
The Financial Statements were approved by the Board on 18 August 2010.



# Appendices

APPENDIX 1

# Dispute Resolution Process



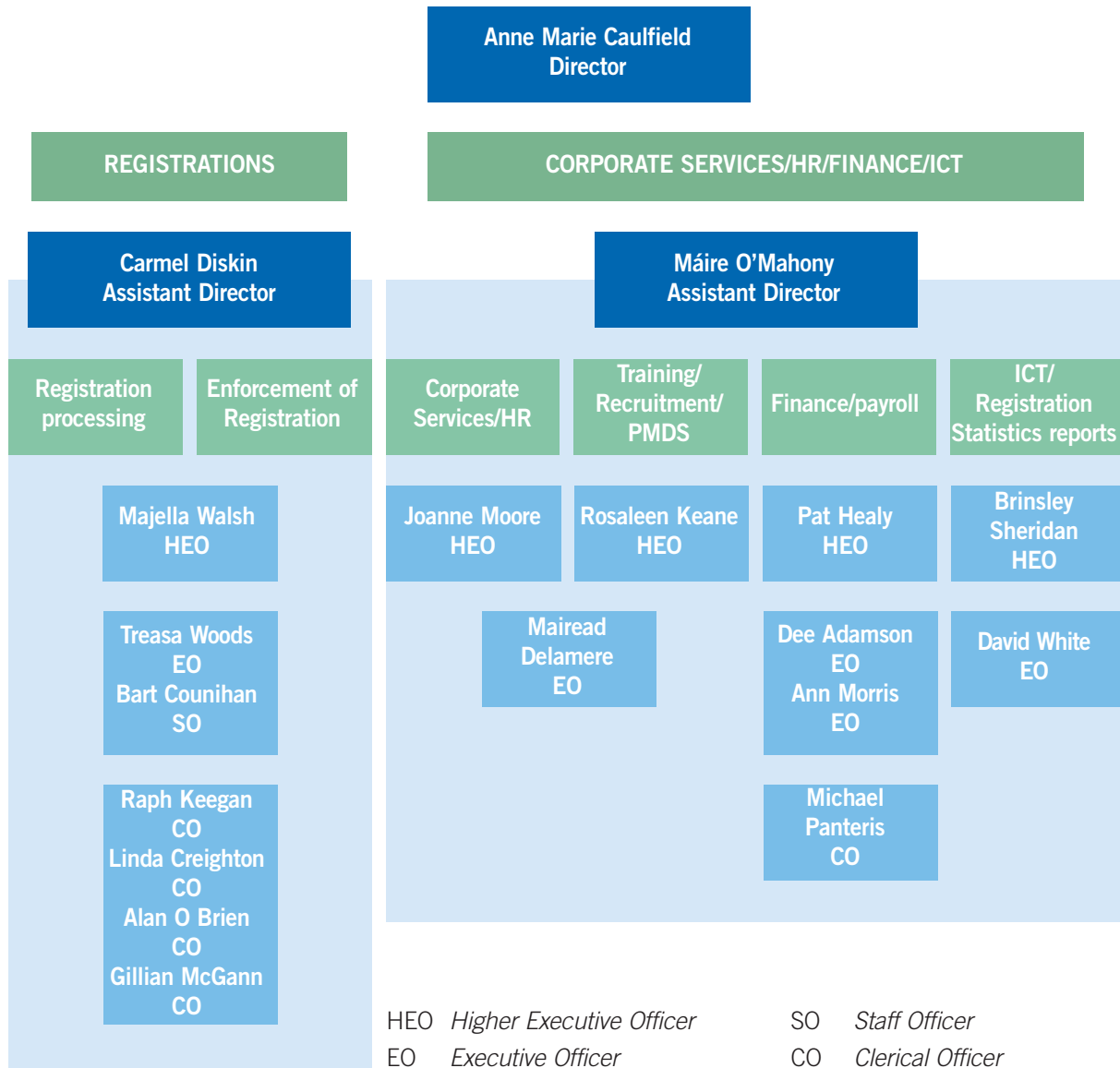
## APPENDIX 2

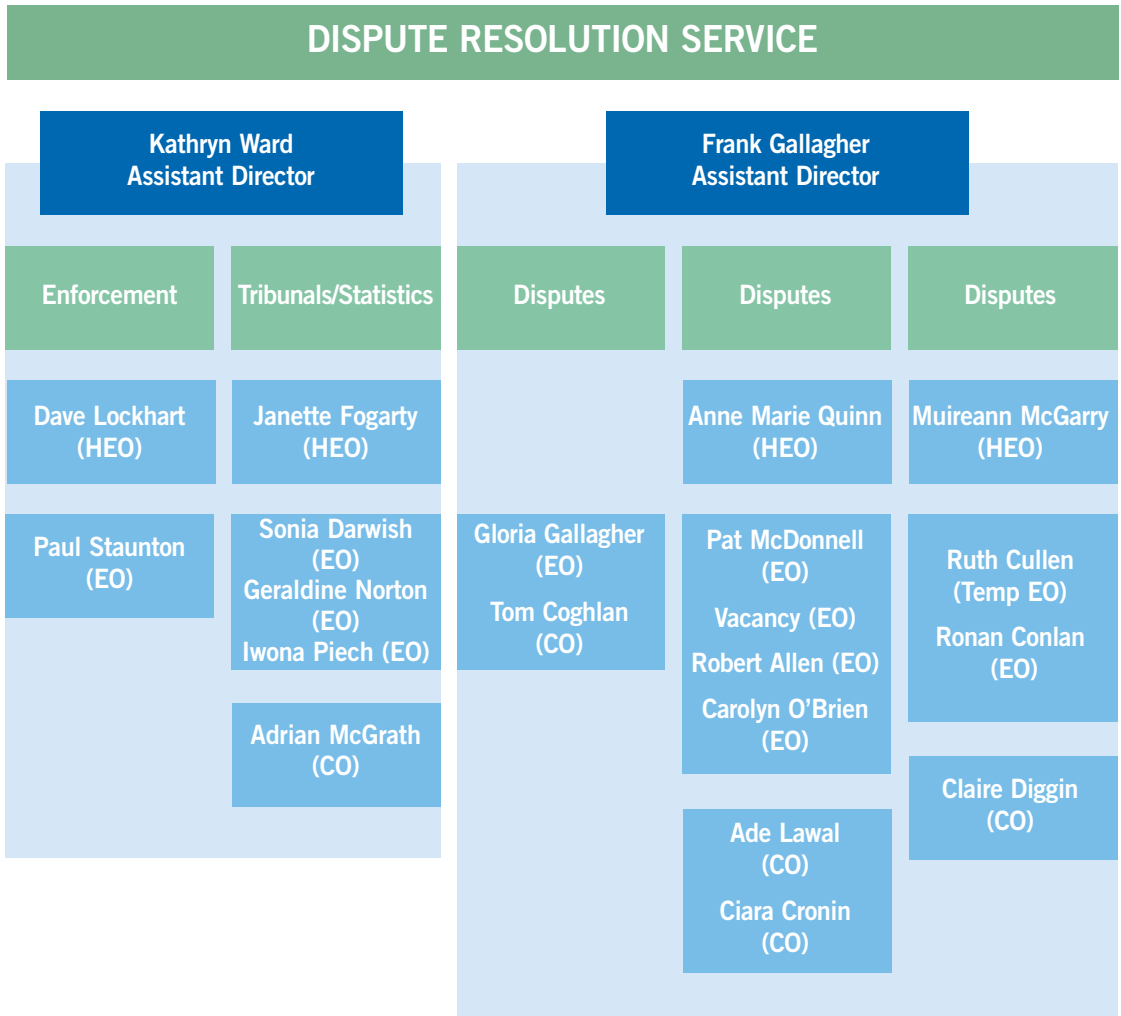
## Panel of PRTB Adjudicators and Mediators

Adjudicators	Adjudicators	Mediators
Seamus Bane	James Howley	Anne Carroll
Kevin Baneham	John Hyland	Peter Cunningham
Joe Behan	Padraic Ingoldsby	Martin Durack
Bridget Birmingham	Phil Kealy	Barney Kiernan
Ronan Browne	Nesta Kelly	John McArdle
James Burke	Richard Kennedy	Brenda Moran
Patrick Burke	Darren Lehane	Derek Nolan
John Callaghan	Thomas Mannix	Brigette O'Brien
Emmett Carty	Joseph May	Audrey O'Carroll
Charles Corcoran	Michael McNamara	Helena O'Gorman
Michael Coughlan	Francis Meenan	Yvette O'Malley
James Coyne	Claire Millrine	Hilary Sweetman
Gus Cummins	Mary H. Morris	
Jim Dennison	Michael Munnely	
Ian Dermody	Joseph Murray	
William B. Devine	Liam Nolan	
Arran Dowling Hussey	Patricia O'Connor	
David Duncan	Maurice O'Donoghue	
Shaun Elder	Niamh O'Leary	
John C. Elliott	Martin O'Malley	
Michael Farry	Paul O'Reilly	
Geraldine Feeney	Tom Rigney	
Pat Finn	Patrick Rowan	
Anthony Flynn	John Shaw	
Corona Grennan	Nuala Skeffington	
Frank Guinane	Patricia Stafford	
Con Guiney	Breeda Tuite	
Tom Hardy	Robert Walsh	
Maureen Harewood	Joseph Whelan	
Eoin Dillon	Marcus O'Connor*	
Keara Donnelly	<i>*Resigned Oct 2009</i>	
Thomas Woodbyrne		
Mary Henry Feehily		
Bill Holohan		

APPENDIX 3

# PRTB Organisation Chart





The PRTB currently employs an average of 30 temporary staff from Adecco and La Crème employment agencies, pending the rollout of the Tenancy Management System, in particular the introduction of the on-line registration services in 2010.



PRIVATE RESIDENTIAL TENANCIES BOARD  
PO Box 11884  
Dublin 2

Tel: +353-1-635 0600  
Fax: +353-1-635 0601  
Email: [prtb@prtb.ie](mailto:prtb@prtb.ie)  
Web: [www.prtb.ie](http://www.prtb.ie)