



# **Pyrite Resolution Board**

## **Annual Report 2015**

**To the Minister for the Environment, Community and Local Government**

In accordance with section 9(4) of the Pyrite Resolution Act 2013, the Pyrite Resolution Board herewith presents its Annual Report for the year ending 31 December 2015.

## MANDATE

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The Pyrite Resolution Board (PRB) was established by the Minister for the Environment, Community and Local Government, following the commencement of the Pyrite Resolution Act 2013 on 10 January 2014, to make a scheme for the remediation of damage to certain dwellings caused by pyritic heave and to direct and oversee the effective implementation of a programme of remediation works for affected dwellings. The Pyrite Remediation Scheme was made by the Board on 12 February 2014 and amended on 5 February 2015.

The Pyrite Remediation Scheme (the Scheme) constitutes the framework for the application of the provisions contained in the Act and first came into operation on 13 February 2014.

## MISSION STATEMENT

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***To procure the remediation of certain dwellings with damage caused by pyritic heave of hardcore under floor slabs in a fair, efficient, transparent and cost effective manner.***

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# CHAIRMAN'S STATEMENT

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In accordance with section 9(4) of the *Pyrite Resolution Act 2013*, I am pleased to submit to the Minister for the Environment, Community and Local Government this Report on the performance by the Pyrite Resolution Board (PRB) of its functions under the Act during the year 2015. This is the PRB's second Annual Report since it was first established on a statutory basis in January 2014.

The Pyrite Resolution Act 2013 makes provision for an Exchequer-funded scheme to facilitate the remediation of houses and apartments suffering significant damage, due to pyritic heave of floors, where the owners have no other practicable options for redress. The Act mandated to the PRB to draw up a Scheme for the remediation of significant pyritic damage to dwellings, to accept applications from affected homeowners and to direct and oversee the implementation of a pyrite remediation programme. Responsibility for the testing of dwellings and the execution of remediation works is assigned under the Act to the Housing Agency. The Pyrite Remediation Scheme sets out the conditions that must be satisfied in order to qualify for remediation under the Scheme.

The Scheme was first made by the PRB on 13 February 2014 with the approval of the Minister and was amended to widen its geographic remit in early February 2015. The background to the setting up of the PRB was set out in my Statement in the 2014 Annual Report. For its first year of operation much of the PRB's work related to the drawing up of the Pyrite Remediation Scheme, receiving and processing applications from homeowners and putting in place arrangements with the Housing Agency for the implementation of a programme of remediation works to dwellings approved under the Scheme. The emphasis in 2015 moved on to the engagement of engineers and contractors to specify and carry out the actual works to each dwelling. By the end of 2015 the number of applications received was just short of 1000; of these 744 were approved for inclusion in the Scheme. Of this figure, 153 dwellings were remediated and works contracts were in place for a further 184 dwellings. Expenditure under the Scheme in 2015 generally matched the financial allocation made available by the Department for the Environment, Community and Local Government.

The Strategy and Business Plan adopted by the PRB for 2015-2016 has, as an objective, the remediation of 600 dwellings by end of 2016.

A steady stream of applications (approx. 30 per month) continues to be received. Generally they are coming from housing estates that are already the subject of applications. This means that while the programme of remediation works will peak in 2016, it will continue on a significant scale into 2017 and at a reduced scale thereafter.

The Act sets out the respective functions of the PRB and the Housing Agency. I am pleased to say that the two bodies continue to work together efficiently and effectively. This cooperation is underpinned by *Governance and Procedural Arrangements* which set out the respective roles of each body and which have been reviewed in the light of experience.

The agreement which the PRB made with the HomeBond company whereby staffing and services to the value of €2 million would be contributed towards the administration of the Pyrite Remediation Scheme continues to operate. Furthermore, a supplemental agreement has been secured whereby HomeBond will reimburse, to the PRB, the costs incurred in any dwelling that are due to structural defects and are additional to the costs that would be attributable to pyritic heave.

The PRB is acutely conscious of the need to ensure that the draw on public funds is kept to a minimum, consistent with achieving the Scheme's objectives. To ensure value for money, framework panels have been set up for building professionals and for building contractors following open tendering procedures and contracts for individual projects are subject to further tendering from these panels. A detailed procedure has been drawn up to deal with unforeseen issues that arise during construction and with cost overruns. The average cost per dwelling remediated is €58,850, including allowances for alternative accommodation etc. for home owners. There can be significant variation in the costs with one-off houses generally having larger ground floor areas being the most expensive.

Individual applications when approved are grouped into projects in order to secure maximum efficiencies consistent with the need to ensure that the works are not unnecessarily prolonged for the homeowners. The Pyrite Remediation Scheme makes

provision for the ordering and prioritisation of works. The PRB and the Housing Agency have put in place procedures for the creation of an orderly schedule of projects to be progressed up to and through the construction phase. Procedures are also in place for dealing with cases of particular urgency or hardship on a priority basis. We want the scheme to operate in an open, transparent and objective manner.

In accordance with the Act, the Exchequer funding provided for pyrite remediation purposes (including the expenses of the PRB) is routed through the Housing Agency and the audited Financial Statements relating to such funds will be contained in the Housing Agency's Annual Report. The legislation provides that the PRB may recover from any party with a liability, and the capacity, all or part of the costs associated with remediating a dwelling under the Scheme. While the PRB does not consider the initiation of legal proceeding to be a practicable option for homeowners, it is taking action, where considered appropriate, to pursue builders and / or developers for a contribution towards the costs of the works. Such action resulted in receipt of almost €500,000 up to end 2015. Further actions are ongoing.

The PRB and the Housing Agency are acutely aware at all times of the difficulties and stress which have been endured by homeowners whose homes have been damaged by pyrite. We have set out to provide a service to them that is sympathetic and transparent and that will, ultimately, restore properly habitable homes to them in the shortest time possible. Our aim is to work closely and in full consultation with homeowners at all times. We recognise the importance of good communications with homeowners and, jointly with the Housing Agency, we have reviewed and, where necessary, improved our communications procedures.

However, the remediation programme must be managed in an orderly manner and it is not possible to carry out all the work at once. Unfortunately, this means that some applicants have to wait longer than others. In this regard, I would like to thank all applicants under the Scheme for their patience and understanding.

With a few exceptions, it has generally been possible to hand back completed houses to homeowners within the targeted 12 week timeframe and in some cases more quickly.

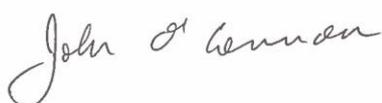
There is a right of appeal for those whose applications have been turned down and there are procedures for the resolution of disputes and the making of complaints.

The methodologies for assessing damage due to pyritic heave and for the remediation of such damage are set out in the relevant Irish Standards. The PRB has asked the National Standards Authority of Ireland (NSAI) to review these standards in light of experience and this review is due to be completed in 2016.

During 2015, the Board consisted of myself as Chairman and three other members. It has a small number of staff supplied from existing staff within the Department of the Environment, Community and Local Government and the Housing Agency. The Board does not employ any staff directly. Some administrative, ICT and legal services are provided by, or through, the Housing Agency.

I wish to thank each of my three fellow Board Members for his or her commitment and contribution to the work of the PRB during the year. I would also like to pay tribute to and acknowledge the outstanding contribution which Noel Carroll, General Manager of the PRB who retired in February 2016, has made to the resolution of the pyrite problem. I thank him for that and wish him well in his retirement. I am also pleased to welcome Aidan O'Connor as the new General Manager.

I am also grateful to the Chairman, Board, Chief Executive and staff of the Housing Agency for their constructive cooperation. Finally, I thank the Minister for Housing, Planning and Local Government, Simon Coveney, T.D., and his predecessors as Minister, Alan Kelly, T.D., and the Minister of State Paudie Coffey, T.D., and their officials in the Department for their on-going interest and support for the PRB and its activities.



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John O'Connor  
Chairman

# GENERAL MANAGER'S STATEMENT

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The total number of applications for remediation received under the Pyrite Resolution Scheme [the Scheme], as per the Pyrite Resolution Act 2013 [the Act], up to the end of 2015 was 995. Of those, 375 applications for remediation were received during 2015.

Applications are spread across 37 developments containing multiple applications and 63 single site applications. This is generally in line with expectations, although it is noted that the rate of new applications has been maintained at a consistent level. New applications latterly have come predominantly from developments where work on remediation has or is about to commence.

The original geographical scope of the scheme was limited to the areas identified in the Pyrite Panel report of June 2012, i.e. the counties of Meath, Kildare and Offaly and the administrative areas of Fingal County Council and Dublin City Council. However, during 2014, reports were received of pyritic heave in a number of houses in two estates in the administrative areas area of South Dublin and Dun Laoghaire-Rathdown County Councils. On investigation the Pyrite Resolution Board [PRB] was satisfied that damage attributable to pyritic heave was present in dwellings in those developments and decided to recommend to the Minister of State at the Department of the Environment, Community and Local Government, Paudie Coffey, T.D., an amendment of the Scheme to include those areas.

The Minister approved an amendment of the Scheme to include both the administrative areas of South Dublin and the Dún Laoghaire–Rathdown County Councils. This amendment came into effect on 5 February 2015. Applications were received in respect of the two estates reported above, but nothing further was received for the two County Council areas in question.

Staff of the PRB appointed as Decision Makers consider the eligibility of the applications received. By the year end of 2015, a total of 809 applications had been validated and referred to the Housing Agency. Following the Assessment, Verification and Recommendation Process, the Housing Agency makes a recommendation to the Pyrite

Resolution Board (PRB) as to whether or not a dwelling should be included in the Pyrite Remediation Scheme. At the end of 2015, 744 dwellings had been included in the Scheme and the applicants were notified accordingly. Once a dwelling is included in the Scheme, the Housing agency implements the remediation process and undertakes the procurement of professional services and the remediation contracts.

By the end of 2015, a total of 19 applications had been refused following the Validation Process on the grounds that the Scheme's eligibility requirements were not met. A total of 6 appeals were received by the Board. Two were withdrawn prior to a decision and two were refused by the Board following the prescribed procedure. Two appeals arose from an initial refusal to include extensions (constructed during the eligible period) to dwellings constructed outside the eligible period.

In determining the appeals, an extension, used for habitable purposes, was considered to be a dwelling by the Board, for the purposes of the Pyrite Resolution Act 2013. The Board overturned the decision of the Decision Maker to refuse the applications and both applications were subsequently validated. No dwellings have been excluded thus far following the Assessment, Verification and Recommendation Process.

Of the 744 dwellings included in the Scheme by the end of 2015 the progress was as follows:

- 153 dwellings remediated.
- Works contracts in place for 10 projects totalling 184 dwellings.
- Tendering and pre-contract process underway for 4 projects, totalling 104 dwellings.
- Engineers preparing Remedial Works Plans for 4 further projects, totalling 246 dwellings.

While a pilot project involving the remediation of 5 dwellings was completed in 2014, remediation on a significant scale began in February 2015. The process of programming, surveying damage, specification of works, tendering and awarding of works contracts, scheduling of works, vacation of dwellings, commencement and completion of works and reoccupation of dwellings progressed satisfactorily over the year. Payments to applicants for vouched costs for building condition assessments, removal and storage costs have also been made in accordance with the terms of the Scheme.

In general, projects have proceeded very satisfactorily with the great majority coming in on time, within projected budgets and with works completed to a high standard. Delays and added costs have arisen principally where defects, other than those arising from pyritic heave, were exposed during construction work. On the basis of experience, procedures were reviewed and modified to anticipate, minimize and manage such situations to avoid delays and added costs as far as possible. In addition, a Supplemental Agreement has been signed with HomeBond towards agreeing payment for the remediation of structural defects not related to pyritic heave identified prior to or during the course of pyrite remediation.

In accordance with the Act and the terms of the Scheme the PRB established a process for dealing with the prioritisation of dwellings for remediation. The system has worked satisfactorily and is kept under regular review. All cases identified and prioritised thus far have either been remediated or progressed as expeditiously as possible. In line with the provisions of the Pyrite Resolution Act 2013, the PRB has continued to seek to recover from any party, with a liability, and the capacity, all or part of the costs associated with remediating dwellings. During 2015, the PRB received a total of €484,000 from liable parties and, in accordance with the Act, this money was paid over to the Minister for the Environment, Community and Local Government. Negotiations are proceeding with regard to contributions in a number of other cases.

It is a condition of eligibility under the Scheme that the Applicant gives his/her consent to the institution by the PRB of civil proceedings relating to loss arising from the act or default of any person that causes significant pyritic damage to the dwelling. In this regard, the PRB have commenced legal proceedings, in accordance with legal advice, against the developer of a scheme in Fingal in respect of 80 dwellings.

In June 2014, an agreement was signed regarding HomeBond's contribution towards technical and project management services, under the direction and supervision of the Pyrite Resolution Board and/or the Housing Agency, to the value of €2 million. The contribution for 2015 amounted to €232,283. The running total from the commencement of the agreement to year end (2015) stands at €335,848. The Supplemental Agreement signed with HomeBond for dealing with structural defects not related to pyritic will also defray part

of the cost of construction works in some cases. It is acknowledged that HomeBond's contribution towards testing and the remediation programme has been an integral and effective part of the process. Further discussions will take place with a view to achieving and expediting the original agreed contribution.

During 2015, the PRB and the Housing Agency reviewed the Governance and Procedural arrangements between the PRB and the Housing Agency in relation to the remediation of dwellings under the Pyrite Remediation Scheme, having regard to the assignment of functional responsibilities in the Pyrite Resolution Act. The successful operation of the Scheme requires a high degree of cooperation between the Boards, management and staff of the two bodies. Informal and formal collaboration is required at all levels to ensure the smooth, efficient and effective delivery of the remediation programme. Early consultation leading to agreed solutions is encouraged and expected.

The need for an ongoing review of communications has been recognised by the PRB and the Housing Agency as a fundamental part of the operation of the Scheme. During 2015, and in the light of experience gained in ongoing remediation projects, a number of areas were identified where procedures required updating. The email and telephone contact systems were enhanced, the PRB revised its website, the layout and content of emails has been standardised and all emails now clearly indicate the stage within the process of the application. The project management team within the Housing Agency has been augmented and procedures reviewed and enhanced.

The ongoing review of all aspects of the Scheme has been influenced by feedback from applicants and the issues raised via the complaints procedure, appeals received, representations from public representatives and through engagement with the Department of Environment of the Environment, Community and Local Government, contractors, legal advisers, auditors and others.



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Aidan O'Connor

General Manager

# BOARD MEMBERS' REPORT

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The members of the Pyrite Resolution Board present their annual report for the year ended 31 December 2015.

## 1. Principal Activities

The *Pyrite Resolution Act 2013* provides for the making of a Pyrite Remediation Scheme (the Scheme), for certain dwellings affected by pyrite. The Scheme was made by the Board following the approval of the Minister. The Board also directs and oversees the implementation of the Pyrite Remediation Scheme in accordance with the terms of the scheme.

The Minister approved an amendment of the Scheme to include both the South Dublin and the Dún Laoghaire–Rathdown County Council areas. This amendment came into effect on 5 February 2015.

In broad terms:

- the Pyrite Resolution Board (PRB) accepts and validates applications under the Scheme and oversees the implementation of the pyrite remediation programme for approved dwellings. The scale of the programme is determined by the availability of funding and other factors.
- the Housing Agency, subject to the direction of PRB, remediates approved dwellings affected by pyrite and implements the pyrite remediation scheme. The Housing Agency also assess and make recommendations to the PRB on applications from homeowners for inclusion in the scheme.

## 2. The Board and Other Information

The Pyrite Resolution Board consists of the Chairman and 3 Members:

**John O'Connor, Chairman**

(Chairman of Board of EirGrid plc. and formerly Chairperson of An Bord Pleanála)

**Sean Balfe**

(Director of Sustainability and the Built Environment, National Standards Authority of Ireland)

**Matt Gallagher**

(Formerly President of CIF and Chairman of Irish Home Builders Association)

**Caroline Gill**

(Barrister, formerly Insurance Ombudsman and Deputy Financial Services Ombudsman)

**Board Secretary** - Patrick Graham

The day to day management and administration of the PRB's functions are delegated to the General Manager, supported by staff assigned from the Department of the Environment, Community and Local Government. Noel Carroll BE BCL served as General Manager up to February 2016 when he retired and was replaced by Aidan O'Connor MRAI.

Secretarial, administrative, ICT, legal services and other services are also being provided to the Board by or through the Housing Agency.

The *Governance and Procedural Arrangements* document, which formalises the arrangements between the PRB and the Housing Agency, was revised in 2015 and adopted by both Boards. This document, as amended, sets out the arrangements agreed between the two bodies in relation to the remediation of houses and apartments under the Scheme

having regard to the assignment of functional responsibilities in the *Pyrite Resolution Act 2013*.

### **3. Functions of the Board**

Section 9 of the *Pyrite Resolution Act 2013* sets out the functions of the Pyrite Resolution Board. The principal functions are summarised below:

- (a) The making of a scheme of pyrite remediation under section 13;
- (b) The receipt and determination of applications under the Scheme;
- (c) Direction and oversight of the implementation of the pyrite remediation scheme;
- (d) Approval of budgets for the scheme under Section 23 of the Pyrite Resolution Act 2013;
- (e) Determining appeals under Section 27;
- (f) Providing information in relation to pyrite and significant pyritic damage.

At the end of every 3 month period, the Board provides the Minister with a report outlining progress with regard to the implementation of the Pyrite Remediation Scheme in accordance with Section 9(5) of the Act.

### **4. Responsibilities of the Board**

The Board has adopted a schedule of the functions and business of the Pyrite Resolution Board that are reserved for decisions by the Board itself in accordance with the document entitled *Matters Reserved for Board Decision*. This ensures that the direction and control of the strategic actions and other activities of the PRB are firmly in the hands of the Board.

### **5. Remuneration, Expenses and Attendance at Board Meetings**

The Board normally meets at monthly intervals (excluding August) to conduct business. A total of 13 Board Meetings were held throughout 2015 (2 of which were electronic).

Attendance at these meetings and the remuneration and expenses associated with each Board Member is presented in the following table:

Board Member	Attendance	Remuneration	Expenses
John O'Connor	13	Nil	€2,082.30
Sean Balfe	10	Nil	Nil
Matt Gallagher	11	Nil	Nil
Caroline Gill	13	€2,400	Nil

The Board and its staff comply in all respects with the circulars issued by the Department of Public Expenditure and Reform in relation to travel and subsistence allowances.

The General Manager was paid at the Principal Officer rate of the Civil Service modified in accordance with the abatement principle. His remuneration has been approved by the Department of the Environment, Community and Local Government and the Department of Public Expenditure and Reform.

## 6. Code of Conduct, Disclosure and Ethics

A Code of Business Conduct is in place for the Board Members, General Manager and staff from the Department of the Environment, Community and Local Government and the Housing Agency involved in the implementation of the Scheme. The Code of Conduct provides the Framework against which the business of the Pyrite Resolution Board can be run in a legal and ethical manner while upholding the values of the Board. Staff also comply with Departmental guidelines with respect to business conduct. A review of compliance with the requirements of the legislation and of the Code of Business Conduct was carried out by the Audit and Risk Committee.

Board Members also comply with the obligations imposed by the *Ethics in Public Office Act 1995* and the *Standards in Public Office Act 2001*.

## 7. Services provided by HomeBond

In June 2014, an agreement was signed regarding HomeBond's contribution towards technical and project management services relating to the implementation of the Pyrite Remediation Scheme, under the direction and supervision of the Pyrite Resolution Board and/or the Housing Agency, to the value of €2 million.

The contribution for 2015 was valued at €232,283.00. The running total from the commencement of the agreement to year end (2015) stands at €335,848.

A Supplemental Agreement has been signed with HomeBond for dealing with structural defects not related to pyritic heave which are identified prior to, or during, the course of pyrite remediation works and that affect the structural stability of the dwelling. The structural defects not related to pyritic heave will be remedied, as far as possible, before they are covered over during the works. In such cases, HomeBond will, under the Supplemental Agreement, make an appropriate contribution towards the cost of such structural works.

## 8. Procurement

The Board is satisfied that all national and EU requirements relating to public procurement have been complied with.

## 9. Strategy and Business Plan

The PRB and Housing Agency's first *Strategy & Business Plan* in relation to the pyrite remediation programme was approved by the Board and covers the period 2015 – 2016. The Board will review this document in 2016.

## 10. Review of the Business

Commentaries on performance during the year ended 31 December 2015, including information on recent events and future developments, are contained in the Chairman's Report and the General Manager's Report.

## 11. Corporate Governance

The Board is committed to maintaining the highest standards of corporate governance. During the year, the Board complied with the *Code of Practice for the Governance of State Bodies* ('the Code') issued by the Department of Finance on 15 June 2009.

The Board is also committed to reviewing its governance policies and procedures on an on-going basis.

## 12. Audit & Risk Committee

The Audit & Risk Committee assists the Board in fulfilling its oversight responsibilities and operates to the Board's approved Terms of Reference. The Committee meets quarterly, comprises 5 members and includes one external member with experience in financial accounting.

### **The Audit & Risk Committee is comprised of the following:**

- Caroline Gill (Chairperson, Board Member)
- Sean Balfe (Board Member)
- Matt Gallagher (Board Member)
- Tony O'Brien (External Member, also a Member of the Housing Agency's Audit Committee)
- John O'Connor (Board Member)

The Internal Audit Officer report on the PRB's compliance with the *Code of Practice for the Governance of State Bodies*, confirmed a high degree of compliance generally, but some areas of partial or non-compliance.

The Committee agreed that a small number of changes to Governance documents/reports were required to improve compliance in some areas. It was agreed that, due to the statutory provisions with regard to the separation of the PRB from the operational aspects

of remediation and financial accountability, compliance on matters regarding financial reporting, did not apply to the Audit & Risk Committee.

The Board has in place a risk management system that identifies the critical risks to which it is exposed and ensures that appropriate risk mitigation measures are taken and then provides assurance that the chosen responses are effective.

The Board has adopted a *Risk Management Business Plan* and a *Risk Management Policy and Framework*. The *Risk Management Business Plan* and the *Risk Register* are approved by the Board regularly.

The risks are periodically reviewed by the Audit & Risk Committee and where relevant, proposals were made to the Board regarding amendment and enhancement of the risk register.

# ACTIVITY LEVELS

The table below gives the status of applications at year end 2015. These figures comprise of the combined total from the launch date to year end 2015, the second year of operation of the Pyrite Remediation Scheme is also given. An overview of the pyrite remediation process can be found in Appendix C.

## Status of Applications

Status of Applications at Year End	Combined Total
<b>Validation Process</b>	<b>160</b>
<b>Validated and awaiting verification</b>	<b>65</b>
<b>Included in Scheme</b>	<b>744</b>
<i>Planning/Scheduling</i>	<i>57</i>
<i>Preparation of Specification &amp; Tender</i>	<i>246</i>
<i>Tendering &amp; Tendering Analysis</i>	<i>104</i>
<b>Remediation Works</b>	<b>184</b>
<b>Works Complete</b>	<b>153</b>
Closed*	26*
<b>Total Applications</b>	<b>995</b>

\*Nine applications did not meet the eligibility criteria; nine applications were duplicate applications; two applications were withdrawn by the applicants; two applications were closed on the basis of a change of ownership; four applicants did not provide a Building Condition Assessment despite repeated requests.

The table below gives a breakdown of applications in 2015 and 2014

	2014	2015	Combined Total
<b>Applications Received</b>	620	375	995
<b>Applications Included in the Scheme</b>	301	443	744
<b>Dwellings Contracted for Remediation - of the dwellings included in the Scheme</b>	0	184	184
<b>Dwellings Remediated, Works Complete and Certified - of the dwellings included in the Scheme</b>	5	148	153

A breakdown of the total applications submitted by Local Authority / Area, is given in Appendix A and B.

The photos which follow illustrate typical works involved in pyrite remediation.

### Before Remediation



### During Remediation



### After Remediation



# APPEALS TO THE BOARD

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Appeals to the Board can arise following:

- the refusal of an application after Stage 1: Validation Process;
- the exclusion of a Dwelling from the Scheme after Stage 2: Assessment, Verification and Recommendation Process.

## Refusal of Applications following the Validation Process

To year end 2015, a total of 19 applications have been refused following the Validation Process on the grounds that the Scheme's eligibility requirements were not met. Two of the 19 refused applications were subsequently appealed successfully. A small number of applications were refused for administrative reasons, e.g. withdrawn, duplicate applications etc and are not included in the above figure.

## Exclusion following the Assessment, Verification and Recommendation Process

Thus far, no dwellings have been excluded following the Assessment, Verification and Recommendation Process.

## Appeal Procedure

The Board has prescribed procedures under Section 27 of the Pyrite Resolution Act 2013 for the hearing and determination of appeals against decisions made by Decision Makers appointed by the PRB, on applications for the inclusion of dwellings in the Scheme. These can be found in the publications section on the Board's website.

Of the refused applications detailed above, 6 valid appeals have been submitted. Four relate to dwellings recording a damage condition rating of 1 and two relate to the eligibility criterion with respect to the date of construction and completion of the dwelling.

## **Appeal Decisions**

### **Appeals following refusal to include dwellings with a damage condition rating of 1**

Three appeals were received, following refusal of applications during the validation process, where the dwellings (detached) had a damage condition rating of 1.

Two of the three appeals were withdrawn and superseded by new applications, as damage had progressed to a rating of 2, thereby meeting the eligibility criteria. Both dwellings were subsequently included in the Scheme and remediation work to one is now complete.

The third appeal related to the refusal of an application for a detached dwelling with damage condition rating of 1. The Board affirmed the decision of the Decision Maker to refuse.

The fourth appeal related to a semi-detached dwelling that had a damage condition rating of 1 and the board affirmed the decision of the Decision Maker to refuse. However, a second application was made later for the same dwelling as damage had progressed; this achieved a damage condition rating of 2 and was included in the scheme.

### **Appeals following refusal to include extensions to dwellings, where the extension was constructed during the period of eligibility**

Two appeals were received following the refusal to include extensions (constructed during the eligible period) to a dwellings constructed outside the eligible period.

In determining the appeals, an extension, used for habitable purposes, was considered to be a dwelling for the purposes of the Pyrite Resolution Act 2013. The Board overturned the decision of the decision maker to refuse the applications and both applications were subsequently validated.

# INCOME & EXPENDITURE

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Section 25 of the Pyrite Resolution Act 2013 provides that all monies received or expended under the Act shall be accounted for by the Housing Agency. Such accounts must be submitted each year to the Minister by the Agency after audit by the Comptroller & Auditor General and laid before the House of the Oireachtas. Accordingly, this report does not contain financial statements in relation to receipts and expenditure in relation to pyrite remediation. These will be included in the Housing Agency's Annual Report and Accounts. However, for completeness some aggregated unaudited information on expenditure is given below.

The funding of pyrite remediation works is from voted Exchequer expenditure allocated by the Department of Environment, Community and Local Government. The PRB approves expenditure profiles by the Housing Agency in respect of costs, commitments and expenses. Expenditure will be kept within the limits set and the sums sanctioned by the Department.

Total expenditure on the pyrite remediation programme amounted to €10,234,685 in 2015. This figure does not include pay costs of €218,610, for which a special allocation was made to the Housing Agency.

Expenditure can be broken down as follows:

Pay Costs*	€218,610
Engineers	€747,808
Contractors	€8,019,491
Homeowner's Payments**	€1,214,338
Legal & Professional	€226,550
IT & Communications	€13,864
Other admin costs	€12,634

The Housing Agency is not eligible to recoup VAT and therefore all amounts are inclusive of VAT.

\* These represent staff salaries and other payroll expenses, together with the expenses of the Members of the Pyrite Resolution Board. The Housing Agency receives specific funding from the Department of the Environment, Community and Local Government (DoECLG) to cover expenditure that it specifically incurs for the Pyrite Remediation Scheme.

\*\* Homeowners are initially entitled to claim back a maximum of €500 for a Building Condition Assessment. Homeowners who have been accepted into the scheme are also entitled to (1) refunds for vouched alternative accommodation subject to a maximum limit of €3,000 (including VAT) per dwelling; (2) refunds for vouched costs for removal, storage and return of furniture & contents subject to a maximum limit of €2,500 (including VAT) per dwelling.

## Contributions

There will be some offset against the public expenditure incurred as a result of the contributions secured in accordance with the Pyrite Resolution Act 2013 as outlined below. In accordance with the Act, these monies were paid over to the Minister for the Environment, Community and Local Government.

### Contribution 1

In accordance with Section 12 of the Pyrite Resolution Act 2013, the PRB has continued to seek to recover from any party, with a liability, and capacity, all or part of the costs of remediating dwellings. In this regard, the following contribution was made in 2015:

Donor's Name: Charles Gallagher Limited

Donor's Address: First Floor, 11/12 Warrington Place, Dublin 2.

Contribution: Financial contribution of €400,000\*

Particulars of any trust or conditions: A full and binding legal Agreement secured the sums involved.

\*In addition to the above, which was paid in two instalments, the company shall pay the following amounts to the Board: €300,000 on 1<sup>st</sup> October 2016, €300,000 on 1<sup>st</sup> October 2017.

## Contribution 2

In accordance with Section 20 of the Pyrite Resolution Act 2013, where a dwelling has been included in the Scheme but the work has not commenced and the scheme participant receives a payment other than under the Scheme, as a condition for continued inclusion in the Scheme, the scheme participant is required to pay the amount received to the PRB within a specified time period. In this regard, the following contribution was made arising from settlement of a legal action taken by 7 applicants:

Donor's Name: Coleman Legal Partners on behalf of 7 applicants in Mulhuddert, Dublin 15.

Donor's Address: c/o Coleman Legal Partners, 54 Fitzwilliam Square, Dublin 2.

Contribution: Financial contribution of €84,000

Negotiations are proceeding with regard to contributions in a number of other cases.

## **Outstanding Contractual Commitments at Year End**

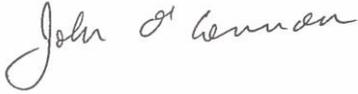
Outstanding contractual commitments on 31 December 2015 are as follows:

Engineers	€822,110
Works Contractors	€5,426,606

The Housing Agency is not eligible to recoup VAT and therefore all amounts are inclusive of VAT.

The Housing Agency submits budgets for its expenditure under the Act to the Board for approval. The Board may either approve the budget without modification or approve of the budget with such modifications as it thinks fit to make. Any departure from the budget as approved by the Board under this section may take place only with the prior approval of the Board. The Housing Agency reports on a regular basis to the PRB on actual and committed expenditure.

This report was approved by the Board and is signed on its behalf by



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John O'Connor  
Chairman  
16 June 2016



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Matt Gallagher  
Board Member  
16 June 2016

## APPENDIX A - APPLICATIONS SUBMITTED IN 2015 BY COUNTY / AREA

Local Authority	Applications
Dublin City Council	6
Dún Laoghaire-Rathdown Co. Co.	5
Fingal County Council	250
Kildare County Council	6
Meath County Council	91
Offaly County Council	6
South Dublin County Council	11
<b>Grand Total</b>	<b>375</b>

County/Area	Applications
<b>Dublin</b>	<b>207</b>
Balbriggan	62
Ballyboughal	0
Donabate	8
Kinsealy	3
Lusk	74
Malahide	0
Newcastle	10
Oldtown	0
Portmarnock	2
Rush	44
Skerries	1
Swords	2
Sutton	1
<b>Dublin 11</b>	<b>1</b>
Finglas	0
Meakstown	0
Cappagh	1
<b>Dublin 15</b>	<b>55</b>
Ashtown	0
Blanchardstown	3
Castleknock	2
Clonsilla	0
Hollystown	0
Mulhuddart	50
Ongar	0
<b>Dublin 16</b>	<b>5</b>
Ballinteer	5
<b>Dublin 8</b>	<b>2</b>
Heytesbury Street	2
<b>Dublin 9</b>	<b>2</b>
Ballymun	0
Santry	2
<b>Kildare</b>	<b>6</b>
Donadea	1
Enfield	0
Kilcock	1
Leixlip	3
Maynooth	1
<b>Meath</b>	<b>91</b>
Ashbourne	68
Ballivor	0
Clonalvy	0
Dunboyne	5
Dunshaughlin	2
Enfield	13
Kilbride	0
Kilmessan	0
Longwood	0
Navan	1
Robinstown	0
Summerhill	1
The Ward	0
Trim	0
Kinnegad	1
<b>Offaly</b>	<b>6</b>
Edenderry	6
<b>Grand Total</b>	<b>375</b>

## APPENDIX B – APPLICATIONS SUBMITTED FROM LAUNCH DATE TO YEAR END

Local Authority	Applications
Dublin City Council	27
Dún Laoghaire-Rathdown Co. Co.	5
Fingal County Council	649
Kildare County Council	19
Meath County Council	261
Offaly County Council	23
South Dublin County Council	11
<b>Grand Total</b>	<b>995</b>

County/Area	Applications
<b>Dublin</b>	<b>525</b>
Balbriggan	165
Ballyboughal	2
Donabate	66
Kinsealy	10
Lusk	158
Malahide	1
Newcastle	13
Oldtown	1
Portmarnock	2
Rush	101
Skerries	1
Swords	4
Sutton	1
<b>Dublin 11</b>	<b>4</b>
Finglas	1
Meakstown	2
Cappagh	1
<b>Dublin 15</b>	<b>105</b>
Ashtown	8
Blanchardstown	4
Castleknock	3
Clonsilla	1
Hollystown	2
Mulhuddart	86
Ongar	1
<b>Dublin 16</b>	<b>5</b>
Ballinteer	5
<b>Dublin 8</b>	<b>7</b>
Heytesbury Street	7
<b>Dublin 9</b>	<b>46</b>
Ballymun	1
Santry	45
<b>Kildare</b>	<b>19</b>
Donadea	1
Enfield	2
Kilcock	4
Leixlip	6
Maynooth	6
<b>Meath</b>	<b>261</b>
Ashbourne	154
Ballivor	1
Clonalvy	1
Dunboyne	25
Dunshaughlin	23
Enfield	41
Kilbride	1
Kilmessan	1
Longwood	1
Navan	2
Robinstown	1
Summerhill	7
The Ward	1
Trim	1
Kinnegad	1
<b>Offaly</b>	<b>23</b>
Edenderry	23
<b>Grand Total</b>	<b>995</b>

## APPENDIX C – THE PYRITE REMEDIATION PROCESS

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The Pyrite Remediation Scheme operates as follows:

- At **Stage 1: Application & Validation**, the PRB considers the validity of the application from the homeowner. The validation process essentially has two elements to it:
  - i. Assessment of applications for compliance with the eligibility criteria (including assessment of ‘practicable alternative options’).
  - ii. An audit of the Building Condition Assessment (BCA) to ensure that the dwellings have the requisite level of damage.

At the end of this stage the applicant is notified of the decision to refer the application to the Housing Agency for the Assessment, Verification Recommendation Process or of the decision refuse the application. A refusal may be appealed.

- **Stage 2: Assessment, Verification and Recommendation Process** which is undertaken by the Housing Agency, establishes that the damage recorded in the Building Condition Assessment is attributable to pyritic heave. Damage Verification, i.e. confirmation of damage attributable to pyritic heave, may be based on an individual dwelling or associated dwellings. Associated dwellings may thus be verified on the basis of comparable damage and / or earlier tests with similar results.
- The Housing Agency has established a methodology in relation to a testing programme for cases where earlier test results are not available. HomeBond organise testing on behalf of the Housing Agency as required. The testing of the hardcore material is in accordance with *I.S. 398-1:2013 Reactive pyrite in sub-floor hardcore material Part 1: Testing and categorisation protocol*.

- The Housing Agency furnishes the PRB with a recommendation and the reasons for the inclusion of a dwelling into the Scheme, or its exclusion from the Scheme, and the applicant is notified of the PRB's decision. A decision to exclude a dwelling from the Scheme may be appealed.
- If the dwelling is included in the Scheme, the applicant is referred to as a 'scheme participant' thereafter. A Scheme Participant may then recoup the vouched cost of the Building Condition Assessment Report, subject to a maximum limit of €500 (including VAT). The Scheme Participant is contacted regarding the arrangements for the recoupment at this stage.
- The application then moves into **Stage 3: Remedial Works Plan**. After seeking tenders, the Housing Agency appoints an engineer from the *Framework Agreement for Construction Design Professional Services (Chartered Engineer, Architect, Building Surveyor) for Pyrite Remediation Scheme* (a panel of Design Professionals already qualified to carry out this type of work), to prepare a remedial works plan and specification for the remediation of the dwelling. The Scheme Participant is consulted in relation to the remedial works plan.
- Once the documentation prepared by the engineer in Stage 3 is complete, the application moves to **Stage 4: Tendering and Tender Analysis**. The tender for the Remedial Works Contract is issued to the *Framework Agreement for Works Contractor for Remediation of Dwellings affected by Pyrite Damage under the Pyrite Remediation Scheme* (a panel of Contractors already qualified to carry out this type of work) for return in 4-5 weeks. The Scheme Participants are sent the Homeowner's Agreement at this stage.
- **Stage 5: Decision to Contract** follows. The Housing Agency reports to the PRB on the tenders received for the Remedial Works Contract and recommends a Works Contractor for the award of the contract. The PRB issues approval to proceed with awarding the Contract, or otherwise, following consideration of the overall budget and programme.

- The contractor remediates the dwelling (**Stage 6: Dwelling Remediation**) in accordance with the remediation contract and *I.S. 398-2: 2013: Reactive pyrite in the sub-floor hardcore material – Part 2: Methodology for remediation works* under the supervision of the engineer appointed by the Housing Agency.
- On completion, the works are certified in accordance with *I.S. 398-2: 2013: Reactive pyrite in the sub-floor hardcore material – Part 2: Methodology for remediation works* and claims for the payment of vouched costs (storage/accommodation) incurred by the Scheme Participant, which satisfy the conditions of the scheme, will be approved for payment when the works are completed and certified.
- **Stage 7: Retention Period** - The engineer will assess defects associated with the Remedial Works which are notified to the Housing Agency in writing by the Scheme Participant within a period of 11 months from the date of the Certificate of Remediation. The Housing Agency agrees to repair any defects which arise, within this period, as a result of the Remedial Works only.
- The application is considered closed (**Stage 8: Application Closure**) after the retention period of 11 months or once the particular defects, if any, are repaired.
- A Project Manager liaises between a Scheme Participant and the Housing Agency, the engineer and the contractor to enable the remediation works to be planned and carried out as economically and efficiently as possible.

### Payment of Costs

The Scheme covers the cost of remediation works and associated professional costs. In addition, the following costs incurred by the applicant may be recovered under the Scheme:

- The vouched cost (including VAT) of procuring the initial Building Condition Assessment from a competent person, subject to an overall maximum limit of €500, provided the dwelling is approved for inclusion in the Scheme following the Verification Process;

- The vouched costs for the temporary removal, storage and return of furniture, household appliances and effects in order to facilitate the remediation, subject to an upper limit of €2,500 (including VAT);
- The vouched costs for alternative accommodation of the household in order to facilitate the remediation, subject to an upper limit of €3,000 (including VAT).

### **Guide for Scheme Participants**

The Housing Agency has issued a guide to provide further information to applicants, referred to as Scheme Participants, whose dwellings have been included in the Pyrite Remediation Scheme. This guide is also published on the PRB's website.

### **Construction Design Professionals and Contractors**

The Housing Agency carried out a public procurement process to establish *Framework Agreements for Construction Design Professionals* in 2014. There are 7 engineering firms on the *Framework Panel for Construction Design Professionals* and this commenced on 7<sup>th</sup> April 2014 for 2 years, or at the sole discretion of the Employer for 4 years maximum.

The Housing Agency conducted a similar procurement process to establish *Framework Agreements for Works Contractors* to carry out the remediation works. There are 10 contracting companies on the *Framework Panel for Works Contractors* and this commenced 16<sup>th</sup> June 2014 for 24 months, with the option to extend for a further two 12 month terms.