

Memorandum of Understanding

Between

The Department of Jobs, Enterprise and Innovation

- and -

The Low Pay Commission

2016

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1. Definitions and Interpretation

‘Commission’ means the Low Pay Commission established under the *National Minimum Wage (Low Pay Commission) Act 2015*.

“Administrative functions” - means all functions which are not adjudicative functions.

“Department” – means the Department of Jobs, Enterprise and Innovation.

“Liaison Unit” – means the Industrial Relations Unit in the Department that has been designated to liaise with the Commission.

“Minister” – means Minister for Jobs, Enterprise and Innovation or another Minister delegated to act on behalf of the Minister

“MOU” – means this Memorandum of Understanding which sets out the level of service expected of the Commission to ensure that the performance indicators as set out in the Work Programme at Appendix 1 are met.

“Work Programme” denotes the Work Programme of the Commission as provided for in the National Minimum Wage (Low Pay Commission) Act 2015, Appendix I to this MOU sets out, in a composite form, the key tasks, targets and KPIs arising from the Work Programme.

2. Context

2.1 The Commission is an independent statutory body established under the National Minimum Wage (Low Pay Commission) Act, 2015. The duty of the Commission is determined as being to

“... make recommendations to the Minister regarding the national minimum hourly rate of pay that—

(a) is designed to assist as many low paid workers as is reasonably practicable,

(b) is set at a rate that is both fair and sustainable,

(c) where adjustment is appropriate, is adjusted incrementally, and

(d) over time, is progressively increased,

without creating significant adverse consequences for employment or competitiveness.”

and to address additional related matters if so requested by the Minister.

2.2 A list of all legislation underpinning the role of the Commission in the performance of its functions is set out in Appendix 2 to this MOU.

2.3 This MOU is prepared in fulfilment of the requirement under the Government decision of 15 November 2011 and under the Public Service Reform Programme published on 17 November 2011 for each Department to, *inter alia*, put in place robust Service Level Agreements with its State Bodies.

2.4 The governance of the Low Pay Commission shall be pursued in accordance with its establishing legislation and the relevant guidance issued by Department of Finance and Department of Public Expenditure and Reform, including:

- Report of the Working Group on the Accountability of Secretaries General and Accounting Officers (Mullarkey Report), Department of Finance, 2002
- Accountability of Accounting Officers and CEOs, Department of Finance, 2004
- Public Financial Procedures, Department of Finance, 2008
- The Role and Responsibilities of Accounting Officers, A Memorandum for Accounting Officers, Department of Public Expenditure and Reform, 2011

and any other relevant circulars or instruction issued by the Department of Finance or the Department of Public Expenditure and Reform from time to time.

THE PARTIES AGREE THE FOLLOWING:

3. Purpose of the MOU

3.1 Having full regard to the statutory functions being exercised by the Commission under law, and consistent with the policy functions of the Department of Jobs, Enterprise and Innovation and the Commission, the requirements of good corporate governance and the implementation of the Public Service Management Act 1997 insofar as it relates to Civil Servants of the Department assigned to the Commission (especially insofar as Section 4 (1) of the Public Service Management Act, 1997 is concerned and, more particularly, the functions specified in paragraphs (d) to (h) of that Section), the key objectives of this Memorandum of Understanding supporting the roles and responsibilities of the Minister for Jobs, Enterprise and Innovation are:

- (a) To define the requirements that the Department has of the Commission, within the resources that are available to it and to ensure and improve the on-going efficiency and effectiveness of the Commission;
- (b) to ensure that effective liaison structures are in place to allow a free flow of information and advice between the Commission and the Liaison Unit which has been

- assigned oversight functions for certain administrative functions of the Commission on behalf of the Secretary General of the Department;
- (c) to assist the Department in monitoring and evaluating and, where appropriate, managing the performance of the administrative functions of the Commission, and to specify appropriate indicators in respect of which the Department and the Commission will jointly assess the Commission's achievement of its performance targets;
 - (d) to specify the service that the Department will provide to the Commission in respect of those functions which are the responsibility of the Department (e.g. Finance, Personnel, ICT support etc.);
 - (e) to ensure that Exchequer funding under Subhead C13 is financially accounted for in accordance with Public Financial Procedures and other relevant Department of Public Expenditure and Reform guidelines;
 - (f) to recognise that the Commission is an independent statutory body but that Secretariat and administrative functions are an integral part of the Department such that the Commission works in tandem with the Liaison Unit in fulfilling the Minister's and the Department's Parliamentary reporting duties.

4. Duration of the MOU

4.1 This MOU is deemed to commence on the date of signature by both parties and is subject to annual renewal at the start of 2017.

5. Level of Service Commitments (Operational Roles, Responsibilities, Outputs and Outcomes)

5.1 The Commission undertakes to provide an agreed level of service in accordance with the deliverables set out by the Minister for inclusion in the Commission's annual work programme in accordance with the National Minimum Wage (Low Pay Commission) Act 2015.

5.2 In this context the Secretariat of the Commission will report to the Liaison Unit before the end of January each year regarding the status of the various elements of the current work programme.

5.3 The Department commits to assisting the Commission in the achievement of its targets by providing:

- regular information flows;
- guidance and directions; and

- appropriate levels of financial and staff resources, within the Department's control.

The Commission will provide all relevant information to the Department, follow guidance and directions from the Department (as appropriate, without impacting on the independent statutory footing of the Commission)¹, and ensure that there is efficient and effective use of the financial and staff resources assigned to it in order to meet the Key Output targets, and context and impact indicators as set out in the Revised Estimates Volume 2016, Vote 32, in so far as they relate to its work.

5.4 The Liaison Unit/Department shall be the initial point of contact between the Commission and any other Department in relation to corporate issues, including finance, human resources, pensions and employment contracts, unless otherwise advised by the Liaison Unit.

6. Performance Management, Monitoring and Reporting

6.1 . The Secretary to the Commission will provide a report, on a half yearly basis, to the Liaison Unit on progress under the Work Programme in reaching the targets and performance indicators set out therein and including appropriate details of expenditure.

6.2 Both parties agree that any issues which may impact on the MOU will be brought to the attention of the other party as soon as reasonably possible, having regard to all the circumstances and both parties agree to work towards a mutually satisfactory solution.

6.3 The Commission will seek at all times to meet the terms of this MOU. Where any shortfalls in performance are identified, the Commission will put forward its proposals and a timetable for rectifying the performance to the expected standard for consideration by the Department with a view to reaching an agreed amendment to the MOU.

6.4 In circumstances where the Department and the Commission cannot reach agreement on resolving an issue arising from this MOU to mutual satisfaction, the Minister's decision on the matter will be final.

¹ This does not impinge on the independent statutory footing of the Commission.

7. Flexibility & Amendment of Targets

7.1 Both parties recognise that it may become necessary to change, modify, add to or otherwise alter agreed performance targets during the course of this MOU. A necessity for amendment may arise due to changes to the prevailing operating circumstances and/or changes in the financial and economic climate which may impact on the ability of the Commission to meet its obligations under the terms of this MOU.

8. Financial Management and Monitoring/Controls

8.1 Funding to meet the 2016 expenditure requirements associated with the delivery of the LPC work Programme will be met from within Subhead C13 of the Department's Vote. The initial pay and non-pay allocations and current staffing for 2016 are shown below.

| Service/Programme | Pay Allocation (€000s) | Non-Pay Allocation (€000s) | Total Allocation (€000s) | Staffing |
|--------------------|---------------------------|-------------------------------|-----------------------------|----------|
| Low Pay Commission | 244 | 230 | 474 | 3 |

8.2 The Secretary to the Commission (as Budget Officer) will ensure that the expenditure incurred in respect of the Commission accords with the purpose for which the expenditure was chargeable to the appropriation account of the Department and that value for money is obtained.

8.3 Sanction to incur expenditure from the Commission's allocations under the Department's Vote is delegated to the Secretary of the Commission (as Budget Officer) in accordance with conditions at Appendix 3.

8.4 The budgetary allocations will be determined on an annual basis in the context of the Government's Estimates process. The Department will negotiate the budgetary allocation in respect of the Commission with the Department of Public Expenditure and Reform, and will consult with the Commission, through the Budget Officer at all appropriate stages of the process.

8.5 Increases in the annual allocation may occur only where:

- (a) additional costs arise in relation to activities which were not foreseen in the context of decisions being taken on the Estimates, and
- (b) such activities have been approved by the Department, and
- (c) excess funds are available in some other expenditure area of the Department's Vote to cover the costs by agreement with the Department's Finance Unit, and
- (d) sanction has been obtained from the Department of Public Expenditure and Reform to transfer the excess funds to the Commission.

8.6 Reductions in the annual allocation to the Commission may be applied, in consultation with the Commission where:

- (a) a programme is cancelled or reduced, or
- (b) such reductions are required by Government or Ministerial requirements/direction, or
- (c) savings on the original expected outturn are indicated in the course of the financial year.

8.7 The Commission undertakes to carefully manage Voted funds, monitor on-going expenditure and eliminate waste in order to identify any possible savings or overspend at the earliest possible opportunity.

8.8 The Department will provide Payroll services for the Commission and will process general payments and travel and subsistence claims for the Commission.

9. Communication & Information Sharing

9.1 The Department and the Commission will each nominate a person, or persons, to act as liaison officer. The liaison officer(s) will be the initial point of contact between the Department and the Commission for dealing with general issues and information sharing.

9.2 The Liaison Unit shall be the initial point of contact between the Commission and any other Department in relation to strategic, policy and corporate issues, including finance, human resources, pensions and employment contracts, unless otherwise advised by the Liaison Unit (but excluding in relation to the carrying out of the statutory functions of the Commission).

9.3 Both the Liaison Unit and the Commission commit to ensuring the efficient exchange of information, such that information available to one which impinges on the ability of the other to perform its role and functions is exchanged at the earliest possible opportunity.

9.4 The Department commits to assisting the Commission in the achievement of its targets by providing:

- regular information flows;
- information, direction and guidance on legislative, EU and international developments and other matters which may impact on operations; and
- appropriate levels of financial and staff resources, within the Department's control.

9.5 The Liaison Unit will consult the Commission, where relevant and appropriate, on the implications of proposals for new or amended legislation, policies or procedures, whether such proposals originate within the Department or elsewhere, with a view to the Commission having an opportunity to inform Departmental policy deliberations.

9.6 The Commission will provide all relevant information to the Liaison Unit, follow guidance and directions from the Liaison Unit, and ensure that there is efficient and effective use of the financial and staff resources assigned to them in order to meet the Key Output targets, and context and impact indicators as set out in the Revised Estimates Volume 2016, Vote 32, insofar as they relate to the administrative functions of the Commission. In particular, the Secretariat of the Commission will:

- ensure that the Minister/Government is provided with appropriate and accurate information to enable the Minister/Taoiseach carry out the functions of office;
- respond to requests for material for input to speech and briefing material within 5 working days unless a specific longer or shorter deadline is given;
- respond to requests for input to PQs within 2 working days – in the case of **ORAL PQs** respond to input requests within 24 hours.

9.7 Liaison meetings with the Secretariat of the Commission shall take place half yearly for the purpose of evaluating the efficient and effective operation of the Commission as set out in the Memorandum of Understanding and will include:

- reviewing the progress of the Commission in implementing its Work Programme;
- the provision of feedback on the operation of this Memorandum of Understanding, including proposals to resolve any difficulties that arise therewith; and
- discussion of any other issues which either the Department or the Commission may wish to raise including corporate governance; discussions on budgets, resources and

staffing; policy developments and support and intervention requirements but excluding the adjudicative functions of the Commission.

9.8 The Department's Management Board shall arrange to meet with the Chairman once a year to discuss relevant issues, including progress towards strategic targets and objectives, policy developments and other relevant issues.

10. Partnership & Responsiveness

10.1 The spirit underpinning the MOU is one of partnership whereby the parties are working in the public interest. The parties support the effective achievement of the agreed targets and responsibilities and commit to keep each other fully apprised and updated on all key issues covered by this MOU.

11. ICT Infrastructure / Resources

11.1 The Information Technology Unit of the Department has overall responsibility for ICT and Telecommunications strategy in the Department of Jobs, Enterprise and Innovation. This includes ICT security strategy, policy formulation and controls.

Department of Finance Circular 02/09 and subsequent circular set out additional and stringent governance requirements on the Department and its Offices.

11.2 Any expenditure proposals on ICT or Telecommunications for the Commission shall be included in the Commission's annual submissions for funding in the Estimates process, reflect the ICT and Telecommunications development aspects of the Department's Strategy Statement and be in keeping with the ICT Strategy. All initiatives must be subject to discussions and agreement between the Commission, the Liaison Unit and the Head of ICT Unit and must be included in the ICT Unit's Business Plan.

11.3 The Commission must comply with Department of Finance Circular 02/09 and subsequent circulars, which set out the approval process, pre-requisites, procurement rules, submission and reporting details with regard to ICT-related expenditure. The Commission is obliged to provide all necessary information through the Liaison Unit to the ICT Unit, in a timely manner, in relation to its ICT and Telecommunications proposals and expenditure, in order to meet the following specific requirements of Circular 02/09:

- (a) start of Year Submission by end November for the coming year;

- (b) all Requests for Specific Approval, submitted through the ICT Unit, in relation to all items identified in the Start of Year Submission;
- (c) any revisions to the Start of Year Submission or new initiatives – submitted through the ICT Unit;
- (d) drift Reporting – submitted through the ICT Unit;
- (e) end of Year Statement – to be submitted by the Head of the Office, through the ICT Unit.

11.4 It should be noted that the Secretary General is obliged to furnish the above information and has formally communicated this to the Heads of Offices in his Memo of March 2009.

11.5 In addition, the Commission must:

- adhere to all rules and guidance in relation to ICT procurement;
- where it develops and / or maintains bespoke applications or databases, ensure that necessary arrangements are in place for the ongoing support, maintenance and development of such work and for the management of any 3rd parties;
- nominate an officer who will liaise with ICT Unit on the Commission's ICT needs and who will have responsibility for managing the development and/or maintenance of any bespoke applications or databases;
- outline any additional ICT needs to ICT Unit as part of ICT Unit's annual business planning process;
- adhere to the Department's standards and procedures in respect of project governance and management;
- ensure that all staff and 3rd party contractors adhere to DJEI ICT usage policies and to ICT technical standards and procedures concerning the use of DJEI equipment, networks and systems; and
- provide representation to the ICT Steering Group, and ICT Users Panel (as necessary).

To ensure effective communication between the office and ICT Unit, ICT will be a standing agenda item for every liaison meeting, or at a separate ICT liaison meeting to be held at such other interval as deemed appropriate from time to time between ICT Unit and the Office.

12. Staffing

12.1 The Commission's current staffing complement is as set out in the Table at paragraph 8.1 above. The adequacy and grade mix of the existing authorised staffing complement for

the achievement of the objectives of the Commission's Business Plan will be reviewed jointly by the Liaison Unit, Personnel Unit and the Commission on an on-going basis and subject to budgetary constraints.

13. Risk Register

13.1 In fulfilment of the requirements of the Department's Risk Policies, the Secretariat to the Commission will complete a risk assessment for key functions, annually, and maintain a Risk Register and implement Incident Reporting arrangements.

14. Internal Audit

14.1 The Secretary General of the Department is the Accounting Officer for the Commission and accordingly the Commission comes within the remit of the Internal Audit Unit of the Department.

15. Public Procurement/Consultancies

15.1 Where the Commission is the "promoter", it will be the responsibility of the Secretariat of the Commission to ensure that procurement of all works, goods and services will be carried out in accordance with Directive 2004/18/EC and in accordance with the Department of Finance Guidelines on Public Procurement.

15.2 Given the complexity that can often surround the procurement process, and the potential cost to the Department and the Commission of challenges to contract awards from unsuccessful tenderers, it will be the responsibility of the Secretary to the Commission to ensure that all staff members engaged in the procurement process receive adequate, formal training in the understanding of the rules and regulations governing procurement and associated procurement related skills, for example the drafting of specification, tender and contract documentation.

15.3 The services of the Public Procurement Co-ordination Section of the Department are available to staff of the Commission who are involved in the procurement process in relation to advice and/or guidance on matters pertaining to public procurement, as required.

16. Records Management, Freedom of Information and Data Protection


16.1 The Commission commits to implementation of the Department's Records Management Policy Guidelines, and to promote and facilitate compliance with the Freedom of Information and Data Protection Acts where appropriate and relevant.

SIGNED:

For [Low Pay Commission]

For the Department of Jobs,
Enterprise and Innovation





on 16 day of February 2016

on 16 day of February 2016

NAME: Donal de Buitléir:
POSITION: Chairman

John Murphy
POSITION: Secretary General

Appendix 1:
Low Pay Commission Work Programme
Key Actions and Performance Indicators

| Action | Key Performance Indicator/Target |
|--|---|
| Present report on the appropriateness of the current sub-minima rates with regard to their impact on youth unemployment rates and participation in education | To be submitted to the Minister by 29/2/16 |
| Make recommendations on the appropriate rate for the National Minimum Wage | To be submitted to the Minister by 19/7/16 |
| Present report on the underlying reasons for the preponderance of women on minimum wage | To be submitted to the Minister by 30/10/16 |

| Indicator | 2015 Baseline | 2016 Target | |
|--|-------------------------|-------------|--|
| Submission of reports/recommendations to the Minister | 1 | 3 | |
| Consultation meetings held and number of groups met | 4 Meetings 16 Groups | - | |
| Number of submissions received in response to public consultations | 50 | - | |

Appendix 2

Relevant Legislation

National Minimum Wage Acts 2000 (Number 5 of 2000) and 2015

Appendix 3

General

1. Changes in the level of services should not run contrary to Government policy or specific Government decisions.
2. Reductions in administration and running costs achieved under this MOU do not relieve the Secretary of the Commission from its ongoing responsibility to identify ways of improving efficiency and increasing cost effectiveness in the work of the Bodies. Reduced running costs should not be achieved at the expense of reduced outputs, without prior agreement with LPC Liaison Section.
3. Existing Government accounting principles and practices will continue to apply.

Pay

4. The determination of rates of salary, wages and allowances will continue to be reserved to the Minister for Public Expenditure and Reform.
5. Staff recruitment and promotion and transfers of administrative staff will continue to be a function of the Personnel Unit.

Non-Pay

6. The determination of rates and allowances for travel and subsistence will continue to be reserved to the Minister for Public Expenditure and Reform. Expenditure from Subhead C13 is the responsibility of the Budget Officer and is subject to compliance with the general conditions governing travelling and subsistence and with any other instructions relating to expenditure on travelling and subsistence issued from time to time by the Minister for Finance, by the Personnel/Finance Units or the Liaison Unit.
7. The Commission will be bound by the travel policy of the Department.
8. The Secretary of the Commission (as Budget Officer) is responsible for official entertainment expenditure which is subject to compliance with the Department of Finance Circular (S 210/3/88) and to the reporting of such expenditure, when required, to the Liaison Unit.

9. The ICT Unit has overall responsibility for IT strategy and co-ordination in the Department. This includes decisions on security policies and controls, infrastructure, hardware, operating systems, office systems, development tools and central purchasing of equipment, licences and ICT training days. Any proposals for expenditure on ICT should be discussed and agreed with the Liaison Unit and ICT Unit and estimates of costs should be included in the annual submission for funds. Under this agreement, any significant change in allocation for ICT shall only be made following discussions with the Liaison Unit and the Department's ICT Unit.