

**PERFORMANCE AGREEMENT 2016  
BETWEEN  
THE DEPARTMENT OF JUSTICE AND EQUALITY  
AND  
THE PROPERTY SERVICES REGULATORY AUTHORITY**

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**1. Introduction**

The Property Services Regulatory Authority, (PSRA) is an agency established under the aegis of the Department of Justice and Equality. It was established on a statutory basis on 3 April, 2012 pursuant to the Property Services (Regulation) Act 2011. The Authority is based in Navan, Co Meath, with a smaller office based in Dublin.

The main functions of the Authority are:

- to control, supervise and regulate Property Service Providers (i.e. Auctioneers/Estate Agents, Letting Agents and Management Agents);
- to operate a comprehensive licensing system covering all Property Service Providers;
- to establish and administer a system of investigation and adjudication of complaints against Property Service Providers;
- to establish and administer a system of investigation of standards in the provision of Property Services;
- to impose sanctions on Property Service Providers for improper conduct (including fines up to €250,000 and the revocation of a licence);
- to promote increased consumer protection and public awareness of property services in general;
- to establish, maintain and administer a Compensation Fund to compensate parties who lose money as a direct consequence of the dishonesty of a Property Services Provider;
- to develop Codes of Practice for Property Services Providers;
- to establish and maintain a Public Register of Property Sales Prices;
- to establish and maintain a Commercial Leases Database;
- to establish and maintain a Public Register of Licensed Property Services Providers;
- to act as State Competent Authority for Money Laundering in the Property Services Sector;
- to assist the Minister in the development of policy relating to the regulation of the Property Services industry;
- to undertake or commission research projects;
- to specify and enforce:
  - standards for the granting of all licenses to Property Services Providers (e.g. educational/training standards; levels of professional indemnity insurance), and
  - standards to be observed in the provision of property services by Property Services Providers (e.g. technical standards; appropriate ethical standards).

This Agreement is a performance contract in which an agreed level of service is formalised and which will result in the improved effectiveness and efficiency of relevant public services. It sets out the Authority's targets for 2016 and defines the output and outcome indicators on which performance should be measured.

This Agreement seeks to (a) facilitate the Authority in carrying out its functions, (b) progress the ongoing development of output measures for its expenditure, and (c) improve the effectiveness and efficiency of public services.

This Agreement will support the Authority's Strategic Plan 2014 – 2017 in achieving its high level goals in the regulation of property service providers and in ensuring that the new regulatory regime is effectively implemented so that it will provide transparency and protection for the consumer and ensure that the property services sector operates to the highest standard.

## **2. Corporate Governance**

### Board Membership

Section 10 Part 2 of the Property Services (Regulation) Act 2011 requires the Authority to have a Board of no more than 11 members, all of whom shall be appointed by the Minister and one of whom shall be designated as its chairperson<sup>1</sup>. Details of the current Board, their dates of appointment and terms of office are set out in Appendix 1 of this Agreement.

### Strategic Plan

Section 16 of the Act requires the Authority, as soon as is practicable after the establishment day and thereafter within 6 months before each third anniversary of the establishment day, to prepare and submit for the Minister's approval, a strategic plan for the ensuing 3 year period. The Authority's Strategic Plan 2014 – 2017 was approved by the Minister in September 2014.

### Annual Report and Accounts

Section 17 of the Act requires the Authority, not later than 30 June in each year, to make a report to the Minister on the performance of its functions during the preceding year. The Authority's Annual Report for any given year must be submitted to the Minister by 30 June of the following year.

### Governance Frameworks

Corporate governance is concerned with the framework of rules and practices to ensure accountability, fairness and transparency across organisational activities. To this end the Authority will ensure all the necessary frameworks, including those for risk management, internal audit and the Public Spending Code (<http://publicspendingcode.per.gov.ie>) are fully complied with.

The Authority is subject to corporate governance obligations including the 2009 Department of Finance Revised Code of Practice for the Governance of State Bodies. A Governance Standard for Justice and Equality Sector Bodies is also expected to be published shortly. To confirm compliance (or otherwise) with key provisions of the Code of Practice and the proposed Governance Standard, the Authority will complete, on an annual basis, a Compliance Statement in order to provide assurance to the Department that the systems of

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<sup>1</sup> In appointing persons to be members of the Authority the Minister is required to have regard to the desirability of their having knowledge or experience in consumer affairs, business, finance, management or administration or any subject which would, in her opinion, be of assistance to the Authority in performing its functions.

internal control, risk management and other areas of compliance are operating effectively. Governance obligations will also be reviewed as part of the overall monitoring process of the Performance Agreement itself as set out in Section 8, page 12 of this Agreement.

### **3. Objectives of the Agreement**

The key objectives of this Agreement are:

- to define the Authority's role in the Justice and Equality Sector;
- to define the Department of Justice and Equality's expectations of the Authority;
- to define the inputs, outputs, and expected outcome of the Authority's activities;
- to enable the Authority to carry out its functions as provided for in the Property Services (Regulation) Act 2011; and
- to measure performance of those functions through monitoring of agreed targets, output and outcome indicators.

### **4. Mutual Commitments**

- Both parties commit to proactive and timely communications, cooperation, and information sharing on service delivery;
- Both parties support the effective achievement of agreed targets, as well as the promotion of partnership, responsiveness and mutual cooperation in their ongoing interactions;
- Both parties support prompt and timely responses to correspondence, information requests and related matters; and
- Both parties commit to keep each other fully apprised and updated on all key issues.

The annual budgetary provision for the Authority will form part of the estimates for the Justice and Equality Vote and the requirements of the Authority will be considered in that context.

The Department of Justice and Equality will provide the following supports to enable the Authority to fulfil its mandate:

- Liaise with the Department of Public Expenditure and Reform to ensure as far as possible, timely sanction for expenditure and staffing in line with Public Financial Procedures and Public Service Numbers policy;
- Provide updates on Public Financial Procedures and Civil Service HR Policy Guidelines;
- Provide guidance on Civil Service HR Policy, public expenditure, remuneration and industrial relations, procurement and contracts;
- Provide guidance on Government Accounting and Governance;
- Provide financial services (e.g. payroll and accounting services) through the Department's Financial Shared services (or their successor services);
- Provide high availability ICT services via the Shared Service, advice in relation to proposed IT projects and resulting expenditure and prompt review (by the ICT Governance Group) of the sanctioning of project related expenditure; and
- Liaise with the Authority in relation to Public Service Reform initiatives.

## 5. Inputs

### Financial Inputs

Tables A, B, and C below indicate the budget allocation and actual expenditure for 2014, 2015 and the budget allocation for 2016. There was an overspend in relation to pay expenditure for 2014 and 2015<sup>2</sup> with an under spend on non-pay expenditure for both years. Overall, total expenditure for 2014 and 2015 was within the Authority's total budget allocation.

**The Authority's expenditure for 2016 must not exceed its budgetary allocation of €1,760,000.**

Table A - Pay Expenditure

	<b>Budget Allocation</b>	<b>Actual Expenditure</b>
2014	€759,000	€972,000
2015	€855,000	€942,000
2016	€1,136,000	N/A

Table B – Non-pay Expenditure

	<b>Budget Allocation</b>	<b>Actual Expenditure</b>
2014	€312,000	€262,000
2015	€924,000	€435,000
2016	€624,000	N/A

Table C – Total (Pay and Non-pay) Expenditure

	<b>Budget Allocation</b>	<b>Actual Expenditure</b>
2013	€848,000	€832,000
2014	€1,071,000	€1,234,000
2015	€1,779,000	€1,377,000
2016	€1,760,000	N/A

### Human Resource Inputs

There have been significant developments in relation to the Authority's staffing resources since 2012 when, in addition to the CEO, the Authority had 7 full-time staff and 3 part-time staff.

As at the end of December 2015, the Authority's staffing numbers amounted to 17.9 (see Tables D and E).

The Department will endeavour to provide the appropriate and necessary resources to the Authority, either directly or on a contracted basis, having regard to pressures on public service numbers and competing demands. A proposal to outsource some of the Authority's work is being advanced and a contract the contract is expected to be agreed shortly.

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<sup>2</sup> Department of Justice and Equality was informed that the Sub-Head Pay Allocation was insufficient to meet the full pay cost for serving staff.

In total 10 Temporary Clerical Officers (TCOs) were assigned to the Authority during 2015. Five TCOs were assigned for 10 weeks and 5 were assigned for 13 weeks.

Table D - Navan Office

<b>Grade</b>	<b>FTEs at end Dec 2012</b>	<b>FTEs at end Dec 2013</b>	<b>FTEs at end Dec 2014</b>	<b>FTEs at End Dec 2015</b>
Chief Executive Officer	1	1	1	1
Higher Executive Officer	2.8	2.8	2.8	2.8
Executive Officer	2.8	2.8	4.8	4.8
Clerical Officer	3	2.8	3.8	5.1
<b>TOTAL</b>	<b>9.6</b>	<b>9.4</b>	<b>12.4</b>	<b>13.7</b>

Table E - Dublin Office

<b>Grade</b>	<b>FTEs at end Dec 2012</b>	<b>FTEs at end Dec 2013</b>	<b>FTEs at end Dec 2014</b>	<b>FTEs at End Dec 2015</b>
Principal Officer	0	0	0	0
Assistant Principal Officer	0	1.4999	1.5	1.6
Higher Executive Officer	0	1	1	1
Executive Officer	1	2.6	1	0
Clerical Officer	0	1.6	1.6	1.6
<b>TOTAL</b>	<b>1</b>	<b>6.699</b>	<b>5.1</b>	<b>4.2</b>

## **6. Service Levels and Performance Measurement**

### **Outputs and Impact Indicators and 2016 Targets**

#### Licensing

The Authority is now in its fourth year of Licensing. Table F outlines the number of current licenses at year end broken down by Employer and Employees.

Table F Current Licences at year end

<b>Year</b>	<b>Employer</b>	<b>Employee</b>
<b>2012*</b>	261	403
<b>2013</b>	1848	3378
<b>2014</b>	1847	3603
<b>2015</b>	1860	3802

\*PSRA became statutory on 3 April, 2012

### Licence Fees

The Authority is a self financing body which depends on licence fee income in order to fund its operation. When determining the level of licence fee to be paid the Authority based its fees on the estimated annual cost of administering the new licensing system. The fee payable is €1,000 per annum for a Property Services Employer and €100 per annum for an employee. Actual licence fee income for 2012, 2013, 2014 and 2015 with projected licence fee income for 2016 is set out in Table G below.

Table G – Licence Fee Income

<b>Licence Fee Income 2014</b>	<b>Licence Fee Income 2015</b>	<b>Licence Fee Income 2016 (Projected)</b>
€2,205,000	€2,203,550	€2,200,000

### Compensation Fund

Section 77(1) of the Property Services (Regulation) Act 2011 requires the Authority to establish a Property Services Compensation Fund to which each applicant is required to contribute before a licence is granted. The Fund is required under Section 77(3) of the Act to have a balance of not less than €2 million on or after the fourth anniversary of the date of establishment of the Fund. As of 31 December 2015, the amount standing to the credit of the Fund was €2,209,499 inclusive of interest. The target of the Fund reaching €2 million prior to the fourth anniversary of establishment of the Authority was reached by end of 2015. The actual Compensation Fund contributions for 2014, 2015 and projected contributions for 2016 are set out in Table H below.

Table H – Compensation Fund Contributions

<b>Contributions 2014</b>	<b>Contributions 2015</b>	<b>Contributions 2016 (Projected)</b>
€554,210	€566,600	€550,000

### Insurance of Compensation Fund

Arrangements are being undertaken by the Authority to insure the compensation fund. Difficulties have been encountered in identifying an underwriter who is willing to insure the fund at the level required by the Authority. This matter continues to be pursued by the Authority as a priority.

### Residential Property Price Register

Section 86 of the Property Services (Regulation) Act 2011 provides for the establishment of the Residential Property Price Register. The Register, which was established and published by the Authority in September 2012, includes information on residential properties purchased in Ireland since 1 January 2010, as declared to the Revenue Commissioners for stamp duty purposes. From its initial publication at end September 2012 to 31 December, 2015, [www.propertypriceregister.ie](http://www.propertypriceregister.ie) had a total of approximately 5 million visits. The Authority maintains the Register up to date on a weekly basis.

### Register of Licensed Property Service Providers

The Authority is required under the Property Services (Regulation) Act 2011 to publish particulars of all Property Services Providers licensed by it. This Register was published in March 2013, is updated on a weekly basis and contains the following information on all persons licensed by the Authority;

- Name of Licensee
- Address of Licensee
- Category of Licensee (i.e. Company, Partnership, Sole Trader, Employee)
- Type of Licence held
- Licence expiry date

### Commercial Leases Database

Section 87 of the Property Services (Regulation) Act 2011 provides for the establishment of the Commercial Leases Database. This legislation applies to all commercial property leases entered into on or after the 3 April 2012, the date the legislation became operational. The Act also provides that certain limited information may be published by the Authority in respect of leases entered into before that date. Consequently, the Authority is making available certain information in respect of all leases entered into since 1 January 2010.

The Database, which was published by the Authority in October 2013, provides for greater transparency by making publically available, for the first time, the relevant details of letting agreements and rent reviews in the commercial property market. Tenants or their agents are required under the Act to furnish the relevant information to the Authority within 30 days of receipt by them of the stamp certificate from the Revenue Commissioners. The Authority will ensure that the Commercial Leases Database is monitored and updated on a monthly basis. Currently, the Commercial Leases Database has significant arrears, arising from a deficit in staffing resources. The arrears is currently being addressed by assigning staff on a rota basis to address the backlog who will follow up with tenants or their Agents in relation to any outstanding information required under Section 88 of the Property Services (Regulation) Act 2011 as a matter of priority. The arrears for 2015 will be addressed in 2016.



## Complaints, Investigation and Redress System

Section 63 the Property Services (Regulation) Act 2011 provides that the Authority shall investigate complaints made against a licensed Property Service Provider, where it considers that the complaint is made in good faith and is neither frivolous nor vexatious. The Authority can also, of its own volition, carry out an investigation to identify any improper conduct by a Property Service Provider.

The Authority continues to operate with reduced resources which has impeded the investigation of complaints. The status of complaints at 31 December, 2015 is set out in Table I. The Authority will prioritise the investigation of complaints and will reduce the backlog of cases on hand during 2016, however this is dependent on the assignment of additional resources.

Table I – Investigation of Complaints

Initial Assessment Phase	410
Concluded/Declined/Not Accepted	397
Settled Agreed Between Parties	13
Withdrawn by Complainant	30
Inspection Phase	130
Appeal	5
Other	8

## Anti-Money Laundering and Terrorist Financing

A Property Services Provider is a "designated person" for the purposes of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010.

To comply with the Act, designated persons are required to have a range of measures in place to ensure that customers are not laundering money or financing terrorism. This includes identifying and verifying the identity of customers and their beneficial owners, making suspicious transaction reports as necessary to the Garda Síochána and the Revenue Commissioners, training of staff members on money laundering matters, ensuring records are retained and other related measures.

It is the Minister's intention to confer, in 2016, the relevant powers under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 on the Property Services Regulatory Authority by way of an order under Section 60 of that Act to enable the PSRA to monitor property service providers for the purpose of securing compliance by such providers within the requirements of the Act. When designated as a Competent Authority, the Authority will include, as part of its normal regulatory investigations, an examination of how property service providers are complying with their obligations under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. The resources necessary to perform this investigative function is dependent upon the outsourcing of audit compliance investigations.

### Continuous Professional Development (CPD)

Part 10 of the Property Services (Regulation) Act, 2011 provides for the Authority to develop a CPD scheme for licensees. During 2016 the a Statutory Instrument will be developed and drafted for a CPD scheme, to be put in place with a commencement date of 1 January, 2017. The Scheme will provide for all licensees (in excess of 5,500 licensees) to undertake on an annual basis CPD development. The Authority, as part of the CPD Scheme will undertake an audit of licensees to verify compliance with CPD requirements.

### On-line Licence Renewal Application System

The Authority currently operates a manual licence renewal applications and payments system. A major project to develop an on-line licence renewal application and payment system is currently under development with a completion timeframe of July, 2016. The system will streamline a number of cumbersome processes, which will further limit the potential for fraud and deliver a saving of two clerical officers. The system will provide licensees with a less cumbersome and more efficient means of renewing their licenses.

### Code of Conduct

The Authority will commence work on developing a Code of Conduct for licensees during 2016.

### Communication Strategy

The Authority will undertake during 2016 a media campaign targeting unlicensed operators and advising the public on consumer protection issues when engaging a Property Service Provider. This will increase compliance in the sector and raise awareness for consumers when engaging a Property Service Provider.

### Website

The Authority will in collaboration with IT Division redesign its website during the first half of 2016.

## Summary of 2016 Targets

- The Authority will participate in Annual Verification Process regarding compliance with the Revised Code of Practice for the Governance of State Bodies within the timeframe specified by the Department's Civil Governance Unit.
- The Authority will ensure that expenditure for 2016 will not exceed its budgetary allocation of €1,760,000.
- The Authority will ensure that the Residential Property Price Register is monitored and updated on a weekly basis.
- The Authority will ensure that the Register of Licensed Property Services Providers is monitored and updated on a weekly basis.
- The Authority will ensure that the arrears of the Commercial Leases Database are addressed and managed. Staff have been assigned on a rota basis to address the arrears and will follow up with tenants or their Agents in relation to any outstanding information required under Section 88 of the Property Services (Regulation) Act 2011 as a matter of priority. The Register is updated monthly.
- The Authority will arrange to outsource audit compliance investigations to the successful tendered company together with the assignment of additional permanent staff, the Authority will prioritise both the investigation of complaints and audit compliance investigations during 2016 and will endeavour to finalise 200 complaints and 200 audit compliance inspections.
- The Authority to be designated as a Competent Authority by the Minister under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010, in early 2016. The Authority will include, as part of its regulatory audit compliance investigations, an inspection of how Property Service Providers are complying with their obligations under the 2010 Act. The resources necessary to perform this investigative function is dependent upon the outsourcing and assignment of additional staffing resources to the Authority.
- The Authority will develop and implement by July 2016 an On-line Licence Renewal Applications and Payments System for Property Service Providers.
- The Authority will develop and draft the necessary Statutory Instrument and Scheme for the implementation of Continuous Professional Development for all licensees which will commence on 1 January, 2017.
- The Authority will undertake a media campaign during 2016 targeting unlicensed operators and advising on consumer protection matters when engaging a Property Service Provider.
- The Authority will during the first half of 2016, work in collaboration with IT Division to re-design its website.
- The Authority will update its information guides for consumers and licensees during the first half of 2016.
- The Authority will commence work in developing a Code of Conduct for licensees during 2016.
- The Authority will ensure that priority is given to the issue of prompt material for reply to Parliamentary Questions and any other urgent requests by the Department as they arise.
- As regards Customer Service, the Authority will aim to meet the targets set out in Table J below in relation to the services it provides, will monitor the compliance rate and will report results to the Department.
- The Chief Executive Officer of the Authority will meet with the Department twice yearly or more frequently if required by the Department, to provide an update on developments and achievement of targets as set out in this Agreement.

## Customer Service

In alignment with the principles of the Department of Justice and Equality's Customer Service Charter, which sets out the standard of service its customers can expect to receive, the Authority will meet the targets in Table J below in relation to the services it provides, will monitor the compliance rate and will report results to the Department.

Table J – Customer Service Targets

<b>Telephone Enquiries</b>	<b>Written Communication</b>	<b>Licence Applications</b>
Telephone queries will be answered between the hours of 10.00a.m. and 12.30pm and 2.30pm and 4.00pm Monday to Friday, excluding Public Holidays.	Acknowledgment of all written communication within 5 working days of receiving them.	Licence applications will be processed within 30 working days.

### **7. Flexibility and Amendment of Targets**

Where amendments become necessary, the Authority shall engage with the Department of Justice and Equality to agree on amended targets.

### **8. Monitoring Arrangements**

In accordance with the Department's policy on the monitoring of governance arrangements in relation to the agencies within its remit, the Chief Executive Officer of the Authority will meet with the Department twice yearly, or more frequently if required by the Department, to provide an update on developments and achievement of targets as set out in this Agreement.

The Authority undertakes to return:

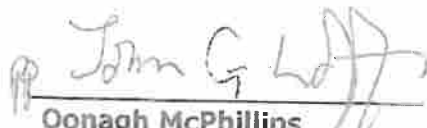
- (a) relevant and appropriately detailed performance information to allow for monitoring of this agreement;
- (b) relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services volume; and
- (c) performance information in line with the set of such indicators, and in keeping with the timeframe, agreed with the Department of Justice and Equality.

### **9. Duration and Signatories of the Agreement**

The Property Services Regulatory Authority and the Assistant Secretary of the Department of Justice and Equality agree that the arrangements as set out in the attached Performance Agreement between the Authority and the Department of Justice and Equality will apply with effect from the date signed hereunder until 31 December 2016.

  
**Maëve Hogan**  
**Chief Executive Officer**  
**Property Services Regulatory Authority**

Date: 26/5/16

  
**Oonagh McPhillips**  
**Assistant Secretary**  
**Department of Justice & Equality**

Date: 24/5/16

**APPENDIX 1**

<b>PSRA Board Member</b>	<b>Date of Appointment</b>	<b>Term of Office</b>
Vacancy (Chairperson)		
Patrick Davitt	3/04/2015	4 years
Josephine Henry	3/04/2015	4 years
Deirdre Fox	3/04/2015	4 years
Martin Hanratty	3/04/2015	4 years
Regina Terry	3/04/2015	4 years
Vacancy		
Vacancy		
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