

ERVIA/PD/9

PROTECTED DISCLOSURES POLICY

1. INTRODUCTION

Ervia is committed to conducting its business with honesty and integrity. We expect all personnel working on behalf of Ervia to maintain the highest standards in this regard, and we want our staff to report any suspicions of wrongdoing.

2. POLICY STATEMENT

This Policy expresses our commitment to addressing any concerns of possible wrongdoing that may arise, encouraging employees to raise such concerns and protecting any employees who report such concerns under this Policy.


In particular this Policy encourages employees to report suspicions of wrongdoings such as breaches of the law or of health and safety policy, misuse of funds or damage to the environment.

Employees who have concerns about possible wrongdoing in any aspect of Ervia's activities (or activities by Ervia employees) are encouraged and expected to come forward and voice those concerns, and they may do so without fear of victimisation, subsequent discrimination or any disadvantage as a result of their disclosure.

This Policy aims to give effect to the obligations and provisions of the Protected Disclosures Act 2014 ("the Act") and does not replace any legal reporting or disclosure requirements arising under other legislation. Where statutory reporting requirements or procedures exist these must be fully complied with.

This Policy sets out Ervia's internal procedures for the making of and dealing with Protected Disclosures as prescribed by section 21 of the Act and section 5.9 of the Code of Practice for the Governance of State Bodies.

This Policy may be read in conjunction with the Ervia Code of Business Conduct for staff and, where necessary, the Anti-Fraud Policy and other procedures for investigating concerns as set out in our HR policies e.g. the Dignity at Work Policy, the Grievance Policy and other policies as may be developed from time to time.

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3. PURPOSE

The purpose of this Policy is:

- (a) to encourage the reporting of suspected wrongdoing by Ervia or its employees as soon as possible in the knowledge that reports will be taken seriously and investigated appropriately and that confidentiality will be respected;
- (b) to provide guidance as to how to raise those concerns internally and to set out how those concerns will be dealt with; and
- (c) to reassure employees that genuine concerns can and should be raised, even if they turn out to be mistaken, without fear of penalisation.

4. SCOPE

This Policy covers Ervia and its operating companies (Gas Networks Ireland, Irish Water and Aurora) and any of its subsidiaries in any geographic region. It applies to all current and former employees in Ervia as defined by the Act, which includes consultants, contractors, volunteers, trainees, work experience students, interns, part-time, full-time, casual workers and agency workers.


5. PROTECTED DISCLOSURES

A “Protected Disclosure” as defined in the Act is a disclosure by an employee (as defined in section 4 above) of relevant information if, in the reasonable belief of the employee, that information tends to show one or more “Relevant Wrongdoings” and the information came to the attention of the employee in connection with his or her employment and is disclosed in the manner prescribed in the Act.

5.1 RELEVANT WRONGDOINGS

The following matters are Relevant Wrongdoings for the purposes of this Act:

- (a) that an offence (i.e. a wrongdoing or a misdemeanour which carries a sanction, legal or otherwise) has been, is being or is likely to be committed;
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation (other than one arising under the employee’s contract of employment or other contract whereby the employee undertakes to do or perform personally any work or services);
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;

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- (d) that the health or safety of any individual has been, is being or is likely to be endangered;
- (e) that the environment has been, is being or is likely to be damaged;
- (f) that an unlawful or otherwise improper use of Ervia’s funds or resources, or of other public money, has occurred, is occurring or is likely to occur;
- (g) that an act or omission by or on behalf of Ervia is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement; or
- (h) that information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed.

5.2 POLICY EXCLUSION


This Policy should not be used to raise complaints relating to your own personal circumstances or your terms and conditions of employment, such as the way you are being treated at work or workplace issues affecting you personally. In such cases, you should use the Grievance Policy or the Dignity at Work Policy which are available on the Zone and from HR.

For the avoidance of doubt, a Protected Disclosure is where an employee has information about a Relevant Wrongdoing. It is important to note that a matter is not a Relevant Wrongdoing if it is an occurrence which is the responsibility of the employee or the area of the business in which the employee is employed to detect, investigate or prosecute. Furthermore, a matter will not be a Relevant Wrongdoing if it does not consist of or involve an act or omission on the part of the employer. For example, the failure of the relevant area of the business to act on a matter within its area of responsibility would constitute a Relevant Wrongdoing.

To assist employees in distinguishing between grievances and Relevant Wrongdoings, we have outlined some examples below.

Examples of Relevant Wrongdoings:

- In a hazardous work situation, a failure to provide or wear protective clothing and adhere to health and safety guidelines;
- The improper use of funds, bribery or fraud;
- Applying inappropriate influence over a tender process;
- Failing to follow appropriate checks in respect of gas pipe maintenance works;
- Knowingly allowing a bullying situation to continue in the workplace without investigation and appropriate intervention;
- Allowing a project to run 20% over budget without the appropriate financial authority;

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- Allowing the destruction of files which document significant misappropriation of Ervia funds.

Examples of a grievance (not a Relevant Wrongdoing):

- Complaint around selection criteria for a promotion;
- Complaint around allocation of overtime.

If you are uncertain whether a matter is a Protected Disclosure within the scope of this Policy you should seek guidance from the Group Chief Legal Officer, the Group Head of Internal Audit (acting as Anti-Fraud Champion) or the Chairman of the Audit and Risk Committee (contact details below).

5.3 ASSURANCE

Ervia recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal. If employees make allegations in good faith they should have nothing to fear as they will be doing their duty to their employer, their colleagues, those to whom they provide a service and society more widely. Ervia's strong commitment to this Policy means that employees can raise concerns about wrongdoing in the knowledge that they will be supported and protected from repercussions.

Employees should not pursue their own investigations, however well intended, as a flawed or improper investigation could compromise Ervia's ability to take effective action.


5.4 CHANNELS FOR MAKING A DISCLOSURE

This Policy provides guidance to employees on making an internal disclosure within Ervia. The purpose of this Policy is to provide an internal mechanism for making disclosures, reporting concerns and investigating wrongdoing. Ervia is confident that most issues can be dealt with internally and we strongly encourage employees to report such concerns internally.

The Act recognises that in some limited circumstances it may be appropriate for your concerns to be raised to an external body, such as a regulator, an Garda Síochána or a person prescribed by law to be the recipient of relevant wrongdoings. In these circumstances, the employee should consult sections 7 to 10 inclusive of the Act which set out the criteria that apply when raising concerns externally. Employees are encouraged to consult with Ervia if they believe an external disclosure or report should be made.

5.5 RAISING A CONCERN UNDER THE INTERNAL DISCLOSURE PROCEDURE

Ervia hopes that all employees will be able to make a Protected Disclosure to their line manager. However, if you feel that this is not appropriate, you may report any Relevant Wrongdoing to the Group Chief Legal Officer. If neither of these options is appropriate or if you do not wish to raise a concern

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directly to any particular person, then you may send an email (anonymously or otherwise, taking section 5.9 of this policy into consideration) to a confidential email address or leave a message on a confidential voicemail; both options will be directed to the Group Chief Legal Officer and the Group Head of Internal Audit. Details of these confidential communication options are outlined in section 11 of this policy. In circumstances regarding possible financial improprieties, concerns can alternatively be directed to the Chairman of the Audit and Risk Committee at the email address provided in section 11 below.

You should confirm in the email or the voice message that you are making a Protected Disclosure in accordance with this Policy.

Although employees are not expected to prove the truth of the facts in the disclosure they must have a reasonable belief that there are grounds for their concern when making a disclosure using the internal procedure.


Employees who wish to make a written disclosure are recommended to use the following format and to keep a copy of the disclosure and any supporting documentation provided.

SUGGESTED FORMAT FOR MAKING AN INTERNAL DISCLOSURE:

- (1) Provide a description of the Relevant Wrongdoing;
- (2) Provide any information that supports the alleged Relevant Wrongdoing so as to assist the investigation of the matters raised in the disclosure;
- (3) Provide the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified and whether or not the alleged wrongdoing is still ongoing;
- (4) State whether the alleged wrongdoing has already been disclosed and if so, to whom, when, and what action was taken;
- (5) Date the disclosure;
- (6) Provide your preferred contact details; and
- (7) State that the disclosure is made under the Act and whether you do / do not expect confidentially.

5.7 CONFIDENTIALITY

All disclosures made in accordance with this Policy will be treated in confidence and every effort will be made to protect an employee's identity if the employee so wishes. Disclosures will be kept secure and in a form that does not endanger the confidentiality of the person making the disclosure. The focus will

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at all times be on the information in the disclosure rather than the identity of the employee making the disclosure.

It must be appreciated that it will not always be possible to protect the identity of an employee. The identity of a person making a disclosure may have to be revealed where it is required by law, for the effective investigation of the disclosure, to prevent, investigate or prosecute a crime or in the public interest.

5.8 MOTIVATION

All Protected Disclosures shall be dealt with regardless of the employee's motivation for making the disclosure, and the employee will be protected so long as the employee reasonably believes that the information disclosed tended to show a wrongdoing. A Protected Disclosure made in the absence of such a reasonable belief will not attract the protection and may result in disciplinary action against the discloser.

5.9 ANONYMOUS DISCLOSURES


Ervia does not encourage anonymous disclosures, as such disclosures make investigation difficult. We will, nonetheless, act upon such disclosures to the extent that is possible. We encourage employees to provide as much information as possible in relation to the alleged Relevant Wrongdoing, and allow us to engage with the employee and seek further information as required.

Employees should note that important elements of these procedures (e.g. keeping the discloser informed and protecting a discloser from penalisation) may be difficult or impossible to apply unless the employee is prepared to identify him or herself. Also, employees cannot obtain redress under the Act without identifying themselves.

6. INVESTIGATION

6.1 INITIAL ASSESSMENT AND SCREENING PROCESS

Once an employee has made a disclosure under this Policy, Ervia will undertake an initial assessment involving a screening process. The screening process will involve an assessment of the disclosure to determine whether or not it should be treated as a Protected Disclosure, having regard to the provisions of the Act. If it is unclear whether the disclosure qualifies as a Protected Disclosure, Ervia will treat the disclosure as a Protected Disclosure until Ervia is satisfied that the information is not a Protected Disclosure. In any event, whether or not the disclosure is a Protected Disclosure, Ervia will seek to protect the identity of the discloser (so long as the employee reasonably believes that the information disclosed tended to show a wrongdoing).

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The screening process will consider whether the alleged wrongdoing is something that can or should be investigated or not, and, if so, what steps should be taken by Ervia as part of such an investigation. If an investigation is required, Ervia will consider the nature and extent of the investigation. Ervia will inform the employee of the outcome of its assessment. If it is clear that the concern falls more appropriately within a different policy or procedure, the employee will be informed that it should be progressed in accordance with that policy or procedure.

6.2 INVESTIGATION AND OUTCOME

If sufficient grounds for an investigation exist, the Group Chief Legal Officer, the Group Head of Internal Audit and the Chairman of the Audit and Risk Committee (if applicable), liaising together, will appoint such person or persons (either internal or external to Ervia) who is or are most appropriately placed to investigate the particular disclosure in question (the “Investigator(s)”).


The scope and terms of reference of any investigation will be determined prior to the investigation being carried out. The employee, as discloser, may be invited to attend additional meetings in order to provide further information. Where possible, the employee will be informed of the progress of the investigation. Ervia is not obliged to inform the employee of the progress, or outcome, of any disciplinary process involving another employee which may arise on foot of an investigation occasioned by a Protected Disclosure, as such information (if any) is confidential between Ervia and the employee who is the subject of a disciplinary process. A discloser is not entitled to know what action (if any) was taken. Sometimes the need for confidentiality may prevent Ervia providing specific details of the investigation. All information and feedback in relation to the investigation should be treated as confidential.

The Investigator(s) will draft a report on the investigation (the “Report”). The Report will be sent to the Ervia Board and/or any other person(s) deemed relevant or necessary who will determine what (if any) action shall be taken by Ervia. Such action could include changes to the way Ervia conducts its operations, disciplinary action (following the application of the disciplinary procedure), referral of the matter for consideration under a specific Ervia policy or procedure, or a report to an appropriate third party, such as An Garda Síochána.

It should be noted that fair and due process requires that any person accused of wrongdoing shall be made aware of and given the opportunity to respond to any allegations made against them.

7. UNTRUE ALLEGATIONS

If an employee makes a disclosure in accordance with this Policy, but the information or allegation is subsequently not confirmed by the investigation, no action will be taken against the discloser (so long as

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he had a reasonable belief that the information disclosed tended to show wrongdoing). The discloser, in these circumstances, will be fully protected from any less favourable treatment, penalisation or victimisation. Similarly, an employee will not be penalised for simply getting it wrong, so long as the employee had a reasonable belief that the information disclosed showed, or tended to show, wrongdoing.

The motive of the person making the disclosure is not relevant but if an allegation is made, despite the discloser knowing it to be false, then disciplinary action may be taken against the discloser.


8. PROTECTION FROM PENALISATION

Ervia is committed to good practice and high standards and is fully committed to supporting and protecting employees who make disclosures under this Policy. Direct or indirect pressure on employees not to make a disclosure or to make a disclosure contrary to this Policy will not be tolerated.

Ervia recognises that penalisation can take many forms; it can be direct or indirect and may be perpetrated by fellow employees, management or those who supply us with goods and services or our customers and clients.

Examples of penalisation include any unfair or adverse treatment (whether acts of commission or omission) that result in the employee suffering any unfavourable change in his/her conditions of employment including (but not limited to)

- (i) suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts) , or the threat of suspension, lay-off or dismissal;
- (ii) demotion or loss of opportunity for promotion;
- (iii) transfer of duties, change of location of place of work, reduction in wages or change in working hours;
- (iv) imposition of any discipline, reprimand or other penalty (including a financial penalty);
- (v) unequal treatment under sick leave or disciplinary policies, unfair selection for tasks or attendance at events;
- (vi) coercion or intimidation;
- (vii) discrimination, disadvantage or unfair treatment;
- (viii) injury damage or loss;
- (ix) threats of reprisal;
- (x) verbal harassment - jokes, comments, ridicule or songs;

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- (xi) written harassment - including faxes, text messages, emails, comments or postings on social media;
- (xii) physical harassment - jostling, shoving or any form of assault;
- (xiii) intimidatory harassment - gestures, posturing or threatening poses;
- (xiv) isolation or exclusion from social activities; and
- (xv) bullying.

Any form of penalisation of employees who make a disclosure will not be tolerated and employees who feel that they are being subjected to any adverse treatment as a result of making a disclosure should report the matter immediately. Ervia commits to assess and investigate such notifications and to take appropriate action (which may include disciplinary action) where necessary.

These protections extend beyond the workplace, for example to conferences and training that occurs outside the workplace and to work-related social events.

Penalisation or threats of penalisation by members of staff will not be tolerated. Such behaviour may constitute misconduct and may lead to disciplinary action up to and including dismissal.

Penalisation or threats of penalisation of our employees by suppliers, clients and others we do business with will not be tolerated and may lead to termination of contracts or suspension of services, or the exclusion from Ervia's premises or the imposition of other sanctions.

9. COMPLAINTS PROCEDURE


A complaint relating to matters arising in respect of invoking this Policy can be made to the Chief Legal Officer, the Group Head of Internal Audit or the Chairman of the Audit and Risk Committee, or under the Dignity at Work Policy or the Grievance Procedure, as appropriate.

Employees can make a complaint of Penalisation under the Act to the Adjudication Officer in accordance with section 41 of the Workplace Relations Act 2015.

10. COMMUNICATING, MONITORING AND REVIEWING

This Policy is communicated directly to all new employees upon commencement of employment in accordance with Ervia's obligations under section 21(2) of the Act. A copy of this Policy can be also found on the Zone or by contacting Secretariat or HR directly.

This Policy is monitored by Group Legal and reviewed by Group Legal annually.

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This Policy is brought to the Ervia Board for review every two years.

11. CONTACT DETAILS

As mentioned above, any employee may make a Protected Disclosure to his/her line manager or alternatively to the Group Chief Legal Officer.

Where an employee feels that neither of the above options is appropriate or does not wish to raise a concern directly to any particular person, he/she may raise a concern by sending an email (anonymously or otherwise, taking section 5.9 of this policy into consideration) to a confidential email address or by calling a confidential voicemail, both of which will be directed to the Group Chief Legal Officer and the Group Head of Internal Audit (acting as Anti-Fraud Champion). In circumstances regarding possible financial improprieties, concerns can alternatively be directed to the Chairman of the Audit and Risk Committee at the address set out below.

The following are the contact details for raising concerns under this Policy:-

Group Chief Legal Officer

Rory Williams
Telephone: 01 - 8925407
Email: rory.williams@ervia.ie

Confidential email address (directed to the Group Chief Legal Officer and the Group Head of Internal Audit)


Confidential@ervia.ie

Confidential voicemail (directed to the Group Chief Legal Officer and the Group Head of Internal Audit)

01-8230333 (external)
30333 (internal)

Chairman of the Audit and Risk Committee

Email: auditandriskchairman@ervia.ie

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