

**ERVIA/PD/4**

**REGULATION OF LOBBYING POLICY**

**1. INTRODUCTION**

For the purpose of the Regulation of Lobbying Policy (the “Policy”), the term “Ervia” should be construed as including Ervia and its subsidiary companies (including Gas Networks Ireland and Irish Water). Ervia may incorporate further subsidiaries from time to time and this Policy shall apply to all subsidiaries notwithstanding that they may not be in existence at the time this Policy was put in place.

**2. POLICY STATEMENT**

This Policy aims to give effect to the obligations and provisions of the Regulation of Lobbying Act 2015 (hereinafter referred to as “the Act”) whose intention is to bring about significantly greater openness and transparency about lobbying activities. The Act commenced on 1 September 2015.


**3. PURPOSE**

This Policy sets out the framework for understanding and creating awareness of what is and is not considered a “relevant communication” for the purposes of the Act in order to determine if the interaction, activity or communication made to a designated official constitutes a notifiable lobbying activity.

The aims of this Policy are:

- (a) to provide guidance as to how to what constitutes “lobbying activities” and “relevant communications”;
- (b) to provide for the establishment and maintenance of a register of lobbying;
- (c) to ensure the reporting of lobbying activities to the Standards in Public Offices Commissions.

This Policy also sets out Ervia’s internal procedures for the reporting and registration of “relevant communications” to “designated public officials” as prescribed by the Act.

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**4. LOBBYING ACTIVITIES**

For the purposes of the Act, a person carries on lobbying activities if the person makes or manages or directs the making of any relevant communications on behalf of another in return for payment.

Ervia falls within the scope of the Act as a “person” in circumstances where the person has more than 10 full-time employees and the “relevant communications” are made on the person’s behalf.

Consultants employed by Ervia may also fall within the scope of the Act as professional lobbyists being paid to communicate on behalf of a client (where the client is an employer of more than 10 full time employees).

**5. COMMUNICATIONS**

**5.1 RELEVANT COMMUNICATIONS**

A relevant communication is a communication (whether oral or written), other than “excepted communications”, made personally (directly or indirectly) to a “designated public official” in relation to a “relevant matter”.

Examples of relevant communications are set out at Appendix 1 hereof.

**5.2 EXCEPTED COMMUNICATIONS**

The following “excepted communications” (as prescribed in section 5 of the Act) are relevant to Ervia and, therefore, are not regarded as lobbying (i.e. they are not relevant communications):

- (a) **Factual information:** Communications requesting factual information or providing factual information in response to a request for the information.
- (b) **Published submissions:** Communications requested by a public service body and published by it.
- (c) **Trade union negotiations:** Communications forming part of, or directly related to, negotiations on terms and conditions of employment undertaken by representatives of a trade union on behalf of its members.
- (d) **Safety and security:** Communications the disclosure of which could pose a threat to the safety of any person or to the security of the State.

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- (e) **Oireachtas committees:** Communications which are made in proceedings of a committee of either House of the Oireachtas.
- (f) **Communications by designated public officials or public servants:** Communications by a designated public official in his or her capacity as such; communications by public servants (or those engaged on contract by a public service body) made in that capacity and relating to the functions of the public service body.
- (g) **Governance of commercial State bodies:** Communications by or on behalf of a commercial State body made to a Minister of the Government who holds shares in, or has statutory functions in relation to, the body, or to designated public officials serving in the Minister's department, in the ordinary course of the business of the body.
- (h) **Policy working groups:** Communications between members of a relevant body appointed by a Minister, or by a public service body, for the purpose of reviewing, assessing or analysing any issue of public policy with a view to reporting to the Minister or public service body on it. A relevant body is one whose members are appointed by a Minister or by a public service body and the members include one or more designated public officials and one or more who are not public servants nor engaged for the purposes of a public service body provided it conducts its activities in accordance with the Transparency Code.

**5.3 DESIGNATED PUBLIC OFFICIALS**

Designated public officials include:

- (a) Ministers of the Government and Ministers of State;
- (b) Other members of Dáil Éireann and Seanad Éireann;
- (c) Members of the European Parliament for the three constituencies in Ireland;
- (d) Members of local authorities;
- (e) Special advisers appointed under section 11 of the Public Service Management Act 1997;
- (f) Secretaries-General and Assistant Secretaries-General of Government Departments, Chief Executive Officers and Directors of Services in local authorities
- (g) Other public servants prescribed by the Minister for Public Expenditure and Reform over time.

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**5.4 RELEVANT MATTER**

A relevant matter is any matter relating to:

- (a) The initiation, development or modification of any public policy or of any public programme;
- (b) The preparation or amendment of any law (including secondary legislation such as statutory instruments and bye-laws);
- (c) The award of any grant, loan or other financial support, contract or other agreement, or of any licence or other authorisation involving public funds.

**APART FROM** the implementation of any such policy, programme, enactment or award or any matter of a technical nature.

**6. PROCESS FOR REPORTING OF RELEVANT COMMUNICATIONS**

**6.1 REGISTRATION**

Ervia has registered as a lobbyist on the Lobbying Regulator’s web-based register ([www.lobbying.ie](http://www.lobbying.ie)). Ervia’s major operating subsidiaries, Gas Networks Ireland and Irish Water, have also registered as lobbyists to capture any lobbying activities carried out independently at subsidiary level which have not been made, managed or directed by Ervia.

**6.2 RETURNS AND REPORTING PERIODS**

Ervia is required submit returns to the Lobbying Regulator every four months via the web-based register. These returns must be submitted within 21 days of the end of each four month period; for example for period 1 January – 30 April, the return must be submitted no later than 21 May.

**6.3 REPORTING OF RELEVANT COMMUNICATIONS TO THE COMPLIANCE OFFICERS**

Compliance Officers have been appointed in Ervia, Gas Networks Ireland and Irish Water (please see contact details below for each).

A secure on-line portal in each business division of Ervia (including Group Centre, Irish Water, Gas Networks Ireland, Major Projects, Shared Services and such other business divisions that Ervia may establish from time to time) enables:

- (a) the recording of all relevant communications for each reporting period;

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- (b) the notification of all relevant communications for each period to the relevant Compliance Officer in a timely fashion;
- (c) review of relevant communications by the Group Compliance Committee.

Anyone carrying on lobbying activities from 1 September 2015 is responsible for:

- (a) keeping a record of these activities and providing the relevant Compliance Officer with the particulars of each relevant communication as they arise via the secure on-line portal for review and inclusion on the return for each relevant period. A Lobbying Compliance Checklist has been included at Appendix 2 hereof;
- (b) confirming to the relevant Compliance Officer that the details provided are comprehensive, correct and accurate.

The Compliance Officer shall be responsible for:

- (a) promoting awareness of lobbying and the requirements of the Act within their respective business division;
- (b) the collation of input from the business divisions in relation to relevant communications for each relevant period. For avoidance of doubt, the Compliance Officer is not responsible for investigating the extent of lobbying activities within their business division. It is a matter for individual lobbyists to provide this information to the Compliance Officer once they have engaged in any lobbying activities;
- (c) presenting their business division's register to the Group Compliance Committee for discussion and debate;
- (d) the submission of returns to the Lobbying Regulator for each relevant period in accordance with the prescribed timelines.

The Group Compliance Committee is comprised of the divisional the Head of Group Legal, the Company Secretary, the business divisional Compliance Officers and/or their nominees and any other members that may be appointed from time to time. The Group Compliance Committee is responsible for:

- (a) the review of returns from each business division;
- (b) ensuring a standardised definition of lobbying is applied across Ervia.

The Compliance Officers are entitled to rely on the presumption that the details provided by the business divisions in respect of all lobbying activities are comprehensive, correct and accurate.

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If uncertainty exists about the application of the Act, the advice of the relevant Compliance Officer should be sought.

## **7. ENFORCEMENT**

Enforcement provisions provided for in Part 4 of the Act came into effect on 1 January 2017. Section 21(1) of Part 4 of the Act provides that a person who is late submitting a return of their lobbying activities may be served with a Fixed Payment Notice of €200.

A registered person who is late submitting their lobbying return will, therefore, be issued with a Fixed Payment Notice of €200. If the Fixed Payment is not paid within 21 days the person may be prosecuted for an offence under section 20(1) of the Act.

A registered person who has not carried out lobbying activities during a particular return period **MUST** furnish a nil return. A registered person who is late submitting a nil return **WILL** receive a fixed payment notification for the amount of €200.

Part 4 also provides that if a registered person does not submit any lobbying return for a particular lobbying period the person may be investigated and prosecuted by the Standards Commission under section 20(2) of the Act.

## **8. COMMUNICATION, MONITORING AND REVIEW**

This Policy will be communicated directly to all employees upon commencement of employment. A copy of the Policy can be also found on the Zone or by contacting Secretariat directly.

This Policy will be reviewed annually.


## **CONTACT DETAILS**

**Ervia Group Compliance Officer**

Cecilia Ogle

Telephone: 021-4239336

Email: [lobbying@ervia.ie](mailto:lobbying@ervia.ie)

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**Gas Networks Ireland Compliance Officer**

Con O' Donnell

Telephone: 021-4534132

Email: [con.odonnell@gasnetworks.ie](mailto:con.odonnell@gasnetworks.ie)

**Irish Water Compliance Officer**

Áine Matthews

Telephone: 01-8925835

Email: [amatthews@water.ie](mailto:amatthews@water.ie)

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**APPENDIX 1**

The following are examples of relevant communications which are registrable:

<b>DESIGNATED PUBLIC OFFICIAL</b>	<b>RELEVANT COMMUNICATION</b>
Minister for Communications Energy & Natural Resources/Minister for Environment & Local Government	Submissions made in relation to the Planning and Development Regulations 2001-2013 (exempted developments)
Minister for Environment & Local Government	Observations submitted in relation to the proposed Foreshore and Marine Area Development Bill
European Commission	Communications made in relation to the grant application in connection with the Projects of Common Interest
Ministers for State	Communications made by Ervia and Irish Water in relation to the application of FOI to commercial state bodies
Members of Local Authorities	Communications in relation to LA Transformation Programme in so far as they relate to public policy
Minister for Communications Energy & Natural Resources	Communications in relation to the Green and White paper on energy policy

The following are examples of non-registrable communications:

<b>DESIGNATED PUBLIC OFFICIAL</b>	<b>COMMUNICATION</b>
Ministers for State	Governance related communications i.e. Requirements under the Code of Practice for the Governance of State Bodies, Companies Acts requirements (for Irish Water i.e. re AGM)
Ministers for State	Responses to Public Consultations (to the extent that these are published by the body initiating the consultation)

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**APPENDIX 2**

LOBBYING COMPLIANCE CHECKLIST		Y/N
Is the Communication made to a Designated Official on Your behalf?	<ul style="list-style-type: none"> <li>• <b>Communication</b> - written or oral, personally (directly or indirectly)</li> <li>• <b>To a Designated Official</b> - Ministers, TDs, Senators, MEPs, Local Councilors, special advisers, and designated public officials e.g. Sec Gen/ Assistant Sec., CEO Local Authority, or those listed by a public body.</li> <li>• <b>Made On Your behalf</b> - As a paid officer/ agent/ employee, as directed or managed by you</li> </ul>	<input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>
Is it a Relevant Communication?	<ul style="list-style-type: none"> <li>• It relates to the initiation, development or modification of any public policy or programme,</li> <li>• The preparation or amendment of legislation, OR</li> <li>• The award of any grant, loan, or other financial support, contract or other agreement, or of any licence or other authorisation involving public funds etc.</li> </ul> <p><b>Apart from</b> matters relating only to <i>implementation</i> of any such policy, programme, enactment, award, etc. or matters of a <i>technical nature</i>.</p>	<input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>
Is the Communication Excepted?	<p><b>See list of Excepted Communications in Section 5 of the Act - For example:</b></p> <ul style="list-style-type: none"> <li>• Published submission to a public consultation process;</li> <li>• Requesting or providing factual information to a request for that information;</li> <li>• Made to a shareholder Minister / Dept in the ordinary course of business;</li> <li>• trade union negotiation on terms and conditions of employment of members;</li> <li>• disclosures of which could pose a threat to the safety of any person or security of the State.</li> </ul>	<input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>

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**PARTICULARS OF THE RELEVANT COMMUNICATION:**

*Include details of:*

- *Who was lobbied i.e. the designated public official and the body in which they are employed/hold office in;*
- *Subject matter of the communications and the results they intended to secure;*
- *Type and extent of lobbying activities;*
- *Name of person with the primary responsibility for carrying on lobbying activities.*

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