

ESB Policy for Compliance with the Regulation of Lobbying Act, 2015

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1. Purpose

ESB conducts business in accordance with our Code of Business Ethics and in compliance with relevant laws, regulations and licences.

Lobbying activities in Ireland are governed by the Regulation of Lobbying Act, 2015 ("the Act"). The purpose of the Act is to improve transparency of decision making by public bodies through provision of information relating to who is communicating with Designated Public Officials (or DPOs) and what they are communicating about.

The objective of this policy and procedures document is to:

- Communicate how ESB will comply with the Act
- Set out ESB's obligations under the Act
- Specify roles and responsibilities to ensure compliance with the Act
- Outline consequences for failure to comply

2. Scope of Policy

This policy applies to Board members, Executive/Managing Directors and all staff (or those acting on their behalf) in ESB Group involved in lobbying Irish DPOs. This policy does not apply to lobbying activities in other jurisdictions where we have a presence.

Anyone who is/may be engaged in lobbying activities, as defined in the Act, is expected to familiarise themselves with the contents of this Policy and to adhere to the procedures below.

In relation to alliances, joint-ventures or other shareholding arrangements, ESB takes all reasonable steps to ensure that such ventures comply with the policy and procedures set out in this document.

3. Policy Statement

Lobbying activities are broadly defined in the Act as the making of a 'Relevant Communication' on ESB's behalf, being a communication made directly or indirectly to a Designated Public Official in relation to a 'Relevant Matter.' A Relevant Matter is defined as communication about:

- The initiation, development or modification of any public policy or of any public programme
- The preparation or amendment of any law
- The award of any grant, loan, contract, or of any licence or other authorisation involving public funds
- The development or zoning of land under the Planning and Development Acts 2000 to 2014

other than the implementation of any such policy, programme, enactment or award or any matter of a technical nature only.

More information about the Act is available at www.lobbying.ie. Our policy states:

As a commercial semi-state company, ESB regularly communicates with legislators and other public officials on matters impacting our business. To the extent that ESB engages in lobbying activities requiring disclosure under the Act, such activities will be conducted in a transparent manner and in compliance with the requirements of the Regulation of Lobbying Act, 2015. Only authorised personnel can engage in lobbying on behalf of the company.

4. ESB's Obligations under the Act

Under the Act, ESB is required to publish, three times a year, a record of lobbying activities (if any) on the Standards in Public Office's Register of Lobbying. If no lobbying has been carried out a nil return is submitted. ESB has registered with the Standards in Public Office as a lobbyist.

The details to be provided include the name of the person who had primary responsibility for carrying on the lobbying activity, the Designated Public Official to whom the communication was made, the subject matter of the communication and the intended result of the communication.

The Register is available at www.lobbying.ie.

Any professional lobbyist engaged by the company or an industry representative association (e.g. IBEC, EAI) lobbying on our behalf will also be required to register and disclose similar relevant information to SIPO (Standards in Public Office Commission).

Publication of information submitted to the Register can be delayed where publication will:

- Have a serious adverse effect on the financial interests of the business (or the business interests of a set of people)
- Cause material financial loss to the person to whom the information relates or prejudice seriously the competitive position of that person

5. Designated Public Officials (DPOs)

A full list of DPOs is available at www.lobbying.ie. This listing will be expanded over time. The current list as of the date of this policy is attached hereto as Appendix 1(b) for information. Please check the update list on the lobbying.ie website for the latest information. For the avoidance of doubt, the Commissioners and staff in the Commission for Energy Regulation do not come within the scope of the Act.

6. Business as Usual

The Act expressly defines a number of excepted communications which do not have to be registered with SIPO. However, ESB has determined that these engagements will

be recorded for completeness in the internal ESB register of returns.

Those relevant to ESB include (among others) the following:

- communications requesting factual information or providing factual information in response to a request for the information communications which are made in proceedings of a committee of either House of the Oireachtas,
- communications by or on behalf of a body corporate made to a Minister of the Government who holds shares in, or has statutory functions in relation to, the body corporate, or to designated public officials serving in the Minister's department, in the ordinary course of the business of the body corporate; and

The expression "***in the ordinary course of business***" is not defined in the Act but is likely to be the basis of many of the communications that happen between ESB and DPOs. For the purposes of this policy the following areas have been identified as falling within the meaning of the expression:

- Communications in relation to the exercise of ESB's statutory powers and functions, including matters on which ESB is required by statute to consult with the Minister(s) and/or in respect of which Ministerial approval must be obtained.
- Communications regarding matters on which ESB is required to consult with the Department/Ministers under the Code of Practice for the Governance of State Bodies.
- Matters on which ESB may brief the Departments / Ministers from time to time as a general matter of good corporate governance reflecting the State's ownership.

A Guideline has been drafted to assist those involved in day to day interactions involving government departments. This is available on request from The Group Compliance and Risk Manager or the Group Lawyer.

7. Authorisation to Lobby on behalf of ESB

Lobbying is a legitimate activity and is not prohibited by the Act. Indeed, it is seen to be an important part of the democratic process and can help to underline the importance of certain matters to the business. Consideration should be given at the outset of new projects/business initiatives to possible requirements to lobby and steps taken to include a communications plan within the overall project plan. In this way, tracking the person responsible for lobbying, type of interactions and intended results can be captured from the outset.

The Chairman, the Chief Executive, the Executive/Managing Directors are deemed to be authorised to lobby (as defined) on behalf of the business.

7.1 The Board

It is Board policy that the Chairman is the Board spokesperson. Therefore, any lobbying at Board level will be done by the Chairman or exceptionally by a board member

authorised by the Chairman.

Any lobbying at Ministerial or Secretary General level will be done by (a) the Chairman or (b) the Chief Executive or an Executive Director or by a person authorised by them.

7.2 Senior Management

Each Executive/Managing Director will identify and nominate additional staff authorised to lobby on behalf of their business unit and these names will be provided to the Group Compliance & Risk Manager.

The nomination is role specific – it is the holder of the role that is authorised to lobby. Therefore, unless otherwise notified, in the event of a staff move from a nominated role, the new appointee is assumed to inherit the lobbying nomination, as opposed to the authorisation traveling with the staff member who has left the role.

In order to ensure that the list of nominated lobbyists remains accurate and appropriate, an annual confirmation of the full list of nominees for a business unit is to be sought from the relevant Executive Director by Group Compliance.

Anyone communicating with a DPO who is not authorised, should not engage in lobbying or alternatively seek authorisation from the relevant Executive/Managing Director. There is no requirement to be authorised to engage in “business as usual” interactions with a DPO.

8. Roles & Responsibilities

(a) All Employees

Inform yourself: All employees communicating with DPOs for and on behalf of ESB have a responsibility to inform themselves and seek clarification, if required, of the requirements of the Act. Staff communicating with Designated Public Officials in the ordinary course of business (e.g. governance matters), who are not designated Lobbyists, do not have to take any further action (see S.6 above).

Obtain authorisation to lobby: If you are likely to be involved in lobbying activities, you should be authorised to engage in lobbying on behalf of the company by your Executive/Managing Director i.e. be a designated Lobbyist.

Seek advice if required: If you feel you may be engaging in lobbying activity but are unsure of what to do please contact the Group Compliance Officer or Group Legal who will assist you. If you are not on the list of authorised staff approved to engage in lobbying then you may need to consider whether you need to be authorised.

Meeting Etiquette: Clarify if a DPO is present. Set out the purpose of the meeting at the outset and establish if possible whether the meeting may/may not be considered lobbying.

Take note of correspondence: The DPO may indicate in correspondence that you are dealing with a DPO and that you may need to register the communication.

External Interactions with DPOs: You may have interactions with DPOs in your own private capacity – you should not engage in any lobbying on the company's behalf in these situations unless authorised to do so by your Executive/Managing Director.

Track and Record: If you are lobbying you are required to put in place measures and controls to track and record these activities and to report them to the Group Compliance Manager (currently Marie.Sinnott@esb.ie). The reporting template will be accessible via SharePoint. All engagements between a designated Lobbyist and a DPO need to be recorded in the internal ESB Register.

A **NIL return** is required if you are a designated Lobbyist but have not lobbied in the relevant period. Engagements where no lobbying occurred is required as a record in the event that SIPO instigates an investigation.

Informal Interactions with DPOs: Relevant communications can be in a formal or an informal setting. ESB has adopted an approach whereby engagements with a DPO in an informal setting does not have to be recorded on the internal register unless a relevant matter was discussed. If a relevant matter arises, regardless of whether it is an exempted communication or whether you engaged in lobbying, the interaction needs to be recorded.

(b) Management

Senior Managers are responsible for ensuring that :

- staff reporting to them are made aware of and understand this policy through the provision of appropriate briefing and training material
- their staff record and report lobbying activity in a timely manner
- the development of Stakeholder Management Plans including any proactive lobbying activities
- professional lobbyists engaged by the business are properly registering lobbying activities conducted on the company's behalf in compliance with the Act
- effective internal controls are in place and operating including risk mitigation measures to reduce the risk of non compliance with the Act

(c) Chief Executive/Executive Directors

Chief Executive/Executive Directors are responsible for ensuring that they:

- Identify and maintain an up to date list of staff, other than EDT, if any, who will be authorised to lobby on ESB's behalf
- Ensure all relevant communications, including their own are recorded and reported.
- Communicate this policy within their Business Unit and
- On an annual basis:

- The Chairman, the Chief Executive and each Executive/Managing Director will be requested to confirm that they are in compliance with this policy

(d) Group Compliance & Risk Manager

The Group Compliance and Risk Manager (or nominee) will:

- review all returns from the Business Units and assess whether they come within the scope of the Act and should be registered. Legal input will be sought where there is any ambiguity about the scope of the Act or the details of the particular return.
- agree with the relevant lobbyist and, if required, Group Legal and the relevant Executive Director, the text proposed for the lobbying return.
- register ESB's lobbying return on the Lobbying.ie website.
- maintain a record of all decision making, including decisions regarding returns not submitted, and provide a report to the Executive Director Team outlining key decisions behind the return remitted
- update Public Affairs of the contents of any submission registered with SIPO

9. Help and Assistance

Please contact the Group Compliance Manager (marie.sinnott@esb.ie) or Group Legal (emma.keavney@esb.ie) if you have any queries relating to this policy or procedure.

10. Breaches of Policy

Failure to comply with laws, regulations and licences, including the law relating to lobbying could damage the company's reputation and result in criminal sanctions for employees and the company. Given the public nature of the Register of Lobbying and the access to information held by public bodies under Freedom of Information there can be significant interest, media and otherwise, in the contents of the Register.

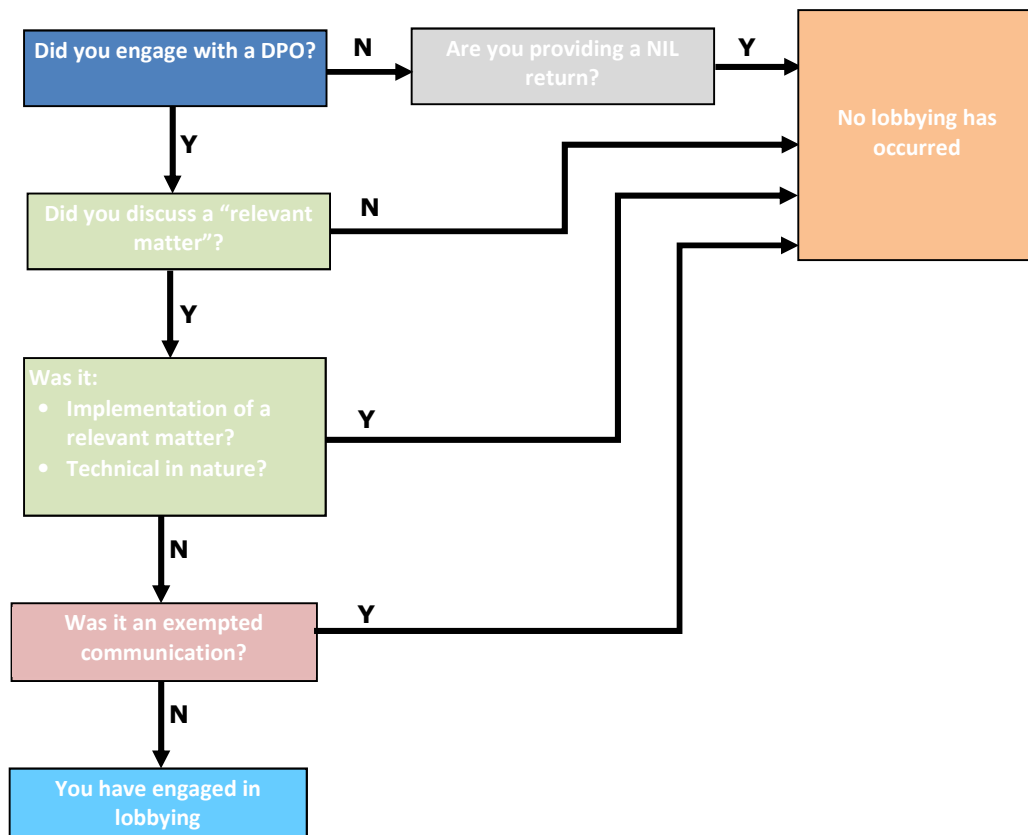
There are criminal sanctions for breaches of the Lobbying Act with potential serious penalties for persons and organisations found guilty of breaching the law including fines and/or imprisonment. Enforcement provisions provided for in the Lobbying Act 2015 in relation to fines/sanctions, including conferring strong investigative powers to SIPO, came into effect on January 1st 2017. While fines may not be significant, there could also be reputational damage for the company for failure to disclose relevant lobbying activity in a timely and accurate manner.

Persistent failure by an authorised lobbyist to complete a lobbying return in a timely manner may result in lobbying status being revoked.

11. Procedure

The flow chart below sets out the process in place for complying with the requirements of the Act.

DECISION MAKING FLOW CHART



Appendix 1: Glossary

Definitions

a. What is lobbying?

Lobbying is communicating with Designated Public Officials in relation to a “relevant matter”, unless it is exempted communications.

Communications may be in a formal or informal setting. They may be written and/or oral and do include social media communications. They may be made directly or indirectly to designated public officials.

b. What is a relevant matter?

A relevant matter includes:

- The initiation, development or modification of any public policy or of any public programme
e.g. proposals to change energy policy for renewables subsidies, proposals to change/ introduce new taxes
- The preparation or amendment of any law (including via Statutory Instrument or bye-laws)
- The award of any grant, loan or other financial support, contract or other agreement or of any licence or other authorisation involving public funds
- The development or zoning of land under the Planning and Development acts 2000 to 2014 unless such communications are exempted.

other than the implementation of any such policy, programme, enactment or award or any matter of a technical nature only

c. Who are Designated Public Officials?

At present, Designated Public Officials are:

- Ministers & Ministers of State
- TDs and Senators
- Members of Local Authorities i.e. City or County Councillors
- Members of the European Parliament
- Special Advisers to Ministers appointed under Section 11 of the Public Service Management Act, 1997
Secretaries Generals and Assistant Secretaries Generals of Government Departments
- Chief Executive Officers and Directors of Services in local authorities

- Public servants of a prescribed description (i.e. certain persons who are employed by public bodies)
- Other prescribed office holders

It is open to the Minister for Public Expenditure and Reform to widen the definition of Designated Public Official in the future. Public bodies are obliged to publish (via their web-sites) the names of their employees who are designated public officials and a brief description of their roles and responsibilities.

It is irrelevant if the DPO contacts you or you contact the DPO.

Please note officers and staff on the Commission for Regulation of Utilities (CRU) are not DPOs and no interactions with the CRU need to be recorded in the Sharepoint Register.

d. What are Excepted Communications?

Certain communications with Designated Public Officials may be classified as excepted communications. Of most relevance to ESB are:

- Communications in ***the ordinary course of business*** by the ESB to Designated Public Officials in the Department of Communications, Energy and Natural resources or the Department of Public Expenditure and Reform or other Departments who have statutory functions in relation to ESB (e.g. in certain circumstances, communications to the Department of Finance would be excepted communications)
- Communications requesting ***factual information*** or providing factual information in response to a request for the information
- Communications requested by a public sector body which could be ***published*** by that body i.e. consultation responses
- Communications – the disclosure of which could pose a threat to the ***safety*** of any person or a threat to the ***security*** of the State
- Communications which are made in ***proceedings of a committee*** of either House of the Oireachtas
- ***Policy Working Groups***, if activities are completed in accordance with the Transparency Code

e. What is indirect communication?

If you are communicating on a "relevant matter" with a public official who is not a DPO and **you request or indicate** that the communication should be brought to the attention of a DPO, then this is regarded as a communication made indirectly to the DPO and as a relevant communication. In this case you are required submit a return in respect of that lobbying activity.

If a person is communicating on a "relevant matter" with a public official who is not a DPO and the person **does not request or indicate** that the communication should be brought

to the attention of a DPO, then this is not regarded as an indirect communication made to a DPO. It is not regarded as an indirect relevant communication by the person even if the public official subsequently decides to refer the matter to a DPO .

f. Do social media posts count as lobbying?

It is the content, not the method of communication that determines whether it should be recorded as a lobbying activity. In certain cases use of social media will be considered as "relevant communications

For example, generally a Tweet directed at a broad audience and not targeted at someone would not be considered lobbying. However, if a Tweet is sent to an individual recipient, or a DPO is tagged in the Tweet, it may be lobbying depending on whether the subject of the Tweet concerns a relevant matter.