

Atheist Ireland

Submission to Round One of the Public Consultation on DPC's Regulatory Strategy



Dear Data Protection Commission,

This is a submission from Atheist Ireland to Round One of the Public Consultation on the DPC's Regulatory Strategy. We intend to make a more detailed submission to Round Two, when you analyse how to deliver the outcomes prioritised in Round One.

Atheist Ireland

Atheist Ireland is an Irish advocacy group. We promote atheism and reason over superstition and supernaturalism, and we promote an ethical, secular society where the State does not support or finance or give special treatment to any religion.

Since being formed in late 2008, we have campaigned for a secular Irish Constitution, parliament, laws, government, and education and healthcare systems. We are part of the dialogue process between the Government and religious and nonreligious philosophical bodies.

We base our policies on human rights standards. We have made submissions to and attended meetings of the United Nations Human Rights Committees and Council, the OSCE, the Council of Europe, and various Government Departments and consultation processes.

This submission focuses on three of the outcomes in your consultation process, with regard to protecting the rights of parents and students to not have to reveal their religious beliefs or nonreligious philosophical convictions while accessing and taking part in the education system.

Outcome 3

Outcome 3 is that organisations operate and innovate in an accountable, compliant, ethical and fair way in their processing of personal data. In particular, one of your activities within this outcome is pursuing investigations into potential infringements that you identify could have a relatively significant effect on a large number of people.

Outcome 4

Outcome 4 is that as many people as possible understand and have control over how their personal data is used. In particular, you say about this outcome that you want to improve the protections for the millions of people who have not contacted you but whose rights may have been infringed by different organisations on a large scale.

Outcome 5

Outcome 5 is that children are specifically protected. In particular, regarding Consultation Question 9, we think the most important activities within this outcome are:

1. Collaborating with and drawing from the advice and experiences of advocates and experts in the field of protection and promotion of children's rights;
2. Defining the specific protections required to safeguard the rights of children in the protection of their personal data, and providing guidance for people and organisations;
3. Initiating and actively promoting the development of codes of conduct on the processing of children's personal data; and
4. Pursuing formal investigations, decision-making and applying corrective powers related to potential infringements that could impact children's data protection rights as a critical priority for DPC enforcement.

Application to the Education System

We believe that you can effectively and efficiently pursue these three Outcomes with regard to protecting the rights of parents and students to not have to reveal their religious beliefs or nonreligious philosophical convictions while accessing and taking part in the education system.

Data Protection has not been looked at in detail in the education system in relation to religion. It affects every child in the country including their parents or guardians. Putting the education system and religion as a priority in your strategy will introduce Data Protection to children as an important part of their life in a pluralist democracy.

At present information about the religion or beliefs of Parents and their children can legally be collected and used in relation to access to the school (Section 7-3-c Equal Status Act).

In addition schools routinely ask parents and students about their religious or non religious belief systems when parents are seeking to exercise their Constitutional Rights to opt out of religion classes. Parents are also put in a position whereby they feel obliged to reveal their convictions as they are asked to attend meetings with the school in order to negotiate the opt out from religion. This means that schools and teachers have sought and have on record the religious or philosophical convictions of the family.

Catholic Church Guidelines on the opt out outline different arrangements for those with a religious belief and those with no religious belief. The Guidelines also say that teachers must supervise the opt out to ensure that the reading material of students is suitable. This puts teachers in a position where they have sensitive data about the religion or belief of each student who is opted out. There is no legal requirement for any school to know the religion or belief of any student when they exercise their Constitutional rights to opt out.

During prayer times in schools with a religious ethos, the Catholic Guidelines say that students of different faiths are encouraged to show reverence during the prayer. Students who hold no religious interpretation of life are invited to show respect for the prayer experience. This practice can only mean that children are identified by the rest of the class as having a different faith or having no religious faith. The data that the teacher has got from parents about their beliefs is shared with the rest of the class. This also applies to assemblies and religious ceremonies in the school. Teachers who supervise at these events need to be aware of the children that are expected to pray and take part in the ceremony and those that opt out. More sharing of sensitive Data without regulation when parents and students never wanted it shared in the first place.

There are also Chaplains in many ETB second level schools. These Chaplains are either Catholic or Protestant. They are paid the equivalent of a teachers salary. Their purpose is to help parents with the religious education of their children. The payment of Chaplains in ETB/VEC schools was the subject of a Supreme Court Case in 1995. In order to help parents with the religious education of their children (Catholic or Protestant), Chaplains need to know the children from Catholic families within the school as they are paid to support their religious education.

In recent research we discovered that these Chaplains have also have sensitive Data on the beliefs of the students in the school. That Data extends to whether the family are practicing their religion or not. The research also shows that sensitive Data about parents and children's beliefs

are known within schools. It is difficult to understand how they even got this information in the first place. You can read that here: <https://onlinelibrary.wiley.com/doi/10.1002/berj.3490>

The State also has curriculum religion courses. At second level there is the NCCA Religious Education course and at primary level in Community National Schools there is the NCCA developed Goodness Me Goodness You course. Children are expected to share and discuss their beliefs when taking these courses. The GMGY course states that teachers become aware of the beliefs represented in the class through the facilitation of inter-belief dialogue.

Parents are not informed that their child will be sharing sensitive Data with the teacher and the rest of the class when they take these courses. Schools just inform parents that these courses are for all religions and none an inclusive. Many schools make these courses a core subject and parents are not aware that they can even opt out their child. Parents and their children are forced into sharing sensitive Data when they would prefer to keep this aspect of their life private.

In Ireland schools have no understanding of Data Protection in relation to the sensitive issue of religion. There is also a link between Data Protection and human rights. In a case in 2019 the European Court said about the opt out in Greek schools:

“87. The court considers that the current system of exemption of children from the religious education course is capable of placing an undue burden on parents with risk of exposure of sensitive aspects of their private life and that the potential for conflict is likely to deter them from making such a request, especially if they live in a small and religiously compact society, as is the case with the islands of Sifnos and Milos, where the risk of stigmatisation is much higher than in big cities.

The applicant parents asserted that they were actually deterred from making such a request not only for fear of revealing that they were not Orthodox Christians in an environment in which the great majority of the population own allegiance to one particular religions (see *Grzelak v Poland*, no 7710/02, & 95, 15 June 2010, but also because, as they pointed out, there was no other course offered to exempted students and they were made to lose school hours just for their declared beliefs.”

(Case of *Papageorgiou and Others v Greece* - 31-10-2019)

Summary

This is a submission from Atheist Ireland to Round One of the Public Consultation on the DPC's Regulatory Strategy. We intend to make a more detailed submission to Round Two, when you analyse how to deliver the outcomes prioritised in Round One.

Yours sincerely,

Michael Nugent
Chairperson
Atheist Ireland

Jane Donnelly
Human Rights Officer
Atheist Ireland