

Atheist Ireland

Submission to Oireachtas Committee on Education & Skills

On the Content and Delivery of Sexual Health and Relationship Education and Related Issues



20 April 2018

Contents

1. Introduction to Atheist Ireland
2. Overview of the Problem
3. Recommendations

4. Catholic Church Guidelines on Curriculum RSE
5. Catholic Preschool and Primary RE Curriculum
6. Catholic Influence on State-run ETB schools

7. Balancing the Constitutional Rights Involved
8. The Right to Freedom of Conscience
9. Irish Human Rights & Equality Commission 2015
10. Ombudsman for Children 2016

11. United Nations Rights on Sex Education
12. UN Committee on Rights of the Child 2016
13. Atheist Ireland and UN CEDAW 2017
14. UN Human Rights Committee 2014

15. Circular 0037/2010 and the European Social Charter
16. Circular 0037/2010 and the Need to Consult with Parents

17. Legal Limitations of the NCCA on Objective Delivery
18. The Catholic Church opposes Objective Delivery
19. The Department of Education and Religious Ethos
20. The Primary School Curriculum and Religious Ethos

21. Conclusion and Repeat of Recommendations

1. Introduction to Atheist Ireland

Atheist Ireland is an 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 partners in the dialogue process between the Government and religious and nonreligious bodies.

We have addressed various Oireachtas Committees, the Constitutional Convention, Citizens Assembly, United Nations Committees, the OSCE, Council of Europe bodies, and the Presidents of the European Union.

2. Overview of the Problem

As the vast majority of schools in Ireland operate under a Catholic ethos, children cannot access sexual and reproductive education that is free from the influence of the Catholic Church. Even some Education & Training Board schools have Catholic sex education.

The Constitution and Ireland's international obligations oblige the state to ensure access to objective sex education for all children. But instead the state absolves itself of this responsibility, and delegates it to private bodies whose mission it is to evangelise.

The Committee on Education can seek to balance the rights of all involved.

- Publicly funded schools with a religious ethos (almost all of them Catholic) could still be able to provide Catholic sex education in the Religion class, for those students whose parents want to opt them in to such Religion classes.
- Publicly funded schools would also have to provide objective sex education that would respect the convictions of parents who do not want their children's sex education to be influenced by the Catholic religion.

3. Recommendations

- Atheist Ireland supports: (a) the mandatory provision in Irish schools of sexual and reproductive health education targeted at adolescent girls and boys, as recommended by the UN Committee on the Rights of the Child in 2016; (b) a single consistent curriculum for relationships and sexuality education across all schools, as recommended by the Ombudsman for Children in 2016; and (c) scientifically objective, standardised, age-appropriate education on sexual and reproductive health and rights, as recommended by the UN Committee on Elimination of Discrimination against Women in 2017. In the Dail debate on Solidarity's Objective Sex Education Bill in 2018, the Minister for Education acknowledged that young people have the right to get such factual information about sexual matters.
- Having factual content is not enough, if that content is delivered through the religious ethos of a school patron body. As well as the content being factual: (a) the content must be delivered in an objective, critical and pluralistic manner that avoids

indoctrination, as part of the curriculum outside of optional religion classes, as recommended by the Irish Human Rights and Equality Commission in 2015; while (b) ensuring a neutral studying environment, including in denominational schools, outside the confines of optional religious instruction classes, as raised with Ireland by the UN Human Rights Committee in 2014.

- In order for the content to be delivered objectively without religious influence, the law will have to be amended, because the NCCA has no legal power over how the curriculum is delivered. Instead the school patron bodies can choose to deliver the curriculum according to their own religious ethos. The legal changes required include amending Sections 9(d), 15(2)(b) and 30(2)(b) of the Education Act, which have been identified as problems by the NCCA in 2017, and which are referred to in Solidarity's Objective Sex Education Bill in 2018.
- Atheist Ireland supports Solidarity's Objective Sex Education Bill, which broadly proposes the approach that we recommend. It provides a solid framework for any improvements that members of the Committee might suggest.

4. Catholic Church Guidelines on curriculum RSE

The Catholic Church has issued Guidelines on how their religious ethos should be integrated into curriculum RSE, and in practice these Guidelines take priority over the rights of parents and their children. These Guidelines include: ¹

- Everyone who is involved in the task of Relationships and Sexuality Education in a Catholic school should be guided by a number of basic principles.
- The human body is sacred – the visible image of God.
- Children should be taught from the beginning to recognise, at their own level, that sexuality is a gift of God.
- Any attempt to communicate 'the facts of life' as mere facts without reference to the religious and moral dimensions of human sexuality and without reference to the pupil's need to grow in maturity would be a distortion.
- The Catholic school will be careful to give a positive attitude towards the gift of sexuality by showing its important place in God's plan for human happiness.
- Married love – the only context which 'aims at a deeply personal unity, a unity that, beyond union in one flesh, leads to forming one heart and soul' – is essentially oriented both to the loving unity of the couple and to cooperation with God in bringing new human life into the world.
- In Christian marriage, sexual union reflects the great mystery of the union of Christ and the Church. It becomes 'an image of the absolute and unfailing love with which God loves us'.
- The presence of sin in ourselves and in the world makes these truths less easy to discern.

It is simply not reasonable to assume that parents want this type of Catholic sex education for their children, just because the only local publicly funded school that they can in practice send their child to happens to have a Catholic ethos.

5. Catholic Preschool and Primary RE Curriculum

The Catholic Preschool and Primary Religious Education Curriculum for Ireland (Irish Episcopal Conference) integrate religion into the RSE curriculum in publicly funded primary schools. This is what all parents and their children can expect if they want to access curriculum RSE education. It states that: ²

- Our bodies are good because God created them and will raise them up on the last day.
- The human body is sacred — the visible image of God.
- God created male and female in God's plan for creation.
- The male and female body are, each in their characteristic way, made in the image and likeness of God.
- Life is precious and God-given from the moment of conception to natural death.
- Sex is a great gift of God who placed the ability to generate life in the human body, thereby sharing his creative power with us.
- Chastity is a spiritual power which frees love from selfishness and aggression for the sake of true self-giving realised in each person's specific vocation.
- A Christian practises the virtue of chastity by cultivating decency and modesty in behaviour dress and speech.
- Conjugal love makes married couples capable of the greatest possible gift, the gift by which they become co-operators with God for giving life to a new human person
- Sexual intercourse is an act of love within marriage
- Christian respect life because life comes from God and every person has a right to life. Therefore, abortion is forbidden.

6. Catholic Influence on State-run ETB schools

Atheist Ireland has published several reports, based on documents obtained under the Freedom of Information Act, that show that ETB schools be just as Catholic as schools under Catholic Church patronage. The following are extracts from the RSE policy of Coachford College, Cork.

This is not seen as a separate element within the RSE programme, but is integrated throughout the whole school ethos.

- The human body is sacred.
- The human body, since it is sexual, expresses the call of men and women to reciprocal love which is a mutual gift of self.
- Marriage is the natural context in which this self-giving love in its entirety is possible – because essentially it is orientated both to the loving unity of the couple and to cooperation with God in bringing new human life into the world.
- Young people thus will be encouraged to value the gift of chastity, and human sexuality which is also gift.

It is simply not in the common good to continue to deny children access to objective sex education, whether they are in Catholic-run or State-run schools. We cannot continue to say to parents and children that they can have Catholic sex education or no sex education at all.

7. Balancing the Constitutional Rights Involved

All of this is happening because of the deference the State has shown towards the Catholic Church. When balancing Constitutional rights, the right of religious institutions to evangelise has always trumped the rights of parents and their children.

In most cases the State 'provides for' the education of children in schools with a religious ethos. But parents and their children do not leave their Constitutional and human rights at the school gate just because the State is discharging its obligation to educate through mainly religious bodies.

It is not correct to say that just because families have sent their children to the local publicly funded school, that they agree with all the religious teachings of the patron body. This is not just in relation to minorities, but also to families who refer to themselves as Catholic. We know from the Marriage referendum that Catholic families do not necessarily live their lives according to the teachings of the Catholic Church.

And, even if the majority of parents in a particular area seek Catholic sex education in the only local publicly funded school, that is still not a reason to deny the rest of the school community access to objective sex education.

8. The Right to Freedom of Conscience

Individuals have a conscience, not institutions. Balancing the right of religious institutions with the rights of parents and their children is not an issue here. Parents have the right for their children to access objective sex education if that is what they wish.

Parents who object can opt their children out of Objective Sex Education classes. Some parents may continue to send their children to Religion classes where Catholic sex education is available and also Objective Sex Education classes.

This is not an issue for the conscience of teachers. Teachers cannot argue that they will not teach objective sex education if that is what parents and their children want. Teachers already deliver the State RSE curriculum but through the ethos of the Catholic Church. Many are legally obliged to do this because of Section 37 of our equality laws.

9. Irish Human Rights & Equality Commission 2015

The Irish Human Rights & Equality Commission does not believe that obliging schools to deliver the curriculum in an objective manner is unconstitutional. In 2015, in its Observations on the Education (Admission to Schools) Bill 2015, The Irish Human Rights & Equality Commission recommended: ³

"The Commission recommends that the new section 62(6) to be inserted into the Education Act should be amended to the effect that, in setting out the characteristic spirit and general objectives of the school, outside the specific context of faith formation and religious instruction which parents wish to avail of and where exemptions apply, regard shall

be had to providing information in relation to religion in an objective, critical and pluralistic manner that avoids indoctrination.”

10. Ombudsman for Children 2016

In its Submission to the Department of Education Statement of Strategy 2016-2018, referring to the Schools Admission Bill, the Ombudsman for Children stated that: ⁴

“Although in theory Relationships and Sexuality Education (RSE) has been mandatory since 1996, in practice each school has the discretion to develop its own RSE policy in accordance with its own ethos. In addition to this, the policy is subject to the approval of the board of management.

This leads to a significant inconsistency in the delivery of the RSE programmes throughout the country’s schools. It would be useful to consult with children and young people around their experiences of the RSE curriculum and in relation to what they would consider helpful in terms of curriculum content and delivery. Parents should also be consulted in this regard.”

The Ombudsman for Children recommended that:

“A single consistent curriculum for relationships and sexuality education should be developed and introduced across all schools. The standard curriculum should include sexual and reproductive health education at post-primary level. This curriculum and its delivery should be regularly evaluated.”

11. United Nations Rights on Sex Education

Our International obligations recognise that the right to health encompasses access to education and information on sexual and reproductive health. The UN has said that: ⁵

“Access to information includes “the right to seek, receive and impart information and ideas concerning health issues... The Committee on the Rights of the Child has recognised that “State parties should provide adolescents with access to sexual and reproductive information, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted diseases (STDs).”

“Similarly, the Committee on the Elimination of Discrimination Against Women has underscored the need to pay particular attention “to the health education of adolescents, including information and counselling on all methods of family planning. The Committee has further specified that health education for adolescents should address “gender equality, violence, prevention of sexually transmitted diseases and reproductive and sexual health rights.”

12. UN Committee on the Rights of the Child 2016

In 2016, the Committee on the Rights of the Child concluded that Ireland should: ⁶

“(c) Adopt a comprehensive sexual and reproductive health policy for adolescents and ensure that sexual and reproductive health education is part of the mandatory school curriculum and targeted at adolescent girls and boys, with special attention to the prevention of early pregnancy and sexually transmitted infections.”

13. Atheist Ireland and UN CEDAW 2017

In 2017, responding to a submission by Atheist Ireland, the UN Committee on Elimination of Discrimination against Women made this Recommendation to the Irish State. ⁷

“...the narrow approach towards the provision of sexuality education, owing to the fact the content of the relationship and sexuality education curriculum is left to institutions to deliver according to their individual ethos and values and as a result it is often taught together with courses on biology and religion.

[Ireland should] Integrate compulsory and standardised age-appropriate education on sexual and reproductive health and rights into school curricula, including comprehensive sex education for adolescent girls and boys covering responsible sexual behaviours and focused on preventing early pregnancies, and ensure that sex education is scientifically objective and its delivery by schools is closely monitored and evaluated.”

14. UN Human Rights Committee 2014

In July 2014 when Ireland appeared before the UN Human Rights Committee under the International Covenant on Civil & Political Rights they were asked:

“How does the Delegation explain the compatibility with the Covenant of a state of affairs that allows private schools, which have a near monopoly in Ireland on a vital public service, to openly discriminate in admission policies between children on the basis of their parents’ religious convictions? I would appreciate, whether orally or in writing, the Delegation’s theory on this point, on this legal point. And whether the State believes or not that it is required to ensure a neutral studying environment in those schools, in denominational schools, outside the confines of religious instruction classes that can be opted out from?”

The Irish State has never responded to this question. There is no neutral studying environment for sex education in Irish Schools, as the State does not oblige schools to deliver the State curriculum in an objective, critical and pluralistic manner.

15. Circular 0037/2010 and the European Social Charter

Circular Letter 0037/2010 issued by the Department of Education recognises the obligation of schools to have Relationship and Sexuality education. It states: ⁸

“access to sexual and health education is an important right for students under Article 11.2 of the European Social Charter. The Council of Europe European Committee of Social Rights, which examines complaints regarding breaches of the Charter, has indicated it regards this Article as requiring that health education “be provided throughout the entire period of schooling” and that sexual and reproductive health education is “objective, based on contemporary scientific evidence and does not involve censoring, withholding or intentionally misrepresenting information, for example as regards contraception or different means on maintaining sexual and reproductive health.”

However, this Circular does not oblige schools to ensure that all children have access to objective sex education without religious influence. Instead it states:

“The RSE policy should reflect the core values and ethos of the school as outlined in the school’s mission statement. Spiritual, moral and ethical issues may arise when teaching RSE. The school’s RSE policy should guide teachers in the treatment of such issues, in accordance with the ethos of the school.”

In practice, it is impossible to access the right to objective sex education under the European Social Charter through the ethos of the vast majority of schools in Ireland.

16. Circular 0037/2010 and the Need to Consult with Parents

Circular Letter 0037/2010 also refers to the right of parents to opt their children out of sex education. But in many schools, parents are not even informed that they can opt their children out of Catholic sex education classes. It is made compulsory. It is Catholic sex education or no sex education at all.

The Irish State has never consulted parents and their children in relation to sex education in schools. Successive governments have promoted the right of religious institutions (Article 44.2.5) over the right of parents to respect for their convictions in relation to the education of their children (Article 42.1).

Circular Letter 0037/2010 reminds schools that they have a responsibility to consult parents in relation to the social and health education of their children.

“Schools have a responsibility under Section 9 (e) of the Education Act 1998 to promote the moral, spiritual, social and personal development of students and promote health education for them, in consultation with their parents, having regard to the characteristic spirit of the school.”

But this simply never happens. Parents are not even aware that they can opt their children out of Catholic sex education. The Objective Sex Education Bill would change this.

17. Legal Limitations of the NCCA on Objective Delivery

In the Dail debate on the Solidarity Objective Education Bill, both the Government and Fianna Fail referred to the role of the NCCA in designing a solution to this problem.

But without the change in the law that Atheist Ireland recommends (and that are included in the Solidarity Bill), it does not matter what the NCCA decides, because the NCCA has no legal power over how the curriculum is delivered.

The NCCA recently addressed an issue with the exact same conflict, when it was asked to design a new course on Education about Religions, Beliefs, and Ethics. It identified, as problems to the objective delivery of the curriculum, the specific sections of the Education Act that Atheist Ireland recommends changing. ⁹

“The consultation brought to light many issues and systemic features that, while external to the development of curriculum and beyond the remit of the NCCA, have a significant impact on curriculum implementation in primary schools.

The legislation underpinning our education system is one such feature. The Education Act (1998), while recognising the rights of the patron body, has the unintended effect of limiting what is achievable through a State curriculum in Education about Religions and Beliefs and Ethics.

This challenge arises not from the patron bodies which have a legislative right to teach the primary curriculum in accordance with the ethos of their schools, but rather by the structure of the primary school system which is predominantly faith-based.

The provision of Sections 9(d), 15(2)(b) and 30(2)(b), among others, are potential barriers to the type of ‘objective, critical and pluralist’ approaches advocated in the proposals for a curriculum in ERB and Ethics.”

18. The Catholic Church opposes Objective Delivery

The Catholic Bishops and the Catholic Primary Schools Management Association both made written submissions to the NCCA consultation on Education about Religions, Beliefs and Ethics. ¹⁰

These submissions make clear that the Education Act needs to be changed, as is proposed in the Solidarity Bill, if there is to be any chance of objective sex education happening in practice.

The Catholic Bishops said:

“In the area of Relationships and Sexuality Education... it is explicitly acknowledged that the curriculum must be interpreted in the context of the characteristic spirit of the school. Similarly, NCCA proposals in areas such as religion and ethics should accord with the characteristic spirit of the school. The determination of the ethos or characteristic spirit of a

school is not the function of the NCCA or the Minister but rests with the Patron.”

The Catholic Primary Schools Management Association said:

“Based on this, the development of NCCA proposals in areas impinging on religious education and the characteristic spirit of the school are of a different nature than other NCCA proposals. This is already acknowledged in the area of Relationships and Sexuality Education as part of the NCCA SPHE curriculum where it is explicitly acknowledged that the curriculum must be interpreted in the context of the characteristic spirit of the school. Education about Religious Beliefs and Ethics is another such area.”

19. The Department of Education and Religious Ethos

The Department of Education has made clear, in a 2015 research paper titled ‘Advancing School Autonomy in the Irish School System’ that the existing legal position places the power in the hands of the patron bodies. ¹¹

“In all primary and post-primary schools, the school’s stated ethos (or characteristic spirit as it is termed in the legislation) is decided by the owners or patrons/trustees of the school and not by central government. Autonomy over ethos does not exist at the level of the school board, principal or teachers.

Indeed, one of the specific duties of a board is to uphold, and be accountable to the patron for so upholding, the characteristic spirit of the school. Thus, depending on the unit of analysis, schools may be viewed as fully autonomous in respect of ethos, or partly autonomous if the unit of analysis in an individual school operating within a specific ethos.”

20. Religious Ethos and the Primary School Curriculum

In the Introduction to the Primary School Curriculum it states: (page 57) ¹²

“The approach to the SPHE curriculum is determined in the first instance by the school ethos and will be mediated to the child in three contexts: through a positive school climate and atmosphere, through integration with other subjects, and in specifically allocated curriculum time.”

One of the specific aims of the Primary School Curriculum is

“to enable children to develop spiritual, moral and religious values”.

The General Objective is to

“develop the capacity to make ethical judgements informed by the tradition and ethos of the school”.

21. Conclusion and Repeat of Recommendations

The Irish State has failed to protect the rights of parents and their children in Irish schools because of the deference it has shown over the years to the Catholic Church.

The positive duty of the State to protect the rights of parents and their children has always taken second place to the right of religious institution to manage its own affairs and maintain institutions for religious or charitable purposes (Article 44.2.5).

We have seen nothing from the Office of the Attorney General or the Supreme Court that states that, in balancing rights, Article 44.2.5 must always take precedence over the rights of parents and their children under the Constitution.

- Atheist Ireland supports: (a) the mandatory provision in Irish schools of sexual and reproductive health education targeted at adolescent girls and boys, as recommended by the UN Committee on the Rights of the Child in 2016; (b) a single consistent curriculum for relationships and sexuality education across all schools, as recommended by the Ombudsman for Children in 2016; and (c) scientifically objective, standardised, age-appropriate education on sexual and reproductive health and rights, as recommended by the UN Committee on Elimination of Discrimination against Women in 2017. In the Dail debate on Solidarity's Objective Sex Education Bill in 2018, the Minister for Education acknowledged that young people have the right to get such factual information about sexual matters.
- Having factual content is not enough, if that content is delivered through the religious ethos of a school patron body. As well as the content being factual: (a) the content must be delivered in an objective, critical and pluralistic manner that avoids indoctrination, as part of the curriculum outside of optional religion classes, as recommended by the Irish Human Rights and Equality Commission in 2015; while (b) ensuring a neutral studying environment, including in denominational schools, outside the confines of optional religious instruction classes, as raised with Ireland by the UN Human Rights Committee in 2014.
- In order for the content to be delivered objectively without religious influence, the law will have to be amended, because the NCCA has no legal power over how the curriculum is delivered. Instead the school patron bodies can choose to deliver the curriculum according to their own religious ethos. The legal changes required include amending Sections 9(d), 15(2)(b) and 30(2)(b) of the Education Act, which have been identified as problems by the NCCA in 2017, and which are referred to in Solidarity's Objective Sex Education Bill in 2018.
- Atheist Ireland supports Solidarity's Objective Sex Education Bill, which broadly proposes the approach that we recommend. It provides a solid framework for any improvements that members of the Committee might suggest.

Yours sincerely,

Michael Nugent
Chairperson
Atheist Ireland

Jane Donnelly
Human Rights Officer
Atheist Ireland

- ¹ <https://www.religiouseducation.ie/wp-content/uploads/2016/05/RSE-Guidelines-Rofl-for-web.pdf>
- ² <http://www.veritasbooksonline.com/media/wysiwyg/9781847306241.pdf>
- ³ https://www.ihrec.ie/download/pdf/ihrec_observations_on_education_admission_to_schools_bill_2015.pdf
- ⁴ <https://www.oco.ie/app/uploads/2018/01/Final-OCO-Submission-to-DES-Consultation-Paper-for-website.pdf>
- ⁵ <http://www.ohchr.org/EN/Issues/Women/WRGS/Pages/HealthRights.aspx>
- ⁶ <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsvOufvUWRUJILHiLHKqpXZxUGOtzQF0l%2b37QzAKosbh7yc40d4J3lynFaWf0Egu6J99RK6Y%2fTHjpped5r1H3f3LRo8YLqQDqUXOKO5uvru3V>
- ⁷ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1071&Lang=en
- ⁸ https://www.education.ie/en/Circulars-and-Forms/Active-Circulars/cl0037_2010.pdf
- ⁹ https://www.ncca.ie/media/1898/consultation_report_erbe_february2017.pdf
- ¹⁰ https://www.ncca.ie/media/2827/erb_ethics_submissions.pdf
- ¹¹ <https://www.education.ie/en/Schools-Colleges/Information/Advancing-School-Autonomy-in-Ireland/School-Autonomy-Research-Paper.pdf>
- ¹² https://www.curriculumonline.ie/getmedia/c4a88a62-7818-4bb2-bb18-4c4ad37bc255/PSEC_Introduction-to-Primary-Curriculum_Eng.pdf