

# Atheist Ireland



**Submission to the Office of the Information Commission  
on the decision of Kildare and Wicklow  
Education and Training Board (KWETB)  
regarding our request for access to records  
(Your Ref 180086)**

9 July 2018

## **Contents**

1. Introduction
2. Records relating to the 'GMGY school network', CNS Management/Steering Group, and the NCCA
3. Other records – meetings or publications of the National Council for Curriculum and Assessment
4. Public Accountability and IHREC Act
5. Equality and Human Rights Duty
6. Records 49 and 91
7. Record 47
8. Records 50, 75 83, 95 & 96
9. Documents 89 and 90
10. Conclusion
11. Appendix

## **1. Introduction**

1.1 This is the second Submission from Atheist Ireland in relation to KWETB and access to records (Your Ref 180086). We ask that you also take cognisance of our first Submission in relation to the exemptions under the FOI used by KWETB to refuse access to some of the records.

1.2 One of the intentions with our FOI Request to KWETB was to ensure that we got correspondence, records and all records of other communication that related to the 'Characteristic spirit' of schools under the management, control and patronage of KWETB. We did not refer to the Catholic Church under FOI Request 4 for that particular reason.

1.3 The ethos or the legal term "characteristic spirit" under Section 15 of the Education Act 1998 is central to the running of schools in Ireland. The Characteristic Spirit of schools informs all aspects of the vision and aims of a school. It is central to the development of

policies and practices and most schools even have exemptions from equality laws in order to uphold their Characteristic Spirit.

1.4 Part of our FOI request was targeted at records relating to the 'Characteristic Spirit' of KWETB/CNS. The term 'characteristic spirit' is referred to under Section 15 – 2 (d) of the Education Act 1998. Records referring to meetings and correspondence of other agencies such as the CNS Management/Steering Group and the GMGY School Network Meetings are part of our request as they relate to the implementation of the values and principles of the Characteristic Spirit of the KWETB/CNS. The Characteristic Spirit of the KWETB/CNS covers a lot of areas. However, it is the ETBs/CNS that put in place the Characteristic Spirit and they are therefore accountable for it.

1.5 They also claim that they are publicly accountable:-

*“Community National Schools (CNS) are child-centred, multi-denominational, publicly-accountable schools which strive to provide high quality education for every child. They give equal opportunities to all children in the communities they serve. They were established in 2008 and are managed by the Education and Training Boards (ETBs).”*

1.6 In your letter to us dated 22nd June 2018 it states that:-

*“KWETB said that as a consequence of its review, it was of the opinion that a number of records should not have been listed in the original schedule as they do not fall within the scope of your FOI request. The records identified are nos. 1, 2, 4, 5-11 inclusive, 14, 15, 17, 54-74 inc., 76, 77, 80, 82, 83, 85, 87 & 92-94 inclusive.”*

*“All I can say is that many of the records refer to meetings and correspondence of other agencies such as the CNS Management/Steering Group. The KWETB explained that records identified as 'GMGY School Network Meeting', are meetings of all Community National Schools and hosted by the Department of Education and Skills. Other records are either meetings or publications of the National Council for Curriculum and Assessment, or do not refer to either the minutes or other correspondence of the KWETB or its colleges and representatives of the Roman Catholic Church, or Diocesan advisors.”*

1.7 Atheist Ireland takes the view that the records identified, numbers 1, 2, 4, 5-11 inclusive, 14, 15, 17, 54-74 inc., 76, 77, 80, 82, 83, 85, 87 and 92-94 inclusive are all records within scope of the review for the following reasons.

## **2. Records relating to the 'GMGY school network', CNS Management/Steering Group, and the NCCA**

2.1 Our FOI Request 4 seeks:

*4. Those parts of all correspondence, and all records of other communication, including minutes or notes of meetings, and including meetings of School Principals, between Kildare and Wicklow ETB and any of its Community Colleges and Community National Schools, since 1 July 2013, in relation to:*

- (a) The ethos and characteristic spirit of the school(s)*
- (b) The Religious Education policy of the school(s)*
- (c) The hiring of Religion teachers and the Selection Panel*
- (d) The hiring and payment of Chaplains*

The word 'including' does not mean 'limited to.'

2.2 While correspondence, records and all records of other communication with the Catholic Church are within the request under (4), it is not confined to only the Catholic Church. If it was then we would have confined our request to FOI Request 1. If there are records that concern the Characteristic Spirit of the CNS with the Catholic Church then we should have access to them and all other records that relate to the Characteristic Spirit of the CNS with other groups and agencies etc.

2.3 KWETB originally identified these records as coming within the scope of our FOI Request and our Appeal but were exempt under the FOI Act. It is only now that they are claiming that we did not Request these records. We appreciate that the OIC cannot be expected to understand the ramifications of the 'Characteristic Spirit' of schools under the patronage of the ETBs.

2.4 However, KWETB do appreciate the significance of 'Characteristic Spirit' and were under no illusions that the Records identified at the time of our FOI Request and Appeal were relevant to our FOI Request. It would be quite extraordinary if KWETB claimed that the Documents identified were not part of their Characteristic Spirit so the next best thing to claim is that we did not request them.

2.5 We are in a position now that if we lost this Appeal we will have to go back to KWETB and Request records relating to the 'GMGY School Network', the CNS Management/Steering Group and the NCCA. We did not know of the existence of three of these groups when we made our FOI requests to the ETBs. It seems that KWETB will then have to give us access to the records as there are no exemptions that they can use under the FOI Act.

2.6 We could not seek records from KWETB relating specifically to 'GMGY School Network' or the CNS Management/Steering Group as we were not aware of their existence. The understanding of the legal term Characteristic Spirit informed our FOI Request No 4 as it is not confined to religion or records that involve the Catholic Church or any particular group or agency.

2.7 While putting together this Submission we searched online for the ‘GMGY School Network meetings’ and one of the results of that search was a Document published by the NCCA in 2016 called:

*‘Goodness Me Goodness You’ Curriculum from Third to Sixth Class, Introduction and Overview’.*

2.8 That Document from the NCCA refers to the ‘GMGY School Network’ and the ‘CNS Management/Steering Group’ (NCCA is a statutory body, Education Section 1998 Section 38). The Document can be found here [www.gmgry.ie/wp.../14656-GMGY-Curriculum-for-Senior-Classes\\_overview\\_web.pdf](http://www.gmgry.ie/wp.../14656-GMGY-Curriculum-for-Senior-Classes_overview_web.pdf)

2.9 The Document states in the footnotes on page 1 that:

*“The Development of the Curriculum is informed by engagement with the GMGY School Network Group, a group consisting of a teacher representative from each CNS. The leadership role played by GMGY School Network Group ensures the Curriculum is developed in line with the school community.*

*The CNS Management Group, consisting of Principals and School Managers provide Guidance and Support in this process of curriculum implementation at school level.”*

*“This collaborative model of education described by the ethos\* of Community National Schools is also reflected in the evolution and development of the GMGY curriculum.” (page 6)*

*“Development continues to be informed by engagement with the GMGY School Network Group, a group consisting of a teacher representative from each CNS. The leadership role played by the GMGY School Network Group ensures the curriculum is developed in line with the school community. This connection is seen as essential in developing a curriculum that enables schools to live out their ethos\* fully.*

*In addition to the development process outlined above the GMGY project Team works closely with the CNS Management Group, comprising school leaders and school managers; and the CNS Steering Committee, comprising school managers and officials from the Dept of Education & Skills. Engagement with these groups provides an opportunity to share information from the Community National Schools and to discuss matters relating to curriculum implementation. The National Council for Curriculum and Assessment also seeks opportunities to connect with initiatives that may feed into the development of the GMGY curriculum.” (page 7)*

*“Ethos\* may be considered as an expression of the aims, objectives, goals, values and beliefs which the school aspires to, endorses and preserves. Ethos also places*

*and emphasis on the exposure and immersion of all within the school community to a prescribed set of values and beliefs. In this context school ethos\* has been understood as the atmosphere that emerges from the interaction of a number of aspects of school life, including teaching and learning, management and leadership, the use of images and symbols, rituals and practices, as well as goals and expectations.* (page 24)

[\* note: 'ethos' is in essence the same as 'characteristic spirit']

2.10 In a recent extensive research project on the 'Characteristic Spirit' of ETBs by the University of Limerick it states that:-

*"It is suggested that the Education Act avoids the use of the term ethos of a school (Tuohy 2008) in order to avoid faith based associations (O'Reilly 2002) and instead creates a unique concept of characteristic spirit. In contrast to the legal definition, Fischer (2010) suggests that the concept of characteristic spirit of schools reflects the values of the school, while Darmody and Smyth (2013) describe it as comprising the mission or vision of the school, the policies and practices, and school relationships. These two expressions of characteristic spirit require a broader understanding of the concept addressing all elements of the legal definition including religion and moral values."* (attached)

2.11 The GMGY course that is used in Community National Schools is an element of the 'Characteristic Spirit' of the Community National Schools and therefore comes within our FOI request No 4. Policies and practices are also part of the Characteristic Spirit of Community National Schools because they must be informed by the Characteristic Spirit and conform to its values and principles. Records relating to the CNS Management/Steering Group can only be viewed as part of the Characteristic Spirit of KWETB/CNS and consequently come under this review.

2.12 KWETB/CNS state that the GMGY course is part of their 'Characteristic Spirit'. They say that:

*"The Community National School characteristic spirit is centred around four core values"*

One of those values is:-

*"Experience the 'Goodness Me, Goodness You!' (GMGY) curriculum which is a multi-belief and values education curriculum.*

As the records identified as 'GMGY school network meeting' are part of the 'Characteristic Spirit' of KWETB/CNS they clearly come under our FOI request No 4.

2.13 KWETB have stated that:

*“The KWETB explained that records identified as 'GMGY School Network Meeting', are meetings of all Community National Schools and hosted by the Department of Education and Skills.”*

2.14 We do not understand why KWETB are saying this as it actually supports our claim to access to records. According to the NCCA Document the CNS Steering Committee comprises of school managers and officials from the Dept of Education & Skills.

2.15 The NCCA Document also states that the ethos Characteristic spirit of the CNS is

*“understood as the atmosphere that emerges from the interaction of a number of aspects of school life, including teaching and learning, management and leadership, the use of images and symbols, rituals and practices, as well as goals and expectations.”*

2.16 There are approx 11 Community National Schools around the country under various ETBs. KWETB is one of them. The GMGY course is part of the ‘Characteristic Spirit’ of all of these schools. Some of the records were identified as ‘GMGY school network meeting’, which informs us that these are the records that our request under question 4 targeted as it relates to the ‘Characteristic Spirit’ of KWETB and the CNS.

2.17 Records relating to the various groups, ‘GMGY School Network Group’, CNS Management Group and CNS Steering Committee all come under our Request as all these various groups are obliged to eliminate discrimination, protect human rights and comply with the Characteristic Spirit of KWETB/CNS. These records are part of the Management and Leadership of the KWETB/CNS which is informed by their Characteristic Spirit.

2.18 What are we expected to do to get access to these records? Are we expected to send in an FOI request to every ETB that is a Patron to the CNS to access the same records? Every ETB could say the very same thing in refusing access to the records. Just because they are meetings of all the Community National Schools, other ETBs/CNS attended them as well as the Dept of Education does not mean that they are not part of our request and that we should not get access to them.

2.19 The KWETB website directs people to the website for the CNS for more information on these schools. If you click on ‘Primary education’ on Cork Education and Training Board website it takes you directly to the main Community National Schools website.

2.20 This is what the KWETB/CNS say regarding their Characteristic Spirit

*“Like all primary schools, Community National Schools follow the Primary School Curriculum, (DES, 1999). However, a significant aspect of the model is its unique ‘ethos’ or ‘characteristic spirit’.*

*The Community National School characteristic spirit is centred around four core values.*

#### *Excellence in Education*

*In terms of 'Excellence in Education' your child will:*

- Be provided with a child-centred education that caters for their intellectual, physical, cultural, moral and spiritual needs*
- Have the highest calibre of teacher who will challenge them at their level and guide their learning in a manner appropriate to their individual needs*
- Experience the curriculum in the most innovative, stimulating ways to enhance their love of learning*
- Be in an environment that nurtures their well-being and personal development*

#### *Multi-denominational*

- Experience the 'Goodness Me, Goodness You!' (GMGY) curriculum which is a multi-belief and values education curriculum.*
- Deepen their understanding of their own family's religion or beliefs with the help of their teacher and parents in an environment that recognises and celebrates this important part of your child's identity (where appropriate).*
- Learn about other children's religions and beliefs and learn how to engage in inter-belief dialogue*
- Be supported to receive specific classes in their own faith or belief by members of their own belief community outside of the school day*

#### *Equality-Based*

*In terms of 'Equality-Based', your child will:*

- Be treated with dignity and respect and learn how to live harmoniously in a diverse society*
- Learn that every human being is equally important and that we have a right to be treated fairly and a responsibility to treat others fairly*
- Learn about the values of the school, such as equality, human rights and citizenship*
- Learn to challenge discrimination and prejudice*

#### *Community-Focused*

*In terms of 'Community-Focused, your child will:*

- Experience a school environment that encourages parental involvement in all aspects of school life*
- Benefit from the support and expertise of the wider community*

- *Enjoy the resources available in the community to enhance their educational experience*
- *See their parents be given opportunities for adult education through in school through the ETB*
- *These four core values are closely inter-related and are collectively unique to the Community National Schools.*

<http://cns.ie/who-we-are/>

2.21 The statement of the Characteristic spirit of the CNS can be found here  
<http://cns.ie/ethos-statement/>

### **3. Other records – meetings or publications of the National Council for Curriculum and Assessment**

3.1 The NCCA are a statutory body responsible for putting together the GMGY course for all the Community National Schools including the CNS schools under the control of KWETB. The NCCA are not going to deal individually with all 16 different ETBs in relation to the roll out of the GMGY course in their schools and prospective schools. Anything that relates to the NCCA comes under our FOI Request 4, ‘all records of other communication’, as it is part of the ‘Characteristic spirit’ of the CNS.

3.2 The NCCA are also responsible for the state curriculum and the CNS website states that:-

*“Like all primary schools, Community National Schools follow the Primary School Curriculum, (DES, 1999). However, a significant aspect of the model is its unique ‘ethos’ or ‘characteristic spirit’.”*

3.3 The Characteristic Spirit of schools informs how the State curriculum is delivered in all schools; this is not particular to schools under the management and patronage of the ETBs. The reason that KWETB/CNS are in possession of records about meetings and publications of the NCCA is because they relate to the delivery of the GMGY Course and also the Primary school curriculum which is delivered through *“its unique ‘ethos’ or ‘characteristic spirit’”*. In addition any other records that relate to the GMGY course or other issues will also be delivered through the unique ‘Characteristic Spirit’ of KWETB/CNS. All these records come under our FOI Request No 4 and are under the review.

### **4. Public Accountability and IHREC Act**

4.1 All ETBs are ‘public bodies’ under the Irish Human Rights and Equality Commission Act (see appendix). All ETBs have a legal responsibility under Section 42 (1) of the Irish Human Rights & Equality Commission Act 2014 to eliminate discrimination and protect the human rights of its members, staff and the persons to whom it provides services. This public service

duty is therefore also part of the Characteristic Spirit of all ETBs which includes KWETB and the CNS.

4.2 The Characteristic Spirit of KWETB/CNS also covers the following which reflects their 'public service' duty under the IHREC Act 2014.

4.3 The CNS website states that:

- *"In terms of 'Equality-Based', your child will:*
- *Be treated with dignity and respect and learn how to live harmoniously in a diverse society*
- *Learn that every human being is equally important and that we have a right to be treated fairly and a responsibility to treat others fairly*
- *Learn about the values of the school, such as equality, human rights and citizenship*
- *Learn to challenge discrimination and prejudice "*

4.4 In the performance of their functions KWETB/CNS are obliged to eliminate discrimination and protect human rights. All policies and practices are covered under FOI Request No.4 as they relate to the Characteristic Spirit of the KWETB and the CNS. Policies and practices are informed by the aims and values that underpin the Characteristic Spirit of KWETB/CNS.

4.5 KWETB/CNS claim that they are publicly accountable. Part the aim of FOI Request No 4 was to access records in the public interest to ensure that they were performing their functions in accordance with Section 42 of the IHREC Act 2014 which is part of their Characteristic Spirit. This covers records under 'GMGY school network meeting' and CNS Management/Steering Group under FOI Request Question 4. We want to ensure that they are fulfilling their obligations under the IHREC Act and that all their policies and practices reflect their duty to protect human rights and eliminate discrimination. We also want to ensure that in developing policy and practice that they have taken into account their public service duty under the IHREC Act.

4.6 Section 42 (2) of the IHREC Act states that:

*"For the purposes of giving effect to subsection (1), a public body shall, having regard to the functions and purpose of the body and to its size and the resources available to it—*

*(a) set out in a manner that is accessible to the public in its strategic plan (howsoever described) an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues, and*

*(b) report in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described)."*

4.7 The latest publication from KWETB in relation to Section 42 (2) of the IHREC Act 2014 is their Service Plan 2018, which can be found here <http://kildarewicklow.etb.ie/about-us/publications/>

4.8 The Service Plan of KWETB does not set out an assessment of the human rights and equality issues in relation to its delivery of education at primary or second level. It refers to Community National Schools on page 8 and also speaks on future divestment plans by the Dept of Education.

4.9 KWETB are obliged to report in a manner that is accessible to the public on developments and achievements in relation to their obligation under the IHREC Act 2014. These issues are also part of their Characteristic Spirit. KWETB have failed to report publicly on their achievements in their Service Plan for 2018.

4.10 The public have no way of knowing whether or not KWETB/CNS has taken on board their obligations under the IHREC Act 2014 and applied it to their services. In particular the public have no way of knowing if KWETB have applied its obligations under the IHREC Act 2014 to its unique Characteristic Spirit.

4.11 Access to the Records is in the public interest given the fact that KWETB have disregarded their obligation to report publicly. The public interest in gaining access to the records outweighs any exemptions under Sections 35, 29 and 37 of the FOI Act.

4.12 It is also worth noting the ETBI (umbrella body for the ETBs) received a grant from the Irish Human Rights & Equality Commission in 2017 to:

*“Development of a framework of supports for implementing the Public Sector Equality and Human Rights Duty across the Education and Training Boards Sector.”  
(page 18)*

*<https://www.ihrec.ie/documents/annual-report-2017/>*

4.13 Despite the ETBI being the national representative body for member ETBs it is still a private body that does not come under the FOI Act (See OIC Decision 170490). The logo of the ETBI appears at the top of the Community National Schools website. Despite this we cannot get access to records under the FOI Act from the ETBI relating to their engagement with the ETBs/CNS on developing a framework of supports for implementing their Public Sector duty.

## **5. Equality and Human Rights Duty**

5.1 It is in the public interest to get access to all records from the various meetings and groups including the Dept of Education that are involved in the Community National schools

and indeed all schools under the patronage of the ETBs to ensure their engagement with their public service equality and human rights duty.

## **6. Records 49 and 91**

6.1 Your letter dated 22nd June States that:-

*“Records 49 and 91 – KWETB have stated that it proposes to part-grant access to these records on the basis of section 37 (1) of the FOI Act. The redacted information is non-personal.”*

6.2 If the redacted information is non-personal, why are KWETB using the exemption under Section 37(1)? In addition, we believe that the public interest is served by releasing the records in full.

## **7. Record 47**

7.1 We ask that you examine Record 47 and the claim of KWETB that the withheld information is not within the scope of our FOI Request in light of our comments re the Characteristic Spirit of KWETB/CNS. In addition we believe that the public interest is served by releasing the record in full.

## **8. Records 50, 75 83, 95 & 96**

8.1 Atheist Ireland believes that the above records are non-personal, and are not confidential, as they relate to the Characteristic Spirit of KWETB/CNS and how they operate on the ground.

8.2 Document No. 50 ‘email from Parish Pastoral Worker’ is part of the Characteristic Spirit of the KWETB/CNS. Their Characteristic Spirit states that:-

*“Be supported to receive specific classes in their own faith or belief by members of their own belief community outside of the school day”*

8.3 Records relating to specific classes outside the school day, nurturing belief within the school day or/and the cost of such all come within the Characteristic Spirit of KWETB/CNS. Atheist Ireland believes that the public interest would be better served by releasing the records in order to ensure public accountability.

## **9. Documents 89 and 90**

9.1 We refer you to our original submission and would also ask that you take on board this submission and the points raised in it. Specifically the points raised re Characteristic Spirit, IHREC Act 2014 and public accountability.

## 10. Conclusion

10.1 The Community National Schools under ETB patronage have been contentious since they started in 2008. Accessing information in the public interest is difficult.

10.2 An example of this is that the CNS has a Media Protocol in place which is unheard of in the education system. Despite their claim that they are publicly accountable, getting access to information is really difficult. The claim by KWETB that the records listed were not part of the scope of our FOI request is an example of how difficult it is to get access to records in the public interest.

10.3 In this article by Emma O'Kelly from RTE it states that:-

*"It states that the Department of Education has a "strategic role" in the sector's development "and in matters related to 'Goodness Me! Goodness You!' in particular". "Therefore" it continues "ETBI may liaise with the DES in relation to media queries on these issues".*

*[media protocol attached]*

*<https://www.rte.ie/news/analysis-and-comment/2018/0321/949046-teachers-journalists-instructions/>*

10.4 As we have outlined in our Submission the ETBI are a private body notwithstanding the fact that they are the umbrella body for the ETBs and that their logo appears on the CNS website. A private body are the go-to people for information on the CNS, and this private body does not come under the FOI Act. We have no information on where this policy came from or why it was put in place and if all the school community was consulted. It is in the public interest to get access to information such as this.

10.5 Using the FOI Act is the only way to get access to the records of groups such as the GMGY School Network Group, CNS Management Group, and the CNS Steering Group and any other groups that have control within the ETB sector.

10.6 Accessing the Records in this review is in the public interest, and that public interest outweighs any exemptions under the FOI Act. The FOI Request from Atheist Ireland did seek these records and we ask that you disregard objections from the KWETB in this regard.

## 11. Appendix

### Atheist Ireland FOI Request

*1. All correspondence, and all records of other communications, including minutes or notes of meetings, in relation to Community Colleges and Community National Schools between Kildare and Wicklow ETB and representatives of the Roman Catholic Church, including Diocesan Advisors since 1 July 2013.*

*2. Those parts of minutes of Kildare and Wicklow ETB meetings that refer to Religious Education, Religious Education Policy, Ethos, Characteristic spirit, Hiring of Religion teachers and arrangements for opting out of religion in Community Colleges and Community National Schools since 1 July 2013.*

*3. All correspondence, and all records of other communications, including minutes or notes of meetings, between Community Colleges and Community National Schools of Kildare and Wicklow ETB and representatives of the Roman Catholic Church, including Diocesan Advisors, since 1 July 2013.*

*4. Those parts of all correspondence, and all records of other communication, including minutes or notes of meetings, and including meetings of School Principals, between Kildare and Wicklow ETB and any of its Community Colleges and Community National Schools, since 1 July 2013, in relation to:*

- (a) The ethos and characteristic spirit of the school(s)*
- (b) The Religious Education policy of the school(s)*
- (c) The hiring of Religion teachers and the Selection Panel*
- (d) The hiring and payment of Chaplains*

#### **Section 42 of the Irish Human Rights & Equality Commission Act 1998**

*A public body shall, in the performance of its functions, have regard to the need to—*

- (a) eliminate discrimination,*
- (b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and*
- (c) protect the human rights of its members, staff and the persons to whom it provides services.*

#### **Section 42(2)**

*For the purposes of giving effect to subsection (1), a public body shall, having regard to the functions and purpose of the body and to its size and the resources available to it—*

- (a) set out in a manner that is accessible to the public in its strategic plan (howsoever described) an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues, and*
- (b) report in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described).*