



# Submission to the Data Protection Commission

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**Regarding the public consultation on the processing of Children's personal data and the rights of children as data subjects under the General Data Protection Regulation**

**Date:** 1<sup>st</sup> March 2019

**Submission developed by:**

Representative Body of the Church of Ireland

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## Introduction

The Church of Ireland is a Christian church in Ireland and an autonomous province of the Anglican Communion. It is organised on an all-Ireland basis and is generally identified as a Protestant church. The Church of Ireland has approximately 375,400 members: 249,000 in Northern Ireland and 126,400 in the Republic of Ireland. The Representative Church Body (RCB) was incorporated by Charter in 1870 under the provisions of the Irish Church Act 1869. It acts as the charitable trustee and 'civil service' of the Church, holding property and administering funds on its behalf.

Children's and youth ministry is an important part of the Church's mission, which takes place in a variety of settings, including Sunday schools, youth clubs and youth fellowships, uniformed organisations, and special events and programmes for children, teenagers and young adults alike.

- The **Children's Ministry Network** comprises representatives from each diocese nominated by the Bishop and also representatives from the central Church. It supports grassroots leaders, diocesan representatives and clergy who are engaged in children's ministry and provides training which is designed and delivered appropriately to meet local requirements.
- The **Sunday School Society** works to promote the work of Sunday schools and Sunday clubs throughout the Church of Ireland, and to organise training for leaders.
- The **Church of Ireland Youth Department** is responsible for the development and co-ordination of youth ministry in the Church of Ireland by equipping the Church in Christian youth ministry and youth work practice, empowering the Church regarding youth work issues and concerns, engaging with volunteers, youth workers and Church leaders, and understanding our context.
- The **Board of Education** defines and promotes the policy of the Church in education, maintains close contact with government and other educational and school authorities, and studies and responds to legislation or proposed legislation which is likely to affect the Church's educational interests.

## Preparation of Submission

A series of workshops and engagements with key stakeholders took place to inform the detail of this submission. Consultation was across the breadth of the Church and stakeholders included those advocating for the rights of children, working directly with children and/or processing children's data on behalf of the Church.

Those who engaged with this submission included:

- Child Protection / Safeguarding Department
- Data Protection Officer, Representative Church Body
- Development Officer and Representatives from the Children's Ministry Network
- Education Adviser to the Church of Ireland's World Aid and Development Programme
- Garda Vetting Department
- Graduate Intern at the Representative Church Body
- Head of Synod Services and Communications Department
- Secretary to the General Synod's Board of Education and Education Officer (Rol)
- Sunday School Society: Children's Ministry Development Officer & Regional Representatives
- Youth Department: National Youth Officer & Ministry Development Officer

## Responses to Questions

### **Theme 1. Children as data subjects and the exercise of their data protection rights**

#### **A) Transparency and the right to be informed about use of personal data**

**Question 1:** What methods could organisations who collect and use children's personal data employ to easily convey this transparency information to children?

**Response:**

Whilst it is very important to recognise children's rights alongside these decisions, it was agreed that parents/guardians (and others in direct positions of authority with children through children's activities e.g. teachers, kids club leaders) need to be central players in the process of conveying transparency information to children. In this way, parents/guardians should be viewed as active partners.

- **Registration Forms – parent/guardian:** every year each Parish requires parents/guardians to complete a registration form containing personal information pertaining to children. Completion of registration forms is a requirement (Children First: National Guidelines for the Protection and Welfare of Children) for all children taking part in youth activities. As it is a legal requirement for youth organisations etc. to collect this information, it would seem appropriate to add information about how children's personal data is used to this form.
  - When completing the form parents / guardians should be asked to consult with their child and to highlight what personal data is being provided, why it has to be given and what it will be used for
  - Guidance could be provided on the form about the rights of children in relation to their personal data with some guidance for the parent/guardian
- **Guidelines –** It would be useful for parent/guardian receive a brief set of guidelines on data protection, outlining children's rights. This could include the overall principles and rights of data protection along with some practical methods of explaining data protection to children. The guidelines could also provide tips as how to explain transparency to their child.
- **Communication Collateral –** The data protection team for the Church have developed 'child friendly' posters for children to explain data protection to them. These have worked very well and are available on the Church of Ireland website for all Parishes and families to use.

**Question 2:** What approach should be used by organisations whose products or services are aimed at both adults and children?

**Response:**

- All agreed that a standardised approach should be promoted across all community-based organisations/NGOs operating in Ireland. A suite of templates, online resources and other communication collateral that was rolled out nationally would help ensure the same, consistent message was being heard across the Country. If, for example, a standard consent form was created and made available, organisations, parents/guardians and children would become familiar with the form and the questions being asked. This would allow consistency of response, especially for those filling out the form (who may have to do this for a variety of reasons/across of number of different organisations).
- Development of an accessible, plain English proof guide with diagrams, cartoons and simple explanations. If a 6 year old can understand it, a 60 year old should be able to understand it
  - Audio & animated version of the guide would be useful to play with associated worksheets and supporting material
  - Interactive 'training' / online resource – before information gathered online this should have to be completed



- Separate worksheets could be developed for children, depending on the amount of personal information being gathered. This could include fun activities (word search; yes/no etc.) to explain data protection to children.
- A resource website that included videos, animations, interactive platform and specific guidance when processing children's data etc. would be very useful. Whilst the Church has developed templates and communication (available within the Parish Resource Section of our website) it would be beneficial for this to be led from a national perspective.

## **Theme 1. Children as data subjects and the exercise of their data protection rights**

### **B) Right of Access**

**Question 3:** At what age or in what circumstance should a child be able to make an access request to an organisation and receive a copy of their personal data? Is age the only relevant factor and if not, what other factors should be taken into consideration?

#### **Response:**

- A child should be able to request access to their own personal data at any age with the involvement of their parent/guardian.
- A child should not be able to make an access request on their own under the age of 16 years. They should have the support of a parent/guardian to do this.
- Between the age of 16-17 years, the decision should be made jointly (in consultation) between parents/guardian and the child.
- However, if the child aged between 16-17 years is not living at home, then they should be able to make the decision for themselves.

#### **Other factors that should be taken into consideration:**

- Family circumstances with assurances that the appropriate safeguards are in place.
- The sensitivity of the data and how a child might react if they received information about reports of bullying, medical; psychological or other very sensitive data without appropriate supports being in place.
- Vulnerable children at risk need to be supported.
- Educational status – if they have left school at 16 years, the same provisions may apply as/if the child was not living at home.

**Question 4:** At what age or in what circumstance should a parent be able to make an access request to an organisation and receive a copy of their child's personal data?

#### **Response:**

- A parent/guardian should be able to request access a copy of their child's data up to the age of 16 years. It is preferable if this is done in consultation with the child.
- Between the age of 16-17 years, where a child is living at home and/or in full time education the decision should be made jointly (in consultation) between parent/guardian and the child.
- If a child is aged between of 16-17 years, and not living at home or in full-time Education the parent/guardian should not be able to make an access request without the expressed permission of the child

#### **Other factors that should be taken into consideration:**

- Family circumstances with assurances that the appropriate safeguards are in place.
- The sensitivity of the data and how a parent might react.
- There are certain exemptions from reporting underage consensual sexual activity under section 14(3) of the Children First Act 2015 and this should be mandated for.

**Question 5:** How can the balance be struck between a parent's right to protect the best interests of their child and the child's right to privacy when organisations are dealing with access requests for the child's personal data?

**Response:**

- In most instances the balance should rest upon the child's legal guardian, who is trusted to make decisions on their behalf (unless there are extenuating circumstances, for example a vulnerable child)
- For 16/17 year olds, specific circumstances need to be considered e.g. if there's a bullying incident or complaint, it can become complicated e.g. if parents are sued by the state on behalf of their children.
- In reporting or not reporting a child's engagement in a sexual relationship between the ages of 15-17.
- Once the individual turns 18, it is then up to the parent's to seek consent from their child for their information.

## **Theme 1. Children as data subjects and the exercise of their data protection rights**

### **(C) Right to Erasure**

**Question 6:** At what age or in what circumstances should a child be able to make an erasure request to the Church of Ireland to have their personal data erased? Is age the only relevant factor and if not, what other factors should be taken into consideration?

**Response:**

- Age is a primary factor in this debate as a child should also be cautioned about erasing their personal data before doing so (they may not realise the longer term consequences of the action). Clear guidance and information needs to be provided at the time of the request, by the organisation holding the data.
- In general, it was agreed that up to 16 years, a child should not be able to make an erasure request without the consent of their parent/guardian.
- Between 16/17 this should be done in partnership with a parent/guardian expect for when the child is no longer living at home.
- Other factors to do with the child: e.g. information about child in care; reports of allegations; reports of alleged bullying; mental and psychological health of the child; health of the child
- Other factors to do with who has collected the data: e.g. if it is personal data collected from a marketing agency; Social Media account; online service provider of commodities etc. a child could make this decision at the age of 13years.
- Other factors to do with the type of data: e.g. if a child has given their mobile number and would like this erased, a child could make this decision at the age of 13years.

**Question 7:** In what circumstance should a parent be able to make an erasure request on behalf of their child and have their child's personal data erased? Is there an upper age limit after which a parent should not be able to make an erasure request for their child's personal data? Are there circumstances where both the parent and child should have to jointly make an erasure request?

**Response:**

- A parent should be able to make an erasure request on behalf of a child up to the age of 16years. Between 13-16years, a parent/guardian **should** have the permission from their child to do this. Consultation is key as the personal data belongs to the 'child' rather than the parent.
- Once the child is 16years, a parent/guardian cannot make an erasure request without the consent of their child.

**Question 8-13 are not applicable to the activities carried out by the Church of Ireland**



#### Theme 4. Data Protection by Design and by Default

**Question 14:** What measures should organisations take to incorporate the principles of data protection by design and default into the services and products that they offer to children?

- Each data controller (there are four within the Church Structure) must have a documented process and procedure to incorporate the principles of data protection by design and default, with a focus on children and the needs of children
- Clear poster and messaging in place so that children are very aware of what data they are providing and how it will be used by the organisation
- Children's Registration Forms should be updated to clearly and proactively explain what data protection is
- Data mapping exercise should be regularly undertaken to ensure children's data is adequately protected
- Limited personal information should be collected and retained for minimum amount of time
- Review CCTV systems, where in place, to ensure that the child's right to privacy has been recorded in the DPIA and that information posters and other communication collateral regarding the systematic collection of images is in plain English and accessible to children
- Consent required by children aged 16yrs and older
- Consent on behalf of child under 16yrs required

**Question 15:** Do you think products/services that are used by or offered to children should have built-in default privacy settings that vary according to the age and evolving capacities of a child? For example, should there be stricter privacy settings for younger children? How should these variations in the privacy settings be given effect?

- Yes, built-in default privacy settings should be built in.
- Variations could be across categories such as: 'Pre-school' – 'Primary school' – 'Secondary School'
- For children under 13years, parental/guardian consent should be required to share a mobile number and join a WhatsApp group; social media account etc.
- Between 13yrs and 15yrs, a child needs to be very well informed prior to joining the above about the risks to their personal data and how to leave from such groups

#### Theme 5. General

**Question 16:** Are there any other particular issues you would like to raise with the DPC in connection with the subject matter of this consultation?

More clarity would be welcomed for organisations processing children's personal data. This could include:

- Guidelines on maximum amounts of children's personal data that should be and can be processed
- How best to balance children's right to privacy and parent/guardian right to be informed
- Best practice on managing children's data and meeting the rights of children
- How this fits with child protection policies and requirements to maintain data