

# Church of the Flying Spaghetti Monster in Ireland



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**Parties:** Mr John Hamill  
Church of the Flying Spaghetti Monster in Ireland

v

Dr Michael Mulvey  
Dundalk Institute of Technology

**Issue:** Equal Status Act  
ADJ-00027156  
CA-00034750

**Date:** 3rd February 2022

**Location:** Remote Hearing

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## Information for Remote Hearing:

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**Complainant:**

Mr John Hamill  
Church of the Flying Spaghetti Monster in Ireland



**Witness:**

Mr Michael Nugent  
Atheist Ireland



**Evidence:**

In his role as the Chair of Atheist Ireland, Mr Nugent has engaged with very many third level educational institutions over many years. This includes arranging events that were explicitly critical of religion, and which were not entirely dissimilar to the non-religious service that Mr Hamill applied to arrange at the Dundalk Institute of Technology. Mr Nugent can give evidence about how uniquely hostile towards non-religious applicants that the Dundalk Institute of Technology has been, in comparison to how other third level institutions facilitate equivalent non-religious services.

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## 1. Introduction

### 1.1

This case relates to direct discrimination on the religion ground by Dundalk Institute of Technology (DkIT) contrary to the Equal Status Act. DkIT provides cultural services to the broad catchment area across their region. This includes employing a Pastoral Care Co-ordinator, and previously a Chaplain, where the job description of both roles includes "*connecting with local religious and non-religious communities*". These connections have involved facilitating religious leaders within the catchment area, in delivering religious services on campus at no cost to those churches. However, in the case of Mr Hamill's non-religious community, DkIT has applied a prohibitive commercial charge (along with other obstacles) when Mr Hamill sought to deliver an equivalent non-religious service. Through the application of a prohibitive charge that is not applied to religious groups, DkIT has treated Mr Hamill less favourably than others because others have religious beliefs and Mr Hamill has not.

### 1.2

Mr Hamill wrote to DkIT on 16th December 2019, requesting that a non-religious service be facilitated in the same manner that DkIT had regularly facilitated religious services. In refusing to provide equivalent facilitation to Mr Hamill, on 3rd February 2020 DkIT explained this decision by referring to their position "*as outlined at the WRC Adjudication Hearing on 25/06/2019*". That hearing related to the case with Adjudication Reference ADJ-00016879 and Complaint Reference CA-00021903. Mr Hamill does not seek to re-litigate that case. Instead, Mr Hamill will refer to the previously published WRC Decision only because DkIT has used the same position that they outlined during that hearing, to explain their refusal to facilitate Mr Hamill in the current case.

### 1.3

The previous case also involved a request from Mr Hamill to arrange a service at DkIT, on similar terms to those that had been offered to religious groups by the institute. After that hearing there was no finding of religious discrimination and the adjudicator explained that decision as follows:

*"In my view the approach taken by the complainant at the adjudication hearing that he was discriminated against because he has no religious beliefs is inconsistent with the ES1 form and the WRC complaint form where he claims to have been discriminated on the grounds of his non-mainstream religious beliefs."*

The adjudicator was indeed correct that in the previous case the initial correspondence from Mr Hamill (and also the ES1 Form written by Mr Hamill) referred to a number of different religious and non-religious organisations that wished to arrange services (including the Celtic Druid Temple). Subsequent to the publication of that adjudication however, Mr Hamill wrote again to DkIT making it clear that he is an atheist and that he wished to arrange a non-religious service. The result was the same, in that DkIT again treated Mr Hamill less favourably than others who have religious beliefs. That is, those with religious beliefs are facilitated by DkIT in arranging religious services at no cost, whereas a prohibitive commercial charge is demanded from Mr Hamill before he may arrange a non-religious service.

## 2. Services Provided by DkIT

### 2.1

Some relevant pages from the Performance Compact between DkIT and the HEA in relation to the community services provided by DkIT, are included in Appendix 1. This document describes the agreed context in which State funding is provided to DkIT. The title of the document refers to "*serving the North Leinster - South Ulster Region*". On page 9, DkIT refers to:

*"... its distinctive mission and commitment to the educational, economic, social and cultural development of the North."*

On page 53, the stated Key Objectives of DkIT include a strategy that is summarised as follows:

*"The institute aims to deliver on its promise to learners, to the community and to the region and is committed to promoting equality of opportunity."*

## 2.2

These goals are also reflected in the most recent DkIT Strategic Plan. The relevant pages of this document are also included in Appendix 2. The subtitle of the plan is *"Connected Learning, Connected Communities, Connected Future"* and the President's Foreword on page 5 states as follows:

*"Central to the theme of this Strategy is the connected community served by the Institute - its internal community of learners and staff and external community stakeholders, including employers, enterprise, community organisations and others."*

The publicly-funded services provided by DkIT, are then not limited to educational services towards its students. DkIT also provides social and cultural services to community organisations as external stakeholders from across the region.

## 2.3

The definition of a *"service"* within the Acts explicitly includes *"cultural activities"*, and there are many practical examples of DkIT providing such services to community organisations across the region, rather than just limiting services to their own staff and students. For example, the Louth County Council Culture and Creativity Strategy 2018-2022 is included in Appendix 1, and page 11 states as follows:

*"Dundalk Institute of Technology (DkIT) is our third level partner with a complement of 5,300 students and 500 staff drawn from the County, its hinterland and beyond. Its role includes maximizing the impact that the Institute can have on the economic, social and cultural life of the people living in its catchment."*

## 2.4

Also, Volunteer Ireland is the national volunteer development agency and DkIT established the *"Community Connect @DkIT"* initiative with the Volunteer Louth group. The announcement of this initiative on the Volunteer Louth web site is included in Appendix 1 and begins as follows:

*"Dundalk Institute of Technology ... stepped up their campaign to engage with the community in Dundalk and Co Louth by opening the campus to local community groups."*

## 2.5

Another initiative that DkIT is involved with includes providing facilities on campus for use by a group called Places of Sanctuary Ireland (PoSI). As illustrated in Appendix 1, the DkIT web site described these activities as follows:

*"... the meeting was addressed by Tian Yu Lloyd, Assistant Coordinator of Places of Sanctuary Ireland. Other members of the external community of Dundalk were also in attendance as well as members of the Carroll Village Direct Provision Centre ... PoSI works through community groups, schools and colleges, churches, local councils businesses and other organisations in the belief that these newcomers have a huge amount to offer Irish society."*

This valuable work with PoSI is not the only DkIT community outreach that involves working through churches. For example, on many occasions DkIT can be seen to help advertise the activities of local churches. This can often be observed in tweets issued from the official DkIT Twitter account, advertising activities such as a *"Solemn Novena"*. As illustrated in Appendix 1,

these advertisements from DkIT explicitly highlight their role in providing services to the broader community, by using hashtags such as #DkITCommunity and #Religion.

For clarity, Mr Hamill does not refer to these tweets from the official DkIT Twitter account in order to complain about them. Rather, Mr Hamill accepts that outreach towards both religious and non-religious organisations within the broad DkIT catchment area is entirely appropriate.

## 2.6

The connections between DkIT and the variety of different religious and non-religious groups in their catchment area are also suggested within documents intended for students at the institute. For example, in the DkIT Undergraduate Guide for 2019-2020, there is a section in the document for the Chaplaincy. This section states that the Chaplaincy *"is available to all students"* and that *"Chaplaincy staff organise a variety of events and services"*. Specifically, Chaplaincy staff have certainly organised a variety of religious events, including those that have involved religious votaries from the catchment area providing religious services on campus. It should be expected that the same staff should facilitate non-religious events in the same way, rather than refuse to offer the same facilitation for non-religious services or to introduce prohibitive charges only for non-religious services.

## **3. Narrative**

### 3.1

On 16th December 2019 Mr Hamill wrote to DkIT, requesting that a non-religious service should be arranged according to the beliefs of his non-religious group. The letter was delivered by registered post on 17th December 2019. Both this correspondence and the registered post receipt is included in Appendix 2. Moreover, all of the further correspondence between the parties that is relevant to this complaint, is also included in Appendix 2.

In his correspondence of 16th December 2019, Mr Hamill proposed that the non-religious service should take place on 28th January 2020. Even allowing for the closure of the college from 24th December 2019 until 2nd January 2020, this is a notice period of well over 4 weeks. Mr Hamill outlined the theological issues that would be mentioned during the proposed service, and the non-religious perspectives that would be articulated. DkIT declined to facilitate the proposed non-religious service. In contrast, religious services promoting religious perspectives have been welcomed when they were sought by religious votaries in the catchment area.

### 3.2

On 28th January 2020 Mr Hamill sent an ES1 Form to DkIT, describing the less favourable treatment of Mr Hamill and his non-religious beliefs, as compared to the treatment of those with religious beliefs. The ES1 Form was delivered by registered post on 29th January 2020 and the contents of the document outlined the less favourable treatment of Mr Hamill, compared to those with religious beliefs. In particular, the ES1 Form included the following questions:

*"Has the Chaplaincy at Dundalk IT ever facilitated any non-religious service from any external non-religious body, which described non-religious beliefs that are explicitly opposed to Roman Catholic beliefs?"*

*Whereas DkIT has arranged a very large number of Roman Catholic Services; and whereas DkIT has declined to arrange my non-religious service; is there any objective reason to explain this less favourable treatment of me, other than the fact that I have no religious beliefs while those who have been permitted to arrange services have religious beliefs?"*

These questions represent the core issues at the heart of this case. To date no answer has been provided by DkIT, in terms describing any objective rationale for the less favourable treatment of Mr Hamill.

### 3.3

On 3rd February 2020, DkIT sent a letter to Mr Hamill. This letter firstly confirmed that Mr Hamill's request to arrange a non-religious service would be processed by the DkIT according to the policies "as outlined at the WRC Adjudication Hearing on 25/06/2019". The letter then went on to outline that Mr Hamill's request would be treated according to the same process by which any commercial organisation can hire a venue at DkIT on commercial terms. Mr Hamill was already very familiar with this process as he had previously hired rooms at DkIT over several years on behalf of his software business. DkIT chaplaincy staff have been in the habit of arranging many religious events and facilitating religious votaries from their catchment area in leading religious services. However, the Pastoral Care Coordinator as a member of the chaplaincy staff, was now refusing to facilitate Mr Hamill in the same way. Instead, there would be no facilitation whatsoever of Mr Hamill by the chaplaincy staff, and instead Mr Hamill was being directed to hire a room just as any commercial organisation can.

### 3.4

On 6th February 2020, Mr Hamill responded to the letter from DkIT. This correspondence was delivered by registered post to DkIT on 7th February 2020. In this letter, Mr Hamill stated as follows:

*"Given the very large volume of Roman Catholic services that have been facilitated by the Chaplaincy, including those arranged on behalf of outside Roman Catholic bodies from across the broad catchment area of the institute, it does not seem like an especially onerous request to seek just one non-religious service that would include content opposed to those Roman Catholic teachings ... There have been literally hundreds of Roman Catholic services arranged by the Dundalk IT Chaplaincy on campus, including those for external Roman Catholic votaries from the broad catchment area of the institute, and at no time has the Roman Catholic Church been charged by the institute for facilitating any of those services. I now understand your policies to require that not even a single non-religious service opposing Roman Catholic teachings can be permitted, without a charge being applied. These policies appear designed to welcome and promote those with religious beliefs, while creating prohibitive barriers to those with non-religious beliefs."*

Mr Hamill went on to state that he did not wish to be prescriptive in terms of which room would be used for his service. Rather, he simply wished that his request for a non-religious service would be facilitated by DkIT in the same way that DkIT had already facilitated many religious services. Mr Hamill then proposed a revised date of 3rd March 2020 for his proposed one-hour non-religious service.

### 3.5

On 18th February 2019, DkIT provided a completed ES2 Form to Mr Hamill. In answer to Mr Hamill's question that sought the objective reason why he was being treated less favourably than religious votaries, DkIT stated as follows:

*"You complained complained to the Workplace Relations Commission on 17/9/19 contending that you were discriminated against on religious grounds. The Workplace Relations Commission found that the facts were not established to infer discrimination and your complaint was not well founded Adjudication Ref ADJ-00016879"*

That is, DkIT could offer no objective reason why Mr Hamill was being treated less favourably than religious votaries in their catchment area. DkIT could offer no policy, from either before or after the Chaplain was replaced by the Pastoral Care Coordinator, to explain the less favourable treatment of Mr Hamill. Rather, the previous WRC adjudication was being used as a license to treat Mr Hamill

less favourably than religious votaries, even though Mr Hamill had explicitly remedied the reason why his previous complaint was found not to be well founded.

### 3.6

On 19th February 2019, DkIT wrote again to Mr Hamill. This letter reiterated that Mr Hamill's request for a non-religious service would be processed as "*outlined at the WRC Adjudication Hearing on 25/06/2019*". Specifically, this letter again instructed Mr Hamill that the Pastoral Care Coordinator with the job description that includes "*connecting with local religious and non-religious groups*" would not be facilitating Mr Hamill in any way, and instead Mr Hamill could only hire a room according to the same venue hire terms offered to any commercial organisation in the area.

### 3.7

On 20th February 2020, Mr Hamill submitted a Freedom of Information request to DkIT, seeking any information on new policies that could explain the differing treatment of Mr Hamill as compared to the previous treatment of religious votaries. Specifically, the Freedom of Information requisition sought the following documents:

*"All records, communications and meeting minutes discussing the role of the new Pastoral Care Coordinator and how it will differ from the role of the Chaplain, including any new policies to be applied or changes in existing policy."*

That is, DkIT had made Mr Hamill aware that the role of Chaplain within the Institute had changed into a Pastoral Care Coordinator role, and Mr Hamill wished to understand if there was a commensurate change in policy that could explain his less favourable treatment as compared to religious representatives.

### 3.8

On 10th March 2020, DkIT provided a response to Mr Hamill's Freedom of Information request. This response confirmed that there were only "*minor changes*" in the job description of the Pastoral Care Coordinator as compared to that of the Chaplain. Those changes were limited to providing "*spiritual direction*" to students but since Mr Hamill had never requested any "*spiritual direction*" to be provided, this issue is not relevant. The relevant part of the Chaplain's job description was "*connecting with local religious and non-religious groups*" and that part of that language was repeated verbatim identical in the job description of the Pastoral Care Coordinator. Moreover, it was also confirmed that there were no new procedures or policies introduced that might explain why Mr Hamill was being treated less favourably as compared to the treatment previously provided to religious votaries.

## **4. Less Favourable Treatment**

### 4.1

Between 2008 and 2011 inclusive, Mr Hamill was the Chief Executive of a software company that rented office space from DkIT. During this period and since, Mr Hamill has rented venues in Dundalk for multiple business events. Several of the events arranged personally by Mr Hamill were located in conference rooms booked through DkIT, involving external partners and customers attending on-site at DkIT for several days. As such, Mr Hamill is very familiar with the process of venue hire at DkIT. A brochure describing this commercial venue hire service is included in Appendix 3.

### 4.2

Arranging events with multiple attendees can have many implications for insurance, health and safety risks, associated risk mitigation plans, along with other considerations. Where an external party seeks to hire a meeting room from DkIT, they must first complete a Risk Assessment Form. This Form is included in Appendix 3 and that document also makes clear that where staff at DkIT are making arrangements for an external speaker to use a room, it is the member of DkIT staff

rather than the external party that performs the commensurate risk assessment work. As such, any service that is arranged by a member of staff at DkIT, even where the event is in conjunction with an external speaker, will be much less onerous for the external party than an event arranged independently by that external party. This large difference between events arranged by DkIT staff and events arranged by external parties, is of course compounded by the onerous fees that may be charged to external parties for arranging events on the DkIT campus.

#### 4.3

Appendix 3 includes details of a series of events that were arranged by the Chaplain at DkIT in conjunction with external speakers from the Dundalk Pastoral Area within the Roman Catholic Archdiocese of Armagh. These events fit neatly within the sections of the Chaplain's job description that involves "*connecting with local religious and non-religious groups*". That part of the Chaplain's job description is repeated verbatim identical in the job description of the Pastoral Care Coordinator. As such, these events were arranged by a member of staff at DkIT and there was no charge to the Roman Catholic Church for facilitating these events.

#### 4.4

When Mr Hamill sought to arrange a similar non-religious service through the Chaplain and Pastoral Care Coordinator, he was not facilitated with the same process that was used for religious services involving external speakers from religious groups. Instead, Mr Hamill was told to make all of the arrangements independently himself, and instructed that the normal venue hire commercial rates, terms and conditions would apply to him. This represents less favourable treatment of Mr Hamill by DkIT and there is absolutely no objective reason and no policy that explains this less favourable treatment.

### **5. Respondent Arguments**

#### 5.1

In Mr Hamill's ES1 Form he asked DkIT if they had "*ever facilitated any non-religious service from any external non-religious body*". The answer provided by DkIT in their ES2 Form of 18th February 2020 was as follows:

*"As previously outlined in the Workplace Relations Commission Hearing of 25/6/19 the Pastoral Care service (formerly Chaplaincy) provides pastoral support to students and facilitates religious and non-religious ceremonies on request by students."*

This is a false statement. DkIT will not facilitate any non-religious services even when they are requested by students, whereas religious services are frequently facilitated. A student at DkIT previously requested a Pastafarian service to be provided by Mr Hamill specifically. In response, DkIT explained that other students in exactly the same class, who had paid exactly the same fees, would be welcome to attend Roman Catholic Mass provided on campus. However, DkIT refused to facilitate any services provided by Mr Hamill on campus, even when explicitly requested by a student. The email thread between DkIT and the student making the request is provided in Appendix 4.

#### 5.2

In addition to making false statements to Mr Hamill in an attempt to justify their less favourable treatment of him, DkIT has also made false statements to the WRC on this matter. For example, the adjudication with reference ADJ-00016879 is currently published on the WRC web site. In the section of that adjudication titled "*Findings and Conclusions*", the document recounts the following verbal submission made by DkIT during the previous hearing:

*"The respondent, for its part, confirmed that if it received a request from the complainant for the use of a room for this purpose it would provide a room to him. In that regard, the*

*process for seeking to use a room in the Institute is the same for the complainant as it is for all other groups."*

It can now be seen that this statement made to the WRC during the previous hearing is absolutely false. Many religious services have been arranged on campus at no cost to the external votaries that have delivered those services, whereas only the non-religious services have a prohibitive charge applied by DkIT. The DkIT representative with who is assigned to *"connecting with local religious and non-religious groups"*, in fact connects only with local religious groups and refuses to connect in any way with local non-religious groups.

DkIT has sought to explain their less favourable treatment of Mr Hamill by referring to their position *"as outlined in the Workplace Relations Commission Hearing of 25/6/19"*. However, the DkIT position that was outlined during that hearing can now be seen as demonstrably untrue.

## **6. Conclusion**

### 6.1

Mr Hamill submits that DkIT treated him less favourably than others, because others have religious beliefs and Mr Hamill does not. In order to demonstrate this, Mr Hamill has described how he was treated less favourably than religious comparators, such as the Dundalk Pastoral Area within the Roman Catholic Archdiocese of Armagh. Moreover, Mr Hamill has also demonstrated that in attempting to explain this less favourable treatment, DkIT has made a series of materially false statements to both Mr Hamill and to the WRC.

### 6.2

Mr Hamill also proposes that a direct comparator exists in respect of an event at DkIT, in the context of Archbishop Eamon Martin informing the institute that he was *"doing a tour of the area"*. The interest that Archbishop Eamon Martin expressed in arranging a service on campus as part of his tour and the subsequent event arranged by DkIT, are described in Appendix 5.

### 6.3

As demonstrated by the Freedom of Information request, there were no new relevant policies or procedures being implemented by the Pastoral Care Coordinator with respect to Mr Hamill's interest in arranging a service, as compared to the policies and procedures that were implemented by the Chaplain when Archbishop Martin expressed an interest in arranging a service. On both occasions, DkIT had assigned a representative with a job description that included *"connecting with local religious and non-religious communities"*, using verbatim identical language in each case. However, Mr Hamill's request was treated very differently from Archbishop Martin's request.

### 6.4

When Archbishop Martin informed DkIT that he was *"doing a tour of the area"* and was interested in arranging a service on campus to promote Roman Catholic beliefs, the response of the DkIT was as follows:

- i) Archbishop Martin's request was dealt with by the DkIT representative with a job description that included *"connecting with local religious and non-religious communities"*
- ii) a representative of DkIT arranged a date for the service that was convenient for Archbishop Martin
- iii) a representative of DkIT arranged a venue on campus for the Roman Catholic service, at no cost to Archbishop Martin
- iv) a representative of DkIT created posters advertising the service to students, at no cost to Archbishop Martin
- v) representatives of DkIT advertised and promoted the service through the institute's main social media channels

- vi) a representative of DkIT ensured that no risk management processes or other overheads would be imposed on Archbishop Martin, so that all such issues were managed by the institute on Archbishop Martin's behalf

In fact, these arrangements were not limited to the visit of Archbishop Martin alone but rather, other services on campus for other external Roman Catholic groups were also arranged by DkIT in the same manner.

#### 6.5

In contrast, when Mr Hamill expressed an interest in arranging a service on campus to promote non-religious beliefs, the response of the DkIT was as follows:

- i) the DkIT representative with a job description that included "*connecting with local religious and non-religious communities*" did not engage with Mr Hamill in any way, or provide any assistance to Mr Hamill whatsoever
- ii) no representative of DkIT helped arranged a date for the service despite Mr Hamill suggesting several days and times with more than 4 weeks advanced notice
- iii) no representative of DkIT arranged a venue on campus for Mr Hamill but instead, Mr Hamill was instructed to hire a venue himself at his own cost
- iv) no representative of DkIT was willing to create posters that might advertise Mr Hamill's service to students
- v) no representative of DkIT was willing to advertise or promote Mr Hamill's service through the institute's main social media channels
- vi) no representative of DkIT ensured that risk management processes or other overheads would be addressed, so that all such issues would be the responsibility of Mr Hamill

Whereas all of the same policies and procedures were in place at DkIT when Archbishop Martin expressed an interest in arranging a service as compared to when Mr Hamill expressed an interest in arranging a service, DkIT treated Mr Hamill much less favourably. There could hardly be a more clear case of religious discrimination imaginable than assigning a representative to welcome only the votaries of religious groups on campus, while creating prohibitive cost barriers that only apply to non-religious groups.

#### 6.4

Section 38(A) of the Act deals with the burden of proof and states that where "*in any proceedings facts are established by or on behalf of a person from which it may be presumed that prohibited conduct has occurred in relation to him or her, it is for the respondent to prove the contrary*".

It is submitted that a prima facie case of discrimination has been demonstrated and that the burden of proof should shift to DkIT to rebut this claim on the balance of probabilities. Specifically, it is submitted that it should be for DkIT to prove that the less favourable treatment applied to Mr Hamill in comparison to the comparator outlined herein, is based on fair and objective set of criteria, which are consistently applied to those of all faiths and none. It is submitted that it should be for DkIT to prove that the prohibitive arrangements that made it difficult for Mr Hamill to arrange a non-religious service on campus, have also been applied equally to all religious bodies.

Signed April 2021:



Mr John Hamill.