

Public Consultation on the Processing of Children's Personal Data and the Rights of Children as Data Subjects under the General Data Protection Regulation

Contents

Introduction	3
NCCA's remit	3
Processes for working with children and students	5
Reflections on and from our experience	6
Concluding comments	7
Appendix A: <i>Primary Language Curriculum</i> Consultation	9
Appendix B: <i>Senior Cycle Review</i> Student Voice	14

Introduction

The National Council for Curriculum and Assessment (NCCA) welcomes the Data Protection Commission's (DPC) public consultation on issues relating to the processing of children's personal data and the rights of children as data subjects under the General Data Protection Regulation (GDPR). The NCCA welcomes the opportunity to contribute to the consultation through this written submission. Collectively, young children and students are a key voice and stakeholder in the Council's formulation of curriculum and assessment advice. In this context, the NCCA looks forward to drawing on the guidance materials on the subject of children and data protection which will be developed by the DPC and informed by the consultation findings.

This short submission sets out a summary of the NCCA's remit and focuses on the Council's work with young children and students as part of curriculum review and development. In particular, the submission draws attention to the Council's work over the last year in enhancing the processing of children's personal data and protecting their rights as data subjects under GDPR.

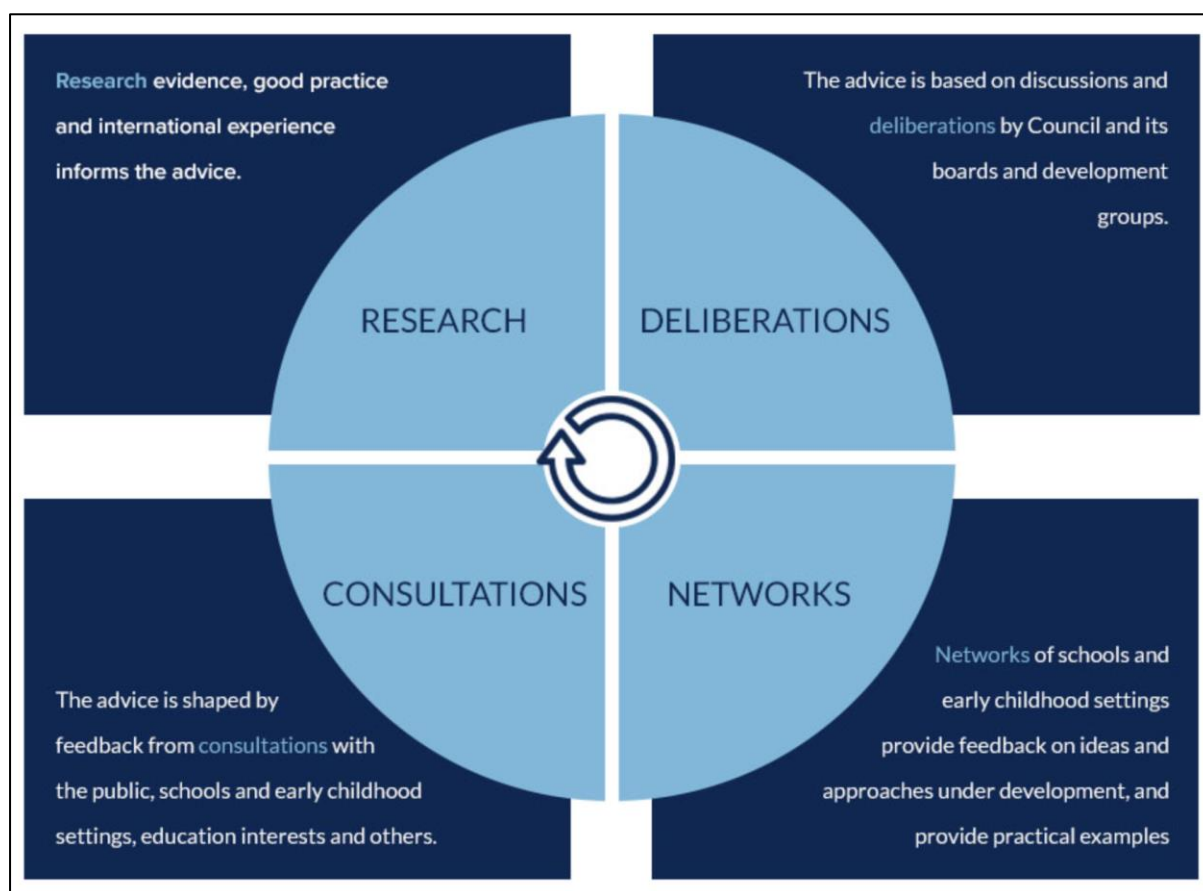
NCCA's remit

The NCCA is a statutory body of the Department of Education and Skills. The Council advises the Minister for Education and Skills on:

1. curriculum and assessment for early childhood education, primary and post-primary schools.
2. assessment procedures used in schools and examinations on subjects which are part of the curriculum.

This advice is developed through Research, Deliberation, Consultation and Networks as outlined below in Figure 1.

Figure 1: Process for developing advice



The Council sets out its work priorities in a three-year strategic plan. These priorities contribute to the overall vision of leading innovation in education for learning, living and working in a changing world. [Read the Strategic Plan here.](#)

While the NCCA is not responsible for implementing curriculum change, it supports educational change in early childhood settings and in schools by developing a range of support materials such as examples of children's and students' work, examples of practice, online toolkits and planning resources, and by working with those introducing new developments to practitioners and teachers.

The twenty-five members of the Council are appointed by the Minister for a three-year term. The members are nominated by the partners in education, industry and trade union interests, parents' organisations and other educational interests. The Council also includes one nominee each of the Minister for Education and Skills and the Minister for Children and Youth Affairs. The Minister for Education and Skills appoints the Chairperson. [See the Council members here.](#)

The NCCA is a Data Controller and a Data Processor. The Council sets out the responsibilities of the organisation in relation to data protection in its Data Protection Policy.

Legal basis for gathering and processing personal data

The NCCA's role is set out in Article 41 of the Education Act (1998):

41.—(1) The object of the Council shall be to advise the Minister on matters relating to—

- (a) the curriculum for early childhood education, primary and post-primary schools, and
- (b) the assessment procedures employed in schools and examinations on subjects which are part of the curriculum.

As such, processing personal data is part of the NCCA's work in fulfilling its statutory remit in advising the Minister for Education and Skills on curriculum and assessment matters from early childhood through to senior cycle education. In its work with early childhood settings and schools, the Council also seeks consent from the individuals involved in the work with children and students being a key group. In working directly with children and students, the types of personal data gathered and published by the NCCA include:

- video recordings
- audio recordings
- photographs
- reproductions of hand-drawn and written work.

This content is edited for publication on the organisation's websites and in hard-copy materials such as curriculum specifications and assessment guidelines, information leaflets and tip sheets; for use in presentations; and/or analysed and reported on for consultation/research purposes.

Processes for working with children and students

The NCCA is committed to listening to children's and students' voices and incorporating their perspectives and their experiences into curriculum and assessment development from early childhood through to senior cycle. This engagement happens in a number of ways.

Consultations: Children and students participate in consultations on draft curriculum specifications such as *Aistear: the Early Childhood Curriculum Framework*, the new *Primary Language Curriculum/Curaclam Teanga na Bunscoile* and the range of curriculum specifications as part of the reform of junior cycle. More recently, students have been playing a key role in the review of senior cycle education through sharing their experiences of it and their ideas for improvements. By and large,

this consultative work involves the NCCA recording feedback from children and students in a variety of formats including written feedback as well as audio and video recordings.

Exemplification: Exemplification of children's and students' learning and, more generally, of teaching and learning, lies at the heart of curriculum specifications. This involves the NCCA working directly with practitioners/teachers, managers/principals, children/students, and parents to gather video, audio, and photographic examples from early childhood settings and from primary and post-primary schools, and editing and annotating these in preparation for publication.

In the case of consultations and exemplification, the NCCA seeks consent from each child/student and his/her parents/guardians, and from relevant staff. Where young children are involved, assent is sought. In seeking consent, data subjects are informed of the purpose(s) of gathering feedback and examples and are made aware of how this material will be used. In publishing examples of children's/students' work, surnames are not used in recordings or in written work. In the case of post-primary examples used to illustrate 'standard', these are published in a password-protected area on www.curriculumonline.ie for the purpose of protecting students' privacy rights. Only teachers registered with the Teaching Council have access to this space through use of their Teacher Registration number. Children and students can, at any point and through their parents/guardians, request that their image/work be removed from the NCCA websites by contacting the Council's Data Protection Officer (DPO). The NCCA has a policy of deleting children's and students' personal data six years after it is collected.

Reflections on and from our experience

As noted, the NCCA works with children and students as part of the process in developing curriculum and assessment advice. This centrality of young people to the work brings responsibilities and challenges related to data protection and privacy rights.

One of these relates to ensuring adequate consent and assent procedures. This has led to the development of separate consent templates for young children and students (see Appendices A and B for examples). For the former, consent is sought from parents/guardians while also asking the child for his/her assent. In the case of post-primary students under 18 years of age, both parents/guardians and students are asked for consent. In reflecting on these practices, a question arises as to the age at which it is most appropriate and most ethical to seek written consent rather than assent from children.

Further, a question arises as to the age at which a child's/student's consent overrides that of a parent/guardian.

When planning projects and involving children and students in its work, the NCCA has a responsibility to clearly identify the purpose of gathering photographs and videos of children and examples of their work. This involves articulating clearly and precisely why data is being gathered, how it will be used and by whom when creating consent/assent forms. This can be challenging at the outset of a curriculum project which can often have a developmental dimension and therefore evolve in terms of purpose and outputs. Future-proofing from a consent perspective can be challenging. The consent forms in Appendices A and B illustrate the significant attention and consideration which the Council gives to this aspect of data protection and privacy rights.

Retention periods for photographs/videos/examples of children's learning can have significant implications for the NCCA's work. The Council uses six years as the retention period for children's and students' personal data. In contrast, curriculum specifications have a longer lifespan and can often support teaching and learning for 10 to 20 years before being reviewed and updated. The exemplification work described briefly above, which is central to supporting schools' work with specifications, involves a significant staffing and financial investment on the part of the NCCA. Taking account of these factors, the Council sees the period of six years as a fair and reasonable balance of data protection responsibilities, children's and students' privacy rights, and the Council's curriculum development responsibilities.

Concluding comments

From early 2018 and in preparing for the introduction of the General Data Protection Regulation, the NCCA has been reviewing and updating its processes and tools for seeking consent/assent, for gathering and using children's and students' personal data to inform and help shape curriculum and assessment advice for the Minister, and for deleting personal data. This work is central to how the Council fulfils its remit. As noted earlier, guideline materials developed by the DPC on foot of this consultation on children's personal data and privacy rights will be an important reference point for the NCCA's work in this area. In this regard, the Council looks forward to the outcome of the consultation.

Appendix A: *Primary Language Curriculum* Consultation

The NCCA worked with primary schools as part of the 2018 consultation on the draft *Primary Language Curriculum/Curaclam Teanga na Bunscoile*. This involved working directly with children in third to sixth classes in order to gather their feedback and their experiences. The consent forms overleaf were used to seek consent for this work.

Consent for children's participation

Dear Parent/Guardian,

The National Council for Curriculum and Assessment (NCCA) advises the Minister for Education and Skills on curriculum and assessment for early childhood education, primary and post-primary schools. At present, the NCCA is developing the Primary Language Curriculum for 3rd to 6th class in primary schools. As part of this work, we are gathering feedback on a draft of the curriculum. We wish:

- to gather children's feedback on language learning (English and Irish).
- to gather photographs of language lessons in classrooms.

What material will be gathered and how will it be used?

_____ (Setting's/School's Name) is taking part in the work on the language curriculum. We will be visiting the setting/school on _____, _____. During our visit we will talk to children and gather written feedback on their experiences of language learning in school. We will also take photographs.

The NCCA would be delighted if your child would take part in this project.

- Your child's feedback may be used in the report on the draft curriculum. This report will be published on the NCCA's website at www.ncca.ie.
- Your child's photograph may be used in the report.
- Your child's feedback and/or photograph may be used in NCCA presentations on the report.

Your child can stop taking part in the project at any stage. Your child's name will not be used in the published material.

What are your rights regarding personal data?

You and your child have the following rights, in certain circumstances and subject to applicable exemptions, in relation to the personal data we hold:

- the right to access the personal data and information about our processing of that personal data
- the right to require us to correct any inaccuracies in the personal data
- the right to require us to erase the personal data
- the right to request that we no longer process the personal data for particular purposes

- the right to object to our use of the personal data or the way in which we process it.

Please note that to help protect your privacy and that of your child, we take steps to verify your identity before giving access to personal data.

NCCA will hold the photos/videos/written material for six years after which it will be deleted. You may, at any time, request that we remove any image/video your child appears in during these six years by contacting NCCA's Data Protection Officer at dpo@ncca.ie or by phoning 01 661 7177 or by writing to Data Protection Officer, NCCA, 35 Fitzwilliam Square, Dublin 2, D02 KH36.

Please contact _____, NCCA, at [@ncca.ie](mailto:dpo@ncca.ie) or 01 661 7177 if you would like more information about this project.

Thank you for taking the time to read this letter.

Kind regards,

Education Officer name

Education Officer, NCCA

Project identifier no:

Consent form for children's participation: Parents'/Guardians' Copy

Please keep this form for your own records and return the one below to _____
(practitioner's/teacher's name).

I give consent to the NCCA to gather written feedback from _____ (child's/student's name).	<input type="checkbox"/> Yes, I give consent. <input type="checkbox"/> No, I do not give consent.
I give consent to the NCCA for this feedback to be included in the report which will appear on the website www.ncca.ie .	<input type="checkbox"/> Yes, I give consent. <input type="checkbox"/> No, I do not give consent.
I give consent to the NCCA to photograph _____ (child's/student's name).	<input type="checkbox"/> Yes, I give consent. <input type="checkbox"/> No, I do not give consent.
I give consent to the NCCA for these photographs to be included in the report which will appear on the website www.ncca.ie	<input type="checkbox"/> Yes, I give consent. <input type="checkbox"/> No, I do not give consent.

Signed: _____ (Parent/Guardian)

Date: _____

Home address:

Setting/school name and address: _____

(The addresses help us to verify who you are if you ask us for your personal data which we hold.)

_____ (child's/student's name) agrees to take part in the NCCA's work.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Where possible, child/student can sign below if he/she agrees to take part in the NCCA's work. Child's/student's signature: _____	

Thank you for allowing your child to be involved in this important work.

Project identifier no:

Consent form for children's participation: NCCA's copy

Please keep this form for your own records and return the one below to _____
(practitioner's/teacher's name).

I give consent to the NCCA to gather written feedback from _____ (child's/student's name).	<input type="checkbox"/> Yes, I give consent. <input type="checkbox"/> No, I do not give consent.
I give consent to the NCCA for this feedback to be included in the report which will appear on the website www.ncca.ie .	<input type="checkbox"/> Yes, I give consent. <input type="checkbox"/> No, I do not give consent.
I give consent to the NCCA to photograph _____ (child's/student's name).	<input type="checkbox"/> Yes, I give consent. <input type="checkbox"/> No, I do not give consent.
I give consent to the NCCA for these photographs to be included in the report which will appear on the website www.ncca.ie	<input type="checkbox"/> Yes, I give consent. <input type="checkbox"/> No, I do not give consent.

Signed: _____ (Parent/Guardian)

Date: _____

Home address:

Setting/school name and address: _____

(The addresses help us to verify who you are if you ask us for your personal data which we hold.)

_____ (child's/student's name) agrees to take part in the NCCA's work.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Where possible, child/student can sign below if he/she agrees to take part in the NCCA's work. Child's/student's signature: _____	

Thank you for allowing your child to be involved in this important work.

Appendix B: *Senior Cycle Review* Student Voice

The NCCA worked with 41 post-primary schools across the country as part of its Senior Cycle Review consultation work. This work involved consulting with the school communities of teachers, parents and students asking them to formulate and share their thinking with the NCCA on the purpose of senior cycle education in Ireland.

The following pages contain the information we made available about the student voice process as well as the Student Assent Form.

Senior Cycle Review: **Student Voice Process**

Rationale

The process outlined below is intended to provide guidance on eliciting information from students that will be used to inform Senior Cycle Review. In addition, it is hoped that schools will use the approach in the introductory session with 50-60 students as a model that might be adapted for future Student Voice sessions they would organise for students. Using this model Student Voice may increasingly be seen as involving more than a small representative sample of students. Student responses from the introductory session will be available for the school to use to inform their future development work in Student Voice activities and in senior cycle more generally.

The Process

The procedure for the Student Voice process within the Senior Cycle Review requires each mentor together with one other NCCA member of staff to visit each Network School for one day. During the visit NCCA staff will work with 50-60 students (including 10 second/ third years) for approximately one and a half hours. This **Introductory Session** will act as a warm-up activity for students who are involved in the three separate Focus Group discussions. Each **Focus Group** discussion will last 60 minutes.

In selecting the 50-60 students to take part in the **Introductory Session**, schools will ensure that the group is randomly selected from across the student cohort at senior cycle (including TY, LCA, LCVP and LCE programmes).

Senior Cycle Review: **Student Voice Process**

The same criteria will also apply to the 10 Junior Cycle students identified to be part of the introductory activity.

Schools will provide parents/guardians and students with information sheets and consent forms in advance of the day. All students must have completed consent forms to complete the introductory session and the Focus Group activity. Students will also be told by the school that a random group of 30 students will be selected to take part in a follow-up discussion later that day.

Practical Arrangements for Introductory Activity

- In advance of the NCCA visit, an area will have been identified by the school for engaging 50/60 students in group discussion.
- The school will ensure that prior to the session, the room is set out with chairs and tables to accommodate 50/60 students comfortably in groups of 5/6. A wall area will also be needed to allow students to display their post-its following the discussion session.
- NCCA staff will provide material for the activity –pens/markers, post-its, question/prompt sheets for group discussion and wall posters for collating student post-it responses.
- Two/three members of school staff will be required to be present during the activity to support the organisation of the discussion.
- The 90-minute Introductory Session will include a general introduction- (15 minutes).
 - explanation of the purpose of session (slides)
 - the value of Student Voice (SV slides)
 - 'rules for engagement'

Introductory Session – Group Discussions

The NCCA facilitator will read out the first question and associated prompts (see Student Voice Question Sheet). She/he will start the discussion based on the prompts provided. Each group will work in pairs/ threes.

The NCCA Facilitator will indicate when there are two minutes out of the 10 minute discussion remaining for each question. At the end of ten minutes, each pair writes out their agreed points on the post-its provided. One member of the pair then places the group's post-its under the relevant question on the wall.

This process is repeated for Question 2 and 3.

Whole Group Summary Session (15 minutes)

The final session is facilitated as a whole group discussion. NCCA staff provide a summary of the main points raised by the groups from the range of post-its on the wall. Students are asked to reflect on this feedback and consider anything which surprised them. Students have the opportunity to make any additional points or ask questions.

The students are informed that their feedback post-its will be used by school staff to inform further thinking on Senior Cycle/Student Voice developments.

NCCA staff then randomly choose 20 Senior Cycle Students and 10 Junior Cycle Students to participate in the Focus Group Sessions. Each member of the Focus Group will be provided with a slip for their teacher indicating that they have permission to be involved in the Focus Group together with the time and venue for the discussion.

Focus Group Discussions

The school should provide a quiet room for the purpose of the Focus Group set out in a round table format. Each Focus Group discussion will be audio recorded and notes will be taken by one of the NCCA staff. A summary note from all the Focus Group sessions will be sent to the ESRI for analysis.

The Focus Group discussions will each last for 50 minutes and use the questions from the Student Voice Question Sheet. The first three questions will have already been covered in the Introductory session but the Focus Group session will allow a deeper discussion of the opportunities and challenges raised. Tight time keeping will be required in order to cover all questions. The first 5 minutes of the sessions will provide for introductions as well as setting out the purpose of the Focus Group and a reminder of the importance of Student Voice to Senior Cycle Review.

Senior Cycle Review: Information Sheet- Students

You have been chosen to take part in a review of senior cycle education in Ireland. This information sheet will tell you about the review. When you have read it, you and your parents/guardians can decide if you would like to take part.

So what is the review about?

The National Council for Curriculum and Assessment (NCCA) advises the Minister for Education and Skills on curriculum and assessment. At present, the NCCA is reviewing the senior cycle curriculum. This review offers an opportunity to hear what many people, including students, think about our Transition Year, Leaving Certificate Applied (LCA), Leaving Certificate Vocational Programme (LCVP) and Leaving Certificate Established (LCE). We would also like to hear suggestions about a future Senior Cycle, so that it meets the needs of all learners in the future.

We think that the best way to find out is to ask young people just like you. So we have picked 41 schools from around the country.

Why was I picked?

Young people from 41 schools were randomly picked so that we would get a wide variety of views and experiences in different types of schools around the country. Your school is one of the 41 selected.

What happens if I take part?

Taking part is pretty easy and will not take too much time.

- Two people from our NCCA team will visit your school.
- These researchers will ask you and 50/60 of your schoolmates to discuss some questions in small groups for 1.5hrs.
- There are no right or wrong answers, we are interested in hearing what you think.

Senior Cycle Review: **Information Sheet- Students**

- Following this session, you may be randomly selected to participate in a focus group discussion with 9 other students. We will ask you to discuss some of the same questions and some additional questions in the focus group meeting. Again, there are no right or wrong answers we are just interested in hearing what you think.
- We will audio-record the focus group meetings and some of the material will be transcribed. All this information will be destroyed within 6 months of being recorded.
- In writing up the results, neither you nor your school will be identified.

Other things you should know

You do not have to take part in the study and if you decide not to, it will not impact on your experience of school or on your education. Also, if you do not want to be part of this study anymore, even after you have filled out your form, it will be ok with us.

We will not tell anyone the answers to your questions. But if you tell us something that is a child welfare or child protection issue we will have to tell someone who could help. Otherwise no-one, not even your teacher or parents or guardians will be told what you have said.

What do I do now?

When you have read this leaflet talk to your parent(s)/guardian(s) about taking part. We have also given your parents a leaflet to tell them about this review so you can decide together. If you and your parents/guardians are happy for you to participate in the review, please complete the Assent Form below and return it to your school principal.

Thank you!

We would like to thank you for being part of this review. You are helping to make Senior Cycle better in the future.

Senior Cycle Review: **Student Assent Form**

Please use **BLOCK CAPITALS** to fill out this form and return it to your School Principal

My name is: _____

My school is: _____

Quick Recap

- You do not have to take part in this review and can stop taking part at any time.
- You will be interviewed with a group of your classmates and that the interview will be audio-recorded and transcribed.
- You do not have to answer questions that you do not like.
- No-one beyond the research team will see the answers to your questions.
- If you tell the researchers an issue related to child welfare or child protection, they will have to tell someone who can help.
- The information collected will be destroyed within 6 months of being recorded.

I have read and understood the information given on the review of Senior Cycle.

☐ Yes ☐ No

I would like to take part in the review of Senior Cycle

☐ Yes ☐ No

I am happy for my answers to questions in the focus group discussion to be audio-recorded.

☐ Yes ☐ No

Your signature: _____ Date: _____

