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To: Management Authorities of Second Level Schools

Data Protection Rights and the Viewing of Scripts Facility

The 2018 Leaving Certificate Candidate Information Booklet is now available on www.examinations.ie and is being distributed in hard copy to schools this week. This year, we have drawn the particular attention of candidates to the section on the Viewing of Scripts as there are some significant changes to the Viewing facility this year. These changes are as a result of a ruling by the European Court of Justice that candidates' examination scripts constitute personal data. This means that candidates now have more extensive rights to their examination script under the Data Protection legislation.

Notwithstanding the legal rights of candidates' to a copy of their examination script, the SEC also has a duty to process and issue the results of the Leaving Certificate examinations and the appeal results by the expected deadlines. The arrangements which have been put in place this year have been designed to meet both of these obligations.

The purpose of this circular is to bring these changes to the attention of the school authority and to ensure that the Candidate Information Booklet is distributed to all Leaving Certificate candidates so that students, their parents and guardians are advised of this change.

The relevant extract from the Candidate Information Booklet, which is set out in question and answer format, is attached to this circular letter as an Appendix. I would ask that you take the time to familiarise yourself with the extract as it explains the changes this year. There are a number of key points for the school authority to be aware of at this time:

- The only opportunity that Leaving Certificate candidates will have to access their written examination scripts in advance of the appeal application closing date is to apply to view their script at one of the three Viewing sessions on the 31st August/1st September. Candidates should be strongly encouraged to take the opportunity to view their script if they are considering an appeal.
- At the Viewing of Scripts candidates may bring a mobile phone, tablet or digital camera in order to make their own copies of their own scripts. Candidates have been notified that they may not use any other means to copy their scripts and schools are directed not to allow any other means of copying of scripts either by the school authority or by the candidate using school equipment.

- Data access requests for scripts may be made to the SEC but it could take up to 90 days from the issue date of the Leaving Certificate results, or longer if they appeal, before a candidate receives a copy of their script under the Data Protection legislation. By the time they receive the copy of the script the opportunity to appeal the result will have passed.
- In the recent recruitment for the position of Organising Superintendent, the SEC has requested that each school nominate two people for the role this year. Those appointed will also have some discretion to appoint assistant Organising Superintendents depending on the number of candidates who request to view their script. Any school who has not yet returned the nomination form to the SEC is asked to do so by return.
- As the scripts are the personal data of candidates, the only people in the school authorised to access the scripts are those appointed to the position of Organising Superintendent or assistant Organising Superintendent acting as agents of the State Examinations Commission. Access to or copying of scripts by any other member of the school authority represents a data breach.

The SEC will be issuing further detailed guidance to the Organising Superintendents in each school in due course and further information will be provided for the school authority at the time of the issue of the Leaving Certificate results in August. We will also provide information about the arrangements for Junior Cycle candidates to seek access to their script at the time of the Junior Certificate results issue in September. (Junior Cycle candidates will not be provided with a Viewing facility.)

Please ensure that the important information contained in this circular is brought to the immediate attention of relevant school personnel and that a copy of the Candidate Information Booklet is provided to every Leaving Certificate candidate.

Additional copies of this circular are available on the SEC website: www.examinations.ie/schools.

If you have any queries on these matters please telephone (090) 6442702/2705/2706 or e-mail entries@examinations.ie.

Andrea Feeney
 Director
 State Examinations Commission
 May 2018.

2018 Leaving Certificate Candidate Information Booklet - Extract

Access to Examination Scripts

Data Protection Rights and the Viewing of Scripts Facility

The State Examinations Commission (SEC) facilitates access to examinations scripts by Leaving Certificate candidates through a *Viewing of Scripts* facility which takes place in schools each year two weeks after the issue of the Leaving Certificate results. This facility, which has been available to Leaving Certificate candidates for the past twenty years, allows candidates to view their scripts and to see how the marking scheme has been applied to their work. This allows them to make an informed decision about whether or not to appeal their result(s) in advance of the appeals closing date. The Viewing of Scripts service has previously allowed candidates to see their script but not to make a copy of their script. In light of a recent court ruling the SEC is changing the viewing service this year to enable candidates to make copies of their scripts during the viewing sessions using their own digital device.

Following a decision of the European Court of Justice last December, about a case which did not involve the SEC, the responses submitted by candidates in examinations and any comments made by examiners about those responses are considered to be their personal data under the Data Protection legislation. Under the Data Protection legislation, you, as a data subject, have a legal right to a copy of the personal data which the SEC holds about you. In line with the ruling of the European Court, this right of access now extends to examination scripts.

While you now have a legal right to get a copy of your examinations scripts, the SEC also has a duty to process and issue the results of the Leaving Certificate examinations and the appeals by the expected deadlines. The arrangements put in place this year, so that both of these obligations can be met, are set out in the following section.

Will there be a Viewing of Scripts facility this year?

Yes - the SEC will continue to provide a Viewing of Scripts service in schools. This service provides you with an opportunity to see how your script was marked in order to make an informed decision about whether or not to appeal your result. The reason we are continuing to provide this service is so that candidates will continue to have the opportunity to have access to their own examination scripts in advance of the appeals closing date which is Wednesday 5th September this year. Due to the volumes of scripts involved, if the SEC were to cancel the Viewing service in favour of candidates making data access requests for copies of their scripts under the Data Protection legislation, we would not be in a position to provide any access to scripts in advance of the appeals closing date of the 5th September. Therefore in the interest of transparency, we are retaining this important service with one significant difference.

This year, at the assigned Viewing of Scripts session, you will be able to make a copy of your script, or scripts, using your own mobile phone, tablet or digital camera to capture images of your script(s). This additional facility is being provided in the spirit of the Data Protection legislation and does not affect your legal rights.

When can I get copies of my scripts?

The earliest possible access that you will have to your scripts will be at the Viewing of Scripts sessions on the 31st August and 1st September. If you do not attend at a Viewing session, and decide instead to make a data access request to the SEC, you will not receive copies of your scripts until after the closing date for the appeals. The appeals closing date will continue to be strictly applied, so by the time you receive the copy of your script(s) you will have lost the opportunity to appeal your result.

Will the school provide copying services for me?

No – only candidates using their own digital devices (mobile phone, tablet, camera.) will be allowed to copy their own scripts. Schools will be instructed not to allow any photocopies or scans of the scripts to be made by the school or in the school using school facilities. The reason for this is two-fold: firstly, for logistical reasons as the timeframe for the viewing process is very tight, and secondly, out of concern that scripts could become lost or damaged in the copying/scanning process. This is why only you will be able to make your own copies using your own digital device in the viewing centre.

Can I make an access request for my script under the Data Protection Act?

Yes – but there are limitations on when you can make an access request and how long it will take for you to have your request processed.

Under the Data Protection Act, the SEC, as a data controller, is required to respond to a data access request for personal data within 30 days of receipt of the request. However, data controllers are allowed to extend this time period to 90 days when the number and complexity of the requests received makes it too difficult to respond within 30 days. The SEC processes one million written examinations scripts and another million related examination components (practical and project work; oral tests; performances; etc.) each year. Subject to the restrictions set out below, those making requests for scripts under the Data Protection Act should expect that it will be up to 90 days before they receive their scripts from the date of the request.

In addition to these general time limits, there are specific time restrictions on access to examination results and scripts contained in the Data Protection legislation. These restrictions seek to strike a balance between allowing candidates to exercise their right to their personal data and ensuring that examinations providers, such as the SEC, can continue to deliver on their primary function of running examinations and providing results of examinations and appeals by expected deadlines. There is also a very specific restriction on access to a Leaving Certificate examination script which is the subject of an appeal.

Under the legislation, the earliest date on which a data access request for examination results or scripts can be considered by the SEC is the date of issue of the results. So if you make such a request in advance of the issue date of the Leaving Certificate results, the clock does not start ticking on your request until the 15th August, the date of issue of the results. Similarly, there is a time restriction on making a data access request for the result of an appeal. If you appeal a result and then make a data access request for the outcome of the appeal, the clock does not start ticking on your request until the date of publication of the appeal results in mid-October.

In addition, if you appeal a Leaving Certificate examination result, and you have already made a data access request for the script associated with that result, then the clock does not start ticking on your request until the date of issue of the appeal results.

You are strongly encouraged to exercise your right to view your scripts at the Viewing session. While you are of course entitled to make a data access request for a copy of your scripts, the Viewing of Scripts service presents you with the **only** opportunity to access your scripts in advance of the appeal closing date. Furthermore, viewing your script does not prevent you from also making a data access request.

Can I get copies of examination material other than written examination scripts under the Data Protection Act?

Your right is to a copy of your personal data and not to the original work. If other components are amenable to being copied then you will be able to exercise your data protection rights to have a copy provided to you. All examination material that can be the subject of a data access request is subject to the same time restrictions as set out above. Some project and practical work which is held and marked in schools by the SEC can be returned to candidates after the issue of the appeal results. (See *Retention of Material* below).

We record all oral tests and you will be able to make a data access request for this component. If you make such a request you will be provided with a recording of your responses only; we will not provide you with the questions that you were asked in the test. Unlike your answers, these questions are not your personal data and the questions asked in the oral examinations, unlike those which appear on examination papers, are not made public.

It will continue to be the case that only the written scripts, coursework journals and other written materials will be made available for the Viewing of Scripts.

Will I have access to my practical marks and marks of oral tests at the viewing of scripts?

No. This information is not provided at the Viewing and these marks are not routinely released. However, you should note that, with two exceptions, practical work and oral tests are fully revisited as part of the appeal process. The two exceptions are the practical performance test undertaken as part of the Music examination and the project component of Agricultural Science. You can make a data access request to have these marks provided to you.

My rights are to the examiner's comments also – how can I access these?

SEC examiners are not allowed to make written comments on scripts. They are limited to applying the marking scheme to the script. In certain subjects, e.g. English, the examiners use annotations to denote where a candidate has lost or gained marks in line with the marking scheme. When you view your examination script, or receive a copy of it through a data access request, you will see your examination responses and the examiner comments (i.e. the marks and any annotations used by the examiner) on the script.

Why are there two sets of marks on my script?

Some scripts have two sets of marks – this happens when a script has been selected for quality assurance in the marking process. Each examiner's work is monitored by a more senior examiner, called an Advising Examiner. In this quality assurance process, each examiner must send a number of scripts to their Advising Examiner who reviews the marking applied to the script. Sometime the examiner has not marked in line with the marking scheme – either too hard or too easy – and the Advising Examiner will remark the script in line with the scheme and will provide feedback to the examiner to improve their marking. The Advising Examiners marks are considered the final marks. Examiners use red pen when marking, and Advising Examiners use green pen when monitoring (unless you have used red or green extensively in your work). See also the Information Note for candidates viewing marked scripts on page 21.

How can I make a request for a copy of my script under the Data Protection Act?

If you wish to make a request for a copy of your script, or other personal data held about you by the SEC, you can make a request in writing to;

Data Protection Access Request
State Examinations Commission
Cornamaddy
Athlone
Co. Westmeath.
N37TP65

Your request should provide us with enough information that will allow us to identify you as an examinations candidate; to establish what you are seeking a copy of; and to contact you directly in the event that we need to confirm your identity or clarify your request.

In making such a request you are reminded that there are restrictions on your right of access and that **you will not receive a copy of your script or other examination materials in advance of the appeals closing date.** The only way to access your written scripts, journals and other written responses, in advance of the appeals closing date, is by attending the viewing session

Details of any changes to the arrangements for making a data access request will be published on our website.

Ownership and Retention of Examination Scripts and Other Work submitted for Marking

Is it possible to get the original work I submitted for the examinations returned to me?

The changes as a result of data protection give enhanced rights to getting copies of personal data from the SEC. The SEC continues to retain ownership of this material. All examination scripts and other materials held by the SEC are the property of the SEC and are not returned to candidates. Rule 28 of the Rules and Programmes for Secondary Schools, issued by the Department of Education & Skills provides that: *"All materials (answerbooks, drawing paper, maps, diagrams, pictures, question papers, tapes etc.) issued by the Commission for the purpose of recording candidates answers to the questions set in the examinations held by the Commission are and remain the property of the Commission. Materials not issued by the Commission but forwarded to the Commission for marking, become the property of the Commission"*. The SEC marks almost 1 million Leaving Certificate components each year and it would not be feasible to return this material to candidates.

Project work in Engineering and Construction Studies and all Art practical work is marked in schools and schools are instructed to hold this work securely until the issue of the results of the appeals in mid-October. The reason why it must be held until after the Appeal results are published is that issues can occasionally arise in the appeal marking that cause all of the work marked by a particular examiner to be reviewed. The SEC therefore needs to have access to this material at this point, and to be confident that it has not been interfered with in the meantime. Sometimes, the quality assurance reviews give rise to upgrades for candidates who had not appealed their results at all. After the appeal results have issued, this work can be returned to candidates on request.

How long does the SEC keep my examination scripts and other material?

The SEC policies on data retention are based on our obligations under the Data Protection Act, which require us to hold data only for so long as it is required for the purposes of running the examinations. The SEC's policy on the retention of examination scripts and related examinations material is as follows:

- Any material which is not the subject an appeal will be confidentially disposed of at the end of December following the examination. Accordingly, unless you appeal, your examination scripts and other materials will be disposed of by the end of December 2018.
- If you appeal your examination result, we will retain your examination material until the appeal process is complete. Typically, this means that your appealed examination material will be disposed of in the following year's confidential disposal cycle, that is, by the end of December 2019. This can be longer if the appeal remains the subject of an ongoing process.

The Viewing of Scripts Facility

Are there any restrictions which apply to the Viewing of Scripts?

- If you decide to view your scripts then you must be available on the Viewing dates and you must be prepared to attend in person at the viewing centre. You may wish to take particular note of this requirement when making holiday arrangements.
- Your scripts will not be released to any other person even with your permission. You can be accompanied by one other person when viewing a script.
- Only material submitted in writing; written scripts, coursework journals, etc. will be available at the Viewing of Scripts.
- No writing instruments are permitted in the viewing centre.
- You are permitted to bring in a mobile phone, tablet or digital camera for the purpose of copying your own script(s).
- You must not make copies of anyone else's scripts even with their permission.
- You are not allowed to use the digital device for any purpose other than copying the script.
- For reasons of ensuring that the Viewing sessions run efficiently and to time, you may not take notes about the content of your script using your digital device while in the viewing centre.
- For security reasons, a sample of scripts is replicated prior to dispatching the original scripts for viewing. The copies are retained by the SEC and will be checked against the scripts returned from viewing. This practice is necessary in order to protect the integrity of the examinations. Tampering, or attempting to tamper, with scripts at the viewing centre is a breach of examination regulations.
- An Information Note for candidates viewing marked scripts is on page 21 of this booklet.

How do I apply to view scripts?

When you receive your results your school will also have a personalised application form provided by the SEC which will show your examination details including your subjects. If you decide you would like to view a particular script you must complete this form. You must then return the completed form to the school where you sat your examination by **Tuesday 21st August 2018**.

What happens next?

An Organising Superintendent has been appointed by the SEC to your school. Their role is to organise the Viewing service in the school. They will assign you to one of the viewing sessions. The viewing sessions are:

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| Session 1 | Friday 31st August from 6.00 pm to 9.00 pm |
| Session 2 | Saturday 1st September 2018 from 9.00 am to 12 noon |
| Session 3 | Saturday 1st September 2018 from 2.00 pm to 5.00 pm |

Please take note of these dates as it is not possible to arrange viewing of scripts on any other date. You will receive a postcard from the Organising Superintendent assigning you to one of these sessions in advance of the viewing period. If you do not receive an appointment to view your scripts, you should contact the Organising Superintendent in the school where you sat your written examinations.