



# Online proctoring & privacy

## Recommendations for educational institutions

As an educational institution, do you use online proctoring (digital surveillance to prevent fraud during tests and examinations)? Or do you have plans to do so? If so, take the following points into account to ensure that you protect the privacy of your pupils or students. A checklist is provided at the end.

### Getting started

#### Determining the purpose

- Consider why exactly you want to use online proctoring and make sure you can justify your decision.
- Note: you are not permitted in any circumstances to use the collected data for any purpose other than this predetermined purpose.

#### Determining the necessity

- Check if it is necessary to use online proctoring in order to achieve your purpose. Re-evaluate periodically if coronavirus measures are relaxed.
- First check if a less intrusive method of examination is possible. For instance, you could have pupils or students hand in a written paper or essay.
- You must record in writing why online proctoring is necessary for certain tests and exams.

#### Limiting infringements of privacy

- Is online proctoring really necessary? In that case, at least limit the infringement of privacy.
- You can do this, for instance, by combining tests or exams so that online proctoring is kept to a minimum.
- In addition, opt for the least intrusive form of fraud prevention. Eye tracking is more invasive than camera surveillance.
- In automated reviewing of tests, make sure that there is always a person who assesses whether there may have been fraud in tests and exams where online proctoring has been used.

#### Determining the legal basis

- Determine the legal basis under the GDPR for your use of online proctoring.

#### Performing a DPIA

- Perform a DPIA before using online proctoring. This is often mandatory.
- If possible, also involve pupils/students and teachers.
- Also take into account other risks that affect (fundamental) rights and freedoms, such as unjustified exclusion of pupils or students from a test or examination.
- Periodically check whether you need to review the DPIA, for example if coronavirus measures are relaxed.



### **Seeking cooperation with others**

- Involve the DPO in how online proctoring is used well in advance. Informing the DPO afterwards about the choices that were made is not sufficient.
- Discuss solutions for taking tests and examinations with stakeholders, such as the student council and the participation council.
- Collaborate with other school boards and/or umbrella organisations. Share knowledge and exchange experiences. Join forces with other organisations to approach major players in the market.

## **Procurement**

### **Selecting a supplier**

- You must choose a software supplier that complies with privacy laws.
- Set requirements for how the personal data of your pupils/students and staff is used. In any case, devote attention to ensuring that any data that is not necessary is deleted immediately.

### **Entering into a data processing agreement**

- Enter into a data processing agreement with the supplier.
- Ensure that the agreement meets the requirements of the GDPR, at the very least.
- Particularly in case of suppliers outside the EEA, make sure that appropriate safeguards are in place.

## **Preparation and instructions**

### **Drafting policies**

- Draw up an institution-wide policy on using online proctoring. At a minimum:
  - lay down when online proctoring can be used;
  - make a written record of the reasons for using online proctoring;
  - determine the resources and methods to be used to process personal data (such as retention periods, security and access to the data);
  - describe how pupils/students are to provide proof of identity.
- Translate this policy into concrete guidelines and instructions for teachers and pupils/students.

### **Providing information and instruction**

- Inform pupils or students about what happens to their data, in language they can understand.
- Inform pupils or students about their privacy rights.
- Instruct pupils or students on the most privacy-friendly way to take their test or exam, for example by keeping personal items out of sight.

### **Rights of pupils/students**

- Set up a process to allow pupils or students to exercise their rights.
- For pupils or students who successfully object to online proctoring, offer a suitable alternative that sufficiently addresses their privacy concerns. This alternative should not entail any adverse consequences such as a disproportionate delay to a student's progress.



### Being prepared for incidents

- Keep in mind that it is impossible to completely rule out data breaches or other incidents, no matter how well you have set everything up. Be prepared for this.
- Discuss with pupils/students and teachers what can go wrong and what to do in these situations in order to minimise the potential impact.

## Checklist for proctoring

<b>Getting started</b>
<input type="checkbox"/> determine the purpose
<input type="checkbox"/> determine the necessity
<input type="checkbox"/> limit infringements of privacy
<input type="checkbox"/> determine the legal basis
<input type="checkbox"/> perform a DPIA
<input type="checkbox"/> seek cooperation with others
<b>Procurement</b>
<input type="checkbox"/> select a supplier
<input type="checkbox"/> draft a data processing agreement
<b>Preparation and instructions</b>
<input type="checkbox"/> draft policies
<input type="checkbox"/> provide information and instruction
<input type="checkbox"/> rights of pupils/students
<input type="checkbox"/> be prepared for incidents