



## 1. Introduction

Elastik Learning Ltd 13770332 (“we”, “our” and “us”) is committed to responsible privacy practices and to complying with the data protection principles and other requirements set out in the UK GDPR and other applicable data protection legislation including the Data Protection Act 2018 (“Privacy Law”) to the extent they apply to us.

This Privacy Policy sets out our policies on the management of personal data including how we collect personal data, the purposes for which we use this data, and to whom this data is disclosed.

We may change or update our Privacy Policy from time to time. At any time, the latest version of our Privacy Policy is available from our website at [www.elastik.com](http://www.elastik.com). If we make significant changes we will seek to inform you by notice on our website or email.

This Privacy Policy should be read together with any privacy policy or other fair processing notice which we may provide when collecting or processing your personal data.

## 2. What is personal data?

In this Privacy Policy, “personal data” has the meaning set out in the Privacy Law. Essentially, personal data is information from which a living individual is identifiable.

For the purposes of the Privacy Law, we process some personal data as a data controller, that means we are responsible for deciding how we use your personal data. We shall be accountable for compliance with the Privacy Law in respect of such processing and this fair processing notice is one of the ways in which we ensure that.

We may also process some personal data for and on behalf of other persons. In particular, we process the Schools Data (as defined below) for and on behalf of the relevant school or other educational institution (a “School”) to whom we provide our services. We work closely with each School as their processor under a written data processing agreement but each School acts as controller in relation to their relevant Schools Data, and shall be accountable for its compliance with the Privacy Law under its own privacy policy. For more information about how your data is processed by or on behalf of the School, you should refer to your School’s privacy policy.

## 3. What types of personal data do we collect?

The types of personal data we collect from or about you depend on the circumstances in which the data is collected and processed.

We may collect contact details including your name, address, email address, phone numbers and your date of birth / age, including in your capacity as a student as part of class lists that we receive from Schools to whom we provide services. We may also collect answers you provide to questions we ask and other information in relation to your dealings with us.

We collect other student data such as actual test results, provided to us by Schools. We collect from Schools data about students in the form of results in sample tests.

All the above personal data is “Schools Data” which we process on behalf of your School.

We also collect personal data about teachers with whom we work, including names and email addresses. Where this is necessary for the purpose of providing our services it is Schools Data. Where we also process such teachers personal data for own purposes, e.g. for marketing our services to Schools, we do so as controller.

Other personal data we process as controller:



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- If you apply for employment with us, we may also collect personal data for the purpose of considering your application including your qualifications and resume as well as reference information from your nominated referees.
  - If you are an individual contractor to us, we may also collect personal data relevant to your engagement with us including qualifications, work history, resume, reference information from your nominated referees, bank details, feedback from supervisors and training records.
  - If you contact us to find out more about our business and services we may use your contact details and other personal data which you provide to us.

We also receive technical information when you access our services such as your browser type, operating system, IP address and traffic information, domain name, how you use and interact with our website (for example, date, time and duration of visit) and other information about your device. We process this as Schools Data where we are providing our services to a School. Where we process this information as controller we do not use it in a way that identifies you. Please see 12. below regarding our use of cookies.

We do not collect any special categories of personal data (e.g. details of race or ethnicity, religious belief, sex life or sexual orientation, political opinions or membership of a trade union, health information or genetic and biometric data) or information about criminal convictions and offences to us.

In addition to the types of personal data identified above, we may collect personal data as otherwise permitted or required by law.

#### **4. How do we collect your personal data?**

We collect personal data in a number of ways. The most common ways we collect your personal data are:

- directly from you when you provide it to us;
- from Schools, who collect the personal data from you, or receive it from a government departments or authorities;
- via our website or when you deal with us online (including through our social media pages); and
- from third parties (for example, from referees if you apply for a position as an employee or contractor with us).

#### **5. For what purposes do we collect, use and disclose your personal data?**

The purposes for which we use and disclose your personal data will depend on the circumstances in which we collect and process it as described further below. Unless impossible or requiring disproportionate effort, we will inform you why we are collecting your personal data, how we intend to use that data and to whom we intend to disclose it at the time we collect your personal data. If the data has been collected by another party, and provided to us, we endeavour to ensure that that third party has provided you with adequate information at the point of collection having regard to applicable legal requirements.

Where the data is Schools Data provided to us by, or collected by us on behalf of, a School it is the School as controller which is responsible for providing this information to you.

We will only use or disclose School's Data in accordance with your School's instructions or as otherwise required by law.

Where we act as controller we may use or disclose your personal data:

- for the purposes for which we collected it or it was provided to us (and related purposes which would be reasonably expected by you);



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- for other purposes to which you have consented (whether that consent has been provided to us or provided to a third party who has collected the information and is providing the information to us – for more information about consent see 6. below); and
  - as otherwise authorised or required by law.

In general we collect, use and disclose your personal data as controller for purposes connected with our business operations as set out above.

Some of the specific purposes for which we collect, use and disclose personal data as controller are:

- to respond to you if you have requested information (including via our websites or via an email or other correspondence you send to us);
- to negotiate and enter into contracts related to our services including with our Schools customers and our business suppliers;
- to maintain and develop our relationship with our Schools including for billing/invoicing and for compliance with quality control and risk management procedures;
- to administer rewards, surveys, competitions or other promotional activities or events conducted, sponsored or managed by us or our business partners;
- to enable you to use our apps and other applications that you download where this is not on behalf of a School;
- to enable you to participate in any loyalty or incentive programs that we operate;
- to improve our services;
- to verify your identity, address and age or eligibility to participate in a marketing activity;
- to consider you for a job with us (whether as an employee or contractor) or in the context of other relationships with us;
- to address any issues or complaints regarding our services;
- to contact you regarding the above, including via electronic messaging such as SMS and email, by mail, by phone or in any other lawful manner;
- for security-related processing (for example, automated scanning of incoming and outgoing emails for viruses);
- to comply with legal and regulatory obligations; and
- for establishing, exercising and defending legal claims.

## **6. Legal basis of processing**

The legal basis for processing Schools Data is determined by the School to whom we provide our services. For more information you should refer to your School's privacy policy.

When we act as controller the Privacy Law says we can collect and use personal data on the following bases:

1. if it is necessary for us to be able to enter into and perform an agreement with you;
2. if it is necessary for our legitimate interests (and your interests and fundamental rights do not override those interests);
3. if we have your consent (which you can withdraw at any time); or
4. to comply with a legal obligation i.e. rules laid down by courts, statute or regulation.



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For the most part, we collect and use personal data because it is necessary for our “legitimate interests”, that is, to develop, market and promote our services and operate our business as described in the sections above. Before using your personal data for our legitimate interests, we make sure that we take into account any potential impact that such use may have on you to ensure that your interests and fundamental rights and freedoms do not override those interests. In other words, we have determined that we have a legitimate need to process your personal data and we are not aware of any reasons that, on balance, mean we should not be doing so. If you have concerns about our processing please refer to Your Rights below.

We may use your personal data in connection with legal and regulatory matters such as our maintenance of business records, compliance with external reporting requirements and internal policies and procedures and responses to requests by government, law enforcement, regulators, courts, rights holders or other third parties.

If we ask you to provide consent to us, we will inform you specifically when we seek to obtain this from you as well as informing you of your ability to withdraw that consent at any time and any potential consequences that may arise as a result of not providing the personal data that is requested.

Unless otherwise required or permitted by law, before using your personal data for a purpose unrelated to those set out above, we will notify you and explain the purpose and legal basis which allows us to do so.

If you would like to find out more about the legal condition for which we process your personal data, please contact us (see section 16 of this Privacy Policy).

## **7. Direct marketing**

Direct marketing involves communicating directly with you for the purpose of promoting goods or services to you including to provide you with special offers. Direct marketing can be delivered by a range of methods including mail, telephone, email or SMS. Where we are required by law to obtain your consent before sending you direct marketing we will do so in advance. We will always respect your preferences for how you would like us to manage such marketing activity with you. You can ask us to stop doing so and unsubscribe from our direct marketing, or change your contact preferences, at any time by contacting us (see section 16 of this Privacy Policy).

## **8. What happens if you don't provide personal data?**

Please see your School's privacy policy for information as to what happens if you do not provide Schools Data. Where we act as controller and we need to collect personal data by law or under the terms of a contract with you, and you do not provide that data when requested then we may not be able to perform that contract with you. Also, we may not be able to provide you with information you request or allow you to participate in our marketing activities where that depends on the collection of personal data which you do not provide.

## **9. To whom do we disclose personal data?**

We only disclose Schools Data when requested by the School to whom we provide our services, except as otherwise required by law. For more information you should refer to your School's privacy policy. Where we act as controller we may disclose your personal data to third parties in connection with the purposes described in section 5 of this Privacy Policy.

This may include disclosing your personal data to the following types of third parties:

- our employees and related bodies corporate;
- our contractors and other third parties that provide goods and services to us (including website and data hosting providers, and other suppliers);



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- our School customers, in order to provide services to those School customers (other than Schools Data);
  - our accountants, insurers, lawyers, auditors and other professional advisers and agents;
  - payment system operators;
  - if you are an individual contractor to us or a prospective employee, to our related companies and HR related service providers (e.g. for outsourced payroll processing);
  - any third parties to whom you have directed or permitted us to disclose your personal information (e.g. referees);
  - in the event that we or our assets may be acquired or considered for acquisition by a third party, that third party and its advisors;
  - third parties that require the information for law enforcement or to prevent a serious threat to public safety; and
  - otherwise as permitted or required by law.

Where we disclose your personal data to third parties we will use reasonable efforts to ensure that such third parties only use your personal data as reasonably required for the purpose we disclosed it to them and in a manner consistent with the data protection principles and the Privacy Law.

If you post information to public parts of our websites or to our social media pages, you acknowledge that such information (including your personal information) may be available to be viewed by the public. You should use discretion in deciding what information you upload to such sites.

## **10. Does personal data leave the UK?**

We only process Schools Data on behalf of the Schools within the UK. Where we act as controller and personal data is transferred outside the UK, we will ensure that such transfers are limited to countries which are recognised as providing an adequate level of legal protection by the UK or where one of the safeguards approved by the UK is in place. In the event that there is any change in the law such that one or all of the safeguards are no longer valid or applicable, we will ensure that we are satisfied that alternative arrangements / safeguards are in place to protect your privacy rights as required by the Privacy Law. If you have any questions about how we transfer your personal data, please contact us (see section 16 of this Privacy Policy).

## **11. How do we protect personal data?**

We will use strict procedures and security features to try to prevent any loss or unauthorised use, access to or disclosure of your personal data (“Data Security Breach”). We have put in place procedures to deal with any suspected Data Security Breach and will notify you and any applicable regulator where we are legally required to do so.

In addition, we limit access to your personal data to those employees, contractors and other third parties who have a business need to know. They will only use your personal data on our instructions and they are subject to a duty of confidentiality. Where we appoint third party service providers to process your personal data on our behalf we take steps to ensure that those service providers are contractually bound to protect your personal data.

## **12. Your rights**

Where we process Schools Data please contact your relevant School regarding your rights relating to your personal data. Where we act as controller, subject to certain exemptions, and in some cases dependent upon



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the processing activity we are undertaking, you have the following rights in relation to your personal data:

- **Right to access:** you have a right to request that we provide you with a copy of your personal data that we hold and you have the right to be informed of: (i) the source of your personal data; (ii) the purposes, legal basis and methods of processing; (iii) the data controller's identity; and (iv) the entities or categories of entities to whom your personal data may be transferred.
- **Right of rectification and erasure:** you have a right to request that we rectify inaccurate personal data. You can also request that we erase your personal data in limited circumstances where: (i) it is no longer needed for the purposes for which it was collected; (ii) you have withdrawn your consent (where the data processing was based on consent); (iii) following a successful right to object (see right to object); or (iv) it has been processed unlawfully. We are not required to comply with your request to erase personal data if the processing of your personal data is necessary for compliance with a legal obligation or for the establishment, exercise or defence of legal claims.
- **To transfer your personal data:** you can ask us to provide your personal data to you in a structured, commonly used, machine-readable format, or you can ask to have it transferred directly to another data controller, but in each case only where: (i) the processing is based on your consent or on the performance of a contract with you; and (ii) the processing is carried out by automated means.
- **Right to restrict the processing of your personal data:** you can ask us to restrict your personal data, but only where: (i) its accuracy is contested, to allow us to verify its accuracy; (ii) the processing is unlawful, but you do not want it erased; or (iii) it is no longer needed for the purposes for which it was collected, but we still need it to establish, exercise or defend legal claims; or (iv) you have exercised the right to object, and verification of overriding grounds is pending. We can continue to use your personal data following a request for restriction, to establish, exercise or defend legal claims; or to protect the rights of another natural or legal person.
- **Right to object to the processing of your personal data:** you can object to any processing of your personal data which has our legitimate interests as its legal basis, if you believe your fundamental rights and freedoms outweigh our legitimate interests. If you raise an objection, we have an opportunity to demonstrate that we have compelling legitimate interests which override your rights and freedoms.
- **Right to object to how we use your personal data for direct marketing purposes:** You can request that we change the manner in which we contact you for marketing purposes. You can request that we not transfer your personal data to unaffiliated third parties for the purposes of direct marketing or any other purposes.
- **Right to obtain a copy of personal data safeguards used for transfers outside your jurisdiction:** you can ask to obtain a copy of, or reference to, the safeguards under which your personal data is transferred outside of the UK. We may redact data transfer agreements to protect commercial terms.
- **Right to lodge a complaint with your local supervisory authority:** you have a right to lodge a complaint with your local supervisory authority if you have concerns about how we are processing your personal data. We ask that you please attempt to resolve any issues with us first, although you have a right to contact your supervisory authority at any time. In the UK you can also complain to the ICO. The ICO's contact details are as follows: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF; Tel: 0303 123 1113 (local rate) or 01625 545 745; <https://ico.org.uk/global/contact-us/>.

If you wish to access any of the above-mentioned rights, we reserve the right to ask you (or the person making the request on your behalf) to confirm your identity (or, as applicable, their identity), and (as applicable) their authorisation to act on your behalf, in particular before disclosing personal data to you (or the third party on your behalf). We reserve the right to refuse, or to charge a reasonable fee for, any request which we consider to be manifestly unfounded or excessive.



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You can exercise your rights by contacting us (see section 16 of this Privacy Policy). Subject to legal and other permissible considerations, we will make every reasonable effort to honour your request promptly or inform you if we require further information in order to fulfil your request. We may not always be able to fully address your request, for example, if it would impact the duty of confidentiality we owe to others, or if we are legally entitled to deal with the request in a different way.

### **13. Links, cookies and use of our websites and applications**

Our website may contain links to other sites. This Privacy Policy applies to our website and not any linked sites which are not operated or controlled by us. We encourage you to read the privacy policies of each website that collects your personal data.

We may use “cookies” and similar technology on our website and in other technology applications. The use of such technologies is an industry standard, and helps to monitor the effectiveness of advertising and how visitors use our websites/applications. We may use such technologies to generate statistics, measure your activity, improve the usefulness of our websites/applications and to enhance the “customer” experience.

We use two kinds of cookies: session cookies and persistent cookies. Session cookies exist only for as long as your browser remains open. Once you close your browser, they are deleted. Persistent cookies, in contrast, last beyond each visit and remain on your hard drive after you close your browser. The cookies used include those that are strictly necessary cookies for access and navigation, cookies that track usage (performance cookies) and cookies that remember your choices (functionality cookies). We do not use cookies to provide you with targeted advertising.

We will only implement cookies (except for the strictly necessary cookies which are essential for the proper functioning of our website and user experience) if you have provided your consent through our cookie banner. If you prefer not to receive cookies at any time you can adjust your Internet browser to refuse cookies or to warn you when cookies are being used. However, our website and services may not function properly or optimally if cookies have been turned off.

### **14. How long do we retain your personal data?**

We only keep Schools Data for as long as the controller School instructs us to do so, except as otherwise required by law. For more information you should refer to your School’s privacy policy.

As controller, we generally keep personal data only for as long as required to fulfil the purposes for which it was collected. However, in some circumstances we may retain personal data for other periods of time, for instance where we are required to do so in accordance with legal, tax or accounting requirements, or if required to do so by a legal process, legal authority, or other governmental entity having authority to make the request. We may also retain some personal data in an archive.

To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements. In accordance with our internal policies and the Privacy Law, after the applicable retention period has ended, your personal data will be securely deleted or destroyed, anonymised (for example, where the data will be used in aggregated/generic form for statistical purposes), or transferred to an archive. We will maintain appropriate measures to keep archived personal data secure, in accordance with the Privacy Law.

Specific details of retention periods for different aspects of your personal data are available upon request. Please contact us (see section 16 of this Privacy Policy).



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### **15. Queries, comments and complaints about our handling of personal data**

If you have any questions, comments or complaints about our collection, use or disclosure of personal data, or if you believe that we have not complied with this Privacy Policy or the Privacy Law, please contact us (see section 16 of this Privacy Policy).

When contacting us please provide as much detail as possible in relation to your question, comment or complaint.

We will take any privacy complaint seriously and any complaint will be assessed with the aim of resolving any issue in a timely and efficient manner. We request that you cooperate with us during this process and provide us with any relevant information that we may need.

If you are not satisfied with the outcome of our assessment of your complaint, you may wish to contact the ICO (see section 12 of this Privacy Policy).

### **16. How can you contact us?**

If you have comments, complaints or requests regarding your personal data, rights or otherwise in connection with this Privacy Policy please contact:

We have appointed Steve Burton as our data protection officer to oversee our compliance with the Privacy Law.

We are based in Australia and are opening our UK office in January 2021. Our representative in the UK is Steve McCauley.