

## **Protection of personal data is a priority for us and we take it seriously**

### **Third Space Learning Service and the General Data Protection Regulation**

#### **What do we mean by “service”**

We (that is, Virtual Class Ltd trading as Third Space Learning) use technology to provide access to personalised teaching through an interactive online classroom by connecting pupils with specialist maths tutors giving pupils the opportunity to question and discuss concepts in maths, building their confidence and understanding as one-to-one tuition is focused and encourages verbal communication and explanation.

We provide tools and reports that enable teachers to analyse assessment and attainment data for pupils as well as groups of pupils to determine patterns and trends that may be evident and compare the results to the national average.

We also provide, through our Maths Hub, access to teaching resources and continuing professional development resources.

Together these comprise the “service” as we use the term in this document.

When we talk about “you” we mean, depending upon the context, either you as an individual or the school for whom you work.

#### **Data controller v processor**

We are, in line with the UK Information Commissioner's guidance, a controller not a processor, in relation to the personal data that we collect and process in the course of providing our service (including the personal data relating to children that we collect and process in relation to the provision of tutoring sessions).

Although the principal purpose of our processing of personal data is to deliver the service and, to that extent, is agreed with you (the school), we determine the manner in which the data is processed as part of (or in relation to) service delivery, and we exercise a significant degree of interpretation, professional judgement and decision making in doing so. This means that we fall into the category of controller rather than that of processor - the activities of a processor are, per data protection guidelines, limited to the more ‘technical’ aspects of an operation such as processing only in accordance with defined instructions, data storage, retrieval or erasure.

#### **Our contract with you**

The Terms of Service, which are sent to you when you first join us, are on our website and form the terms of our contract with you for the delivery of the service. We may change these terms at any time by notice to you. In addition, our Data Protection & Privacy Policy (also on our website) provides information (in accordance with relevant guidelines) about the personal data processing we carry out.

#### **Who are our data subjects (the individuals we collect data on)?**

We collect data from two main categories of data subjects within a school: students and school staff members (mainly teachers although we will collect personal data of other individuals involved in either the set up or delivery of the service – IT managers and teaching assistants for example).

#### **What type of personal data is being processed?**

Under GDPR “processing” means any operation or set of operations which is performed on personal data and includes collection, recording, storage, retrieval, use and transfer (making accessible either physically or electronically). The personal information we process includes:

## ***Pupils***

First name, last name, gender, school, current academic level, English as second language, pupil premium, KS2 SATs result, year group, reading difficulties, SEN (dyslexia, ADD/ADHD, dyscalculia, speech and language difficulties, autism (ASD), aspergers), class teacher, attitude towards maths (confidence, effort, motivation etc), hobbies/interests.

SEN information is provided on the basis of consent and allows the tutor to adapt the tutoring to the pupil's needs (for example if the pupil is autistic, dyslexic or colour blind). Pupils' special educational needs, medical conditions or other issues are requested only if it impacts the pupil's learning ability and only to the extent needed to enable the tutor to adapt the tutoring to the student's needs. SEN information is only applicable to a small %age of pupils.

Lessons are recorded which is a form of data processing as they have the potential to capture personal information. Lesson recordings show on-screen interaction and live conversations between the pupil and tutor. Voice should be the only identifiable personal data on the recording unless the pupil inadvertently discloses information that would allow the pupil to be identified.

The recording of lessons is necessary for i) fulfilling a legal obligation to which the Company is subject (safeguarding of children); and ii) is in the legitimate interests of the Company.

## ***Staff***

First name, Last name, Email, School, Role of staff member, Contact number.

Personal information of staff involved in delivery of the service, will exist on financial and other systems and are processed for fulfilling a contract and will be held for the retention period applicable to that purpose.

Our Data Protection & Privacy Policy, on our website, gives more detail on the types of data being processed for pupils and staff.

### **Why are we collecting special categories of personal data?**

Provision of information about any relevant medical or learning needs or other special needs is voluntary and not necessary for delivery of the service although it allows, if they impact the pupil's learning ability, the tutor to adapt the tutoring to the student's needs (for example autism, dyslexia or colour blindness). The Company therefore uses Consent rather than Legitimate Interests for the processing of special categories of personal data.

As we have said, provision of this information is not required in order to use the service, but if you choose to provide it to us then it will be incumbent upon you to obtain consent, if appropriate, from the relevant pupil's parents before you do so. The Platform has been configured so that it is not possible to input data of this nature without first confirming that the relevant consents have been obtained.

### **What is the basis of processing?**

For Third Space Learning, the basis of processing will be our legitimate interests save for special category personal data which is consent or for our social purpose that it is necessary for archiving purposes in the public interest, or scientific or historical research purposes or statistical purposes enabling Third Space learning to achieve its social purpose of, per our objects clause in our articles: of being "primarily to advance for public benefit, industry, commerce and social enterprise for the learning and education of children and others".

The lesson (voice) recordings are also processed to fulfill a legal obligation to which we are subject (the safeguarding of children).

For the school, the lawful bases for processing personal data will be that is necessary for performance of educational provision (performance of a task carried out in public interest or in the exercise of official authority) and your legitimate interests save for special category data which will be processed on the basis that it is necessary for performance of an educational function or consent.

#### **Why do we need to process this personal data?**

For pupils, personal information is required to personalise and tailor the one-to-one tuition provided ensuring that it is appropriate, relevant and suitable for the pupil. We limit the information collected to the minimum necessary to deliver the service and ensure that the pupil receives the best possible educational outcome from our service. Our assessment and progress algorithms also process personal data.

For members of staff, personal data is necessary to identify users, communicate via email/phone for sales, retention, pupil progress, analysis purposes etc.

We only collect data required for functions required in the system; data gathering points that are no longer required are removed and/or archived where necessary. Where information is not required by a user or an employee, we mask or remove it from their view of the data.

See also What else do we do with the data?

#### **Where is the personal data we process stored?**

We are established in the UK and the systems which we use to process your personal data are hosted here or elsewhere in the EU.

The TSL learning Platform, where pupils' personal data is stored, is hosted by Amazon Web Services (AWS) in Ireland and remains under TSL control at all times.

#### **Do we use sub-contractors to provide the service?**

We use sub-contractors ("tutor centers") to deliver our service. We have worked with all our tutor centers for several years and have written contracts with all of them setting out the terms and obligations of both parties in relation to delivery of the contract. As we exercise detailed control over what the tutor centers do, they act as data processors in relation to any personal data they process in the course of their sub-contracted activities relating to provision of the service. By agreeing to use our service, you are agreeing to the engagement of the tutor centers by us.

#### **Who and where are our tutor centers?**

We have relationships with three tutor centers:

- Sri Lanka - Third Space Global (Pvt) Ltd, a wholly owned subsidiary of ours.
- India - TCY Learning Solutions (P) Ltd and NCR Eduservices Pvt Ltd, partner centers with whom we have worked for a number of years.

#### **How much information do we give our tutors centers?**

We give the tutor centers and therefore the tutors, the minimum information necessary for them to be able to deliver the service and we pseudo-anonymise pupils by identifying them by pupil ID and the tutor centers do not have access to the tables in the TSL learning Platform linking pupil ID with pupil name. The information provided to Tutor centers and tutors is insufficient for a pupil to be directly identifiable.

#### **Does it matter that our tutor centers are outside of the EEA?**

The tutor centers are situated outside the EEA and in countries which are not recognised by the ICO as providing an adequate level of protection of personal data and on that basis, the UK GDPR restricts transfers of personal data outside the UK unless the rights of the individuals in respect of their personal

data is protected in another way. We have protected the rights of individuals by, in addition to written contracts with tutor centers, undertaking Transfer Risk Assessments (“TRA”) for both Sri Lanka and India; and having in place signed Data Transfer Agreements (“DTA”) and International Data Transfer Agreements (“IDTA”) with all three tutor centers.

Our written contracts with tutor centers set out the terms and obligations of both parties including in relation to data protection which require the tutor center to only process personal data strictly in accordance with instructions and in accordance with the terms of the DTAs and IDTAs in place.

The TRAs were completed using the ICO TRA Tool issued by the Information Commissioner ensuring that the legal requirements under UK GDPR are met.

The DTAs ensure that the relevant contracts comply with the parties' respective obligations in relation to data protection to comply with the restricted transfer rules contained in the UK Data Protection Laws, in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals.

The IDTAs are in the form issued by the Information Commissioner for Parties making Restricted Transfers and which the Information Commissioner considers provides Appropriate Safeguards for Restricted Transfers when it is entered into as a legally binding contract. The IDTA sets out the technical and organisational measures (TOMS) implemented to protect personal data (security of transmission, security of storage, security of processing, organisational security measures and technical minimum security measures), with the tutor centers to ensure that adequate safeguards are in place over personal data processed by the tutor center are in place.

#### **Are our Platform and the interactive classroom secure?**

Our tuition is delivered online via the TSL learning Platform, which is designed, built and maintained in-house by our UK product development team and hosted by Amazon Web Services (AWS) in Ireland. All personal data is processed and securely stored on the TSL platform, and is under TSL control at all times. Pupil personal data is only ever stored on our learning platform.

AWS's GDPR statement states that all AWS customers globally can rely upon the terms of the AWS data processing agreement whenever they use AWS services to process personal data under GDPR and that if personal data from the EEA is transferred to other countries it will be given the same level of protection it receives in the EEA.

#### **What about other third-party service providers?**

We use a number of third party providers for services such as hosting, backup, communication platforms, storage, virtual infrastructure, payment processing, analysis, which may require them to access or use information about our customers. The main third party providers we use are Google, Intercom, Pardot, Salesforce, Slack, Stripe, Xplenty, Mixpanel, and Xero). If a service provider needs to access information about a customer to perform services on our behalf, they do so under instruction from us, including abiding by policies and procedures designed to protect customer information.

We have UK GDPR compliant contracts with the third party service providers we use and only engage with those that are well known and respected in their field. but only to the extent necessary in order to provide the services concerned. We only share the minimum amount of personal data necessary for the purpose of processing and, where possible, we share the personal data in a pseudo-anonymised or anonymised form (i.e. by referring to data subjects by ID rather than name when providing personal data to third parties providing data monitoring and analytic tools).

We take all steps reasonably necessary to ensure that personal data transferred outside the EEA is subject to appropriate safeguards, such as relying on a recognised legal adequacy mechanism which may include entering into approved standard contractual clauses relevant to transfers of personal data.

### **What about the tutors themselves?**

The measures put in place by ourselves and the tutor centers we work with to ensure the privacy of your data include:

- tutors having insufficient information to identify the pupil as they only have access to first name, gender, academic level, year group, reading difficulties, SEN, hobbies/interests;
- a tutor induction and training framework including data protection and safeguarding;
- every year we visit each tutor center to review, advise and give feedback on recruitment, induction, and training programmes; and
- tutors cannot independently set up or start sessions nor can they upload or download content or data (i.e. session recordings) to and from the Platform.

We ensure that every tutor recruited and/or used to provide the service undergoes a security check to provide him or her with an Enhanced DBS Check and a Sri Lankan or Indian (as appropriate) Police Clearance Certificate (which is similar but not the same as the Enhanced DBS Check), both of which are renewed regularly.

### **And employees?**

All our staff – not just those who process/access personal data – are required to complete our training programme on GDPR and data privacy procedures which includes mandatory recertification every 12 months.

We ensure that our staff deal with personal data in accordance with the policies and procedures that we have put in place. Failure to comply with policies and procedures in place or breaching data privacy will be dealt with through our disciplinary procedures.

Where personal data has been provided but is not required by the person accessing the platform, the Company masks or removes it from their view of the data.

### **What else do we do with the data?**

Lessons are recorded (on-screen interaction and live conversations between pupil and tutor) and the recordings are used by us to monitor and track progress; provide feedback on progression and performance; assess quality of teaching provided; compliance by tutors with guidelines; and other factors relevant to the teaching.

Recordings are also a tool for on-going continual professional development for tutors enabling us to improve the services provided and enhance educational outcomes through conducting analysis and research into sessions and outcomes.

Lesson recordings identify the pupil by their Pupil ID. Recording is a form of data processing, as recorded conversations have the potential to capture personal information. The voice of the pupil and tutor should be the only identifiable personal data on the recording.

We conduct analysis and research into sessions and outcomes including training delivery and pupil performance to generally enhance how we deliver our service. When we conduct analysis and research we use a combination of anonymisation (irreversibly destroying any way of identifying the data subject) and pseudo-anonymisation (substituting the identity of the data subject in such a way that additional information is required to re-identify the data subject) so no pupil will be identifiable directly or indirectly from the aggregated data. We analyse and track standards and performance development across different age groups, geographies and other categories of pupil data.

The outcome of analysis and research is also not used to make decisions directly affecting individuals as the pupils cannot be identified.

**Does it make any difference if our school is in a programme or evaluation trial funded, for example, by the government or an education charity**

If you are participating in a programme (i.e. the NTP programme) or an evaluation trial which is funded (either in full or in part) by the government or an education charity, you may be required to provide personal information to us that is not required by us to deliver our services to you. You will be provided with information about the additional personal information that will be collected, the purpose of any additional processing and the data that will be shared with the parties involved in the programme or trial including any independent assessment experts appointed.

Where we are processing personal information that is not required by us to deliver our services to you, we are acting as a data processor in respect of that data which will be processed in accordance with the instructions of the data controllers for that data who have determined the legal basis for processing it.

**What about safeguarding?**

We take online safety seriously and are committed to ensuring that children using our services do so in a safe educational environment. Our recruitment processes; safeguarding policies and procedures; safeguarding training; and features built into our delivery platform are all designed to provide a safe educational environment for children.

The measures we have taken include:

- our team of UK qualified primary school teachers, secondary school teachers and educationalists designing and developing the recruitment, induction, training and safeguarding framework used by tutor centers;
- requiring all tutors to have official vetting documents similar to a UK DBS check;
- recording all sessions and making recordings available to schools on request.

Further information about our safeguarding policies and procedures can be found in the footer on our website in the section titled Safeguarding Children.

**Your responsibilities**

Once we have set you up on the Platform, it is the school's responsibility to set up and delete staff members and pupils from the Platform and ensure access is restricted only to authorised persons. It is your decision as to whether an individual is still "live" – we can't make that decision for you.

The accuracy of personal data supplied to us is the responsibility of the school as it is provided by staff of the school purchasing the service. Personal data provided (either about staff or pupils) can be updated/amended by you at any stage. Updates and amendments to personal data overwrite existing data so that the previous personal data supplied is lost once the backup cycle (7 days) is exceeded.

Creation of staff and pupil logins and passwords (other than lead purchaser) on the platform is the responsibility of the school and you are responsible for keeping login credentials secure to minimize the risk of unauthorised entry/amendment or deletion of personal data.

Schools are responsible for setting up staff members and granting them access to the platform and online learning hub. It is your responsibility to ensure that only authorised persons have access to personal data on the Platform. Once a staff member leaves the school or ceases to be involved in the service, you should remove access to the service and online learning hub. The individual can be deleted by the Purchaser or the Lead teacher at your school through the "Staff" tab on the platform, or by Third Space Learning if you get in contact with us. The Purchaser, Lead Teacher and IT Lead roles are integral to delivery of the service and have to be reassigned to another individual before being deleted. We cannot be responsible for unauthorised access caused by the failure of a school to remove a teacher's access.