Contract for the Tapestry Online Learning Journal

The Foundation Stage Forum Ltd

26 May 2020

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A note on this contract

This is the new contract between The Foundation Stage Forum Ltd and our customers who use Tapestry.

If you have read the previous version, you can see a list of changes at the end of this document, or a version with "Track Changes" at https://tapestry.info/draft-contract.

There are no fundamental changes in this version. The key ones are:

1. A change of address for our firm to WaterCourt, 65 High Street, Lewes, England, BN7 1XG.
2. Updating language now the UK has left the EU. To be clear: the EU GDPR still applies during the transition period and the contract is still compliant with it. Nothing fundamental has changed about how we operate, or the contractual safeguards we have in place.
3. Include the 'Standard Contractual Clauses' in case they are required for non UK customers at the end of the transition period between the EU and UK.
4. Note the change to our security certificate for https://tapestryjournal.com.
5. Note that we have changed payments provider for our billing and customer support from Sage Pay to Global Payments.

Deleted: <#>Mention that a forthcoming register function means you might, if you wish, be storing attendance data.¶
<#>Mention that the new Tapestry apps mean that you might, if you wish, be sending push notifications. Those notifications would go via Apple, Google or Amazon (depending on the device) and might go outside of the EU.¶
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You will be asked to agree to this contract though the Tapestry Control Panel.

A non contractual note on Brexit

If you are a customer in the EU, but not in the UK

We are compliant with the GDPR at the moment and will do our very best to remain compliant.

The UK has left the EU, but during the transition period remains bound by the GDPR. In case the UK and EU do not reach an agreement on data and privacy by the end of the

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transition period we have included the 'Standard Contractual Clauses' provided by the EU that will allow you to remain compliant with the GDPR when using our services.

Rest assured, your data will continue to be stored within data centers in the EU. Therefore almost all of the processing we do for you will continue to happen within the EU. A data transfer to the UK will only happen if we need to look at your data in order to provide you with support or fix a bug.

You can find out more from the European Commission https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/brexit_en.

If you are a customer in the UK

We are compliant with UK data protection law at the moment and will do our very best to remain compliant.

The UK has left the EU. During the transition period, the UK remains bound by the GDPR and so nothing needs to change. The UK has stated its intends to reach an agreement with the EU that will mean nothing needs to change in the future.

Unfortunately, the UK government has not, at the time of writing, reached the required agreement or passed all the required legislation and regulations. If they fail to reach agreement or pass required legislation or regulations, then we will do what it takes to be compliant and do our best to give you as much notice as possible about what changes might be required.

The UK Information Commissioner's Office is providing guidance on how to prepare for Brexit that you may wish to read: https://ico.org.uk/for-organisations/data-protection-and-brexit/.

Your contract with us for the use of Tapestry

1. We are The Foundation Stage Forum Ltd, a company registered in England with company number 05757213 and a registered address of WaterCourt, 65 High Street, Lewes, England, BN7 1XG, UK.

2. You are a childminder, educator, nursery, school or similar educational organisation.

What you get

3. This contract is for a 12 month subscription to Tapestry, our online learning journal, together with:

   - Our tutorials
   - Email support during UK business hours
   - Access to the discussion forum and educational resources on https://eyfs.info

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What you do not get

4. We do not provide telephone or face to face support. However, at our discretion, we may offer to call you if we feel a query could be better resolved over the phone. We also do offer bookable telephone support sessions for a fee.

5. We do not provide direct support to any relatives that you add to Tapestry. If they contact us, we will usually direct them back to you. We do this because it is difficult for us to know whether their requests are authorised by you.

6. We do our best to provide Tapestry at all times (see our Annex B: Tapestry Security), but we cannot guarantee this.

Tapestry, our online learning journal

7. You must be the Data Controller of the information that you enter into Tapestry (as you are for your paper records); we will be the Data Processor. If you don't know what those terms mean, it is essential that you find out. A starting point for finding out is https://ico.org.uk.

8. You agree with our approach to data protection, privacy and security and to do your part. We describe our approach and what we expect of you in these linked annexes:

   - Annex A: Tapestry Data Protection
   - Annex B: Tapestry Security
   - Annex C: Tapestry Privacy

9. You agree to our current sub-processors:

   - Annex D: Tapestry Sub-processors

10. We are compliant with UK data protection legislation (sometimes referred to as the 'UK DPA 2018') and EU data protection legistation (sometimes referred to as the 'GDPR').

11. This contract contains the terms required for a data processing agreement under UK and EU data protection legislation.

12. We will help you to comply with your duties under UK and EU data protection legislation. In most cases you can use the tools we provide. If you ask us for extra help in complying we will give it to you, but we may charge you our costs in helping. More detail is provided in Annex A: Tapestry Data Protection.

13. If you wish to audit us under UK or EU data protection legislation, you may do so, but we may charge you our costs in participating in your audit.

Our tutorials

14. You may copy, store, share and adapt our tutorials for the purpose of making better use of Tapestry.

Our Billing and Support System

15. If you contact us by email or through our websites then we will store and process the information you provide in our billing and support system. Unlike the data you enter into Tapestry, we are the Data Controller for information in our billing and support system. We describe how we use that data in Annex E: Billing and support data.

Our Discussion Forum

16. You do not need to use our discussion forum. But if you choose to, then you agree to the conditions set out in Annex F: Use of our discussion forum.

Fees

17. You must pay our fee in full before we will start your Tapestry subscription

18. Our fee, as set out on our website, is based on the maximum number of children you wish to have in your Tapestry account during the 12 month subscription.

19. You can add or remove individual children throughout the year so long as the maximum number of children is not exceeded at any one moment.

20. If you have not paid your fee in full then:

- We may not provide access to Tapestry.
- After 90 days, we will delete the data that you have entered into Tapestry.

21. If you wish to increase the maximum number of children you can have in your Tapestry account during the 12 month subscription then we will charge you the difference between what you have paid and the current fee for an account with the increased number of children. This will not extend your subscription.

22. You must pay us UK Pounds Sterling including any applicable VAT. If you choose to pay by bank transfer you must bear all currency conversion and bank transfer costs.

Termination

23. You can stop using Tapestry at any time and ask us to return and / or delete the data you have entered into Tapestry, but we will not refund any fees that you have paid unless:
    - You are within the first month of your Tapestry subscription
    - We materially change this contract to your detriment

24. We may, after discussing the situation with you, stop providing you with Tapestry if you:
    - misuse our systems or
    - create an unreasonable load on our systems or

- cause us unreasonable costs or
- abuse our staff or
- breach this contract.

Changes and disputes

25. If something goes wrong, unless otherwise required by law, our total liability to each other is limited to the annual fee that you have paid us for Tapestry.

26. One example of where the law requires different liability is in breaches of UK or EU data protection law. We can both be investigated and fined by the relevant supervisory authorities and we both may be liable to pay compensation for damages caused by breaching this law. If it later turns out that one or other of us wasn't responsible for the breach, then that party can claim back the share of liability from the responsible party – even if that is more than the annual that fee that you have paid us for Tapestry.

27. Our contract with you is under English law and any dispute will be settled by an English court. The exception to this is if you are an EEA based data controller and the standard contractual terms in Annex G are in force, in which case those terms specify a different law and dispute resolution approach in some situations.

28. This document, together with its annexes are our entire contract with you. If you want to vary this contract, or add additional terms, then there will need to be written and explicit agreement between you and one of our company directors. To keep our costs and prices down, we rarely do this. In particular, unless explicitly agreed to by one of our company directors, we do not accept any standard purchasing terms and conditions that you may usually apply.

29. We may change this contract, but will give you reasonable warning.

Annex A: Tapestry Data Protection

We are The Foundation Stage Forum Ltd, a company registered in England with company number 05757213 and a registered address of WaterCourt, 65 High Street, Lewes, England, BN7 1XG, UK.

You are a childminder, educator, nursery, school or similar educational organisation.

This Annex relates to the use of Tapestry, our online learning journal. Annex E relates to data in our billing and support system. Annex F relates to data in our discussion forum.

We need to work together to ensure we are compliant with UK and EU data protection regulations when using Tapestry.

This annex should be read in conjunction with our overall contract and, in particular, Annex B which explains our approach to security and Annex D which lists our sub processors.

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The legally required terms in a Data Processing Agreement or Contract

If you are in the EU or UK, then you must have a written contract with us (sometimes known as a Data Processing Agreement) and that, legally, must include some particular bits of information and commitments. This contract acts as that written contract and contains the required information and commitments.

To help you find them:

- The subject matter and duration of the processing is summarised below under 'What data is placed into Tapestry' and set out in detail in Annex C: Tapestry Privacy
- The nature and purpose of the processing is summarised below under 'What data is placed into Tapestry' and set out in detail in Annex C: Tapestry Privacy.
- The type of personal data and categories of data subject is summarised below under 'What data is placed into Tapestry' and set out in detail in Annex C: Tapestry Privacy.
- The obligations and rights of the controller are set out in "What we expect of you" and "What you can expect of us" below.
- The standard requirements on data processors (e.g., to act on written instructions, submit to audit, notify of breaches etc) are set out in "What you can expect of us" below.
- If you are an EU based data controller and, at the end of the transition period no agreement has been reached between the UK and the EU that supersedes its need, then the EU approved 'Standard Contractual Clauses' in Annex G will apply. The aim of those clauses is to give you the same legal safeguards as apply while the UK is covered by the GDPR even if the UK is no longer covered by the GDPR.

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Our jurisdiction

We are headquartered in the UK. This contract is under English law.

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Our lead supervisory authority for data protection is the UK Information Commissioner's Office (https://ico.org.uk). Our registration number with them is Z1783069.

If you are an EU based data controller and the 'Standard Contractual Clauses' in Annex G are being applied, then some bits of the contract will be based on EU law and will have a different dispute resolution approach as laid out in the Annex. This is to your benefit!

Where is data stored?

Our processing and storage of your data happens within the EU and the UK.

The primary processing and storage location is in the Republic of Ireland.

Our offsite backups are stored in Germany.

Our office is in the UK.

For the avoidance of doubt: The storage location is part of your contract with us. If we wished to change where your data is stored, we would need to change this contract, and contract changes always require agreement from both you and us.

To provide a little more detail:

- Almost all storage and processing is carried out on computers and networks provided by Amazon Web Services (AWS) a sub-processor who we list in Annex D. We instruct them to only store data on computers in their data centres located in Ireland (for the primary system) and Germany (for the backup system). They are contractually bound not to move data elsewhere without our permission.
- The exceptions are:
  - If you contact us to ask for support, and providing that support requires us to look at some of your data then the relevant data may be viewed by our staff in the UK. The data remains stored in the EU. This is subject to strict safeguards. Some of the safeguards are: we only do it when we have to; we view as little data as possible; only trained and vetted staff do it; the data is protected by multi factor authentication and remains encrypted in transit.
  - On very rare occasions, and subject to strict safeguards, we may store and process some data locally in order to diagnose or fix a bug. On these occasions data will be stored and processed in the UK. Some of the safeguards are: we only do it when we have to – it is never routine; we store the minimum possible amount of data locally; we only store it on encrypted secure machines; we delete it as soon as possible.
  - If you log into Tapestry when you are outside the EU or the UK, the data obviously has to be transferred outside of the EU and UK to get to you. This is unlikely to be a concern if you are a non-EU school or nursery because you won't be storing data about people who are in the EU. It is also unlikely to be a concern if it only happens every now and again and only concerns a few children (i.e., a parent logs in while on holiday). However, if you are an EU or UK based organisation, you should consider your policies for allowing staff to log into Tapestry if they are outside the EU or UK.
  - The contents of 'Push Notifications' to iOS, Android and Amazon apps will go via Apple, Google or Amazon servers respectively which may be outside the UK and EU. This only happens if ALL of the following are true: 1) 'Allow Push Notifications' is enabled in the Tapestry Control Panel; 2) 'Include names in push notifications' is enabled in the Tapestry Control Panel; 3) A person is using a version of our app that supports push notifications; 4) The person using our app enables push notifications for that device; 5) The person using our app consents to names being included in our push notifications.

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What data is placed into Tapestry?

Annex C: Tapestry Privacy sets out the subject matter and duration of our processing; the nature and purpose of the processing; the type of personal data and the categories of data subject.

In summary:

- The categories of data subject are the people you add to Tapestry. Typically children, staff and relatives of the children. You choose exactly who.
- The subject matter and types of personal data are typically: names, email addresses, dates of birth, post codes, contents of an online learning journal, records of a child's care, records of a child's attendance. You choose exactly what data.
- The nature and purpose of the processing is typically: to provide an online record of children's attendance, progress and care in order to monitor, share and analyse that attendance, progress and care. You choose exactly what is done with the data and who it is shared with.
- The duration of the processing is, at most, the duration of this contract plus the time taken for data to leave our backup system. It can be shorter if you choose to delete some or all of your data sooner.

Who is responsible for what?

The first thing to agree is that:

1. You are the data controller for data you, or the people you give access, add to Tapestry.
2. We are the data processor.

If you don't know what those terms mean, it is *essential* that you find out. A starting point for finding out is https://ico.org.uk.

You must:

- Have a lawful basis for entering data into Tapestry.
- Use Tapestry in a way that is compliant with data protection law.
- Respond to data protection requests.
- Keep your contact details on Tapestry up to date.

We must:

- Only process data on your instructions.
- Ensure that people we use to process your data are subject to a duty of confidence.

- Take appropriate measures to ensure the security of our processing.
- Only engage sub-processors with your prior written consent (see Annex D).
- Assist you in providing subject access and allowing data subjects to exercise their rights under data protection law.
- Assist you in meeting your legal data protection obligations in relation to:
  - the security of processing.
  - the notification of personal data breaches.
  - data protection impact assessments.
- Delete or return all personal data to you as requested at the end of the contract.
- Submit to your audits and inspections.
- Provide you with the information to meet your legal obligations.
- Tell you if we become aware of a data breach
- Tell you immediately if we are asked to do something infringing data protection law.

What we expect of you

You must have a lawful basis for putting data into Tapestry

We rely on you to ensure you have a lawful basis for putting data into Tapestry. If you haven't worked out what your lawful basis is, please do so immediately. Once again, the UK Information Commissioners Office, https://ico.org.uk, is a good starting point.

Please don't leap to assuming consent is the only lawful basis for you, but carefully consider the six possible bases described in law and work out which is right, given what you intend to store in Tapestry and how you intend to use and share it.

If you are relying on consent as your lawful basis, then we rely on you to have gained the consent for whatever data you intend to put on Tapestry and to remove data if consent is later withdrawn.

You must use Tapestry in a way that is compliant with data protection law

As the controller of the data you put in Tapestry, you must comply with data protection law. This includes ensuring that the data is:

1. Processed lawfully, fairly and in a transparent manner in relation to individuals.
2. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving

purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.

3. Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
4. Accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.
5. Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals.
6. Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Source: https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/principles/

We will do our part in helping you to comply (described below).

Tapestry allows you to upload and store documents, pictures, videos and text. Even where these do not contain personal information (e.g. a worksheet or song added to a planned activity, or a picture from the internet added to a memo) copyright and other laws may restrict what you can do with them. You are responsible for making sure the material you, or the people you authorise, add to Tapestry does not break the law.

You must respond to data protection requests

Using Tapestry normally involves processing data about people (children, possibly staff, possibly relatives). Those people may have rights under UK and EU data protection law, including:

1. The right to be informed
2. The right of access
3. The right to rectification
4. The right to erasure
5. The right to restrict processing

6. The right to data portability
7. The right to object
8. Rights in relation to automated decision making and profiling

Source: https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/individuals-rights/

You are responsible for responding to those requests. We have designed our system to help you to respond.

The right to be informed

In particular, please ensure you proactively dealt with the "right to be informed" – you must not wait for people to ask you.

The UK Information Commissioner's Office has advice on this: https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-to-be-informed/.

You may wish to use our 'Annex C: Tapestry Privacy' as a starting point for informing your staff and the relatives and children whose data you add to Tapestry. But you will probably need to adapt it to cover: your contact details, your lawful basis for adding data, who you intend to share the data with and why and when you intend to delete the data. Since the new data protection law covers all data, whether it is on computer or on paper, you may wish to incorporate this into a single wider document that covers all the data you process.

You must keep your contact details on Tapestry up to date

You must keep your contact details up to date within Tapestry. We use these to:

1. Contact you
2. Verify that instructions we receive come from you

If they are not up to date, you may not receive our messages.

In particular, we sometimes receive requests from customers stating that the only manager registered on a school, childminder or nursery's Tapestry account has left, and requesting that the ownership be transferred to a new person. In order to verify that the request is legitimate we have to take several steps. Even if these steps are successful, they may mean a delay of weeks during which time Tapestry may not be accessible by you. To avoid this, please ensure you update contact details before a manager departs and, ideally, always register more than one manager on the Tapestry system.

What you can expect of us

We will only process data on your written instructions

Tapestry only does what you tell it. We do not do any processing that you do not tell us to do.

To be absolutely clear: we don't license or claim ownership of your data; we don't sell your data; we don't use your data for advertising; we don't pass on your data except when you instruct us to.

You can add users to Tapestry who, depending on the level of access you give them, can then also instruct Tapestry. You can adjust what data those users see and what they can do with the data.

People whose data you have added to Tapestry have a right to restrict processing. If you have been told by someone to restrict processing of their data, then you are responsible for not using Tapestry to do any further processing of that person's data. You are responsible for ensuring any users that you have added to Tapestry do no further processing. The easiest way to do that is to use Tapestry to mark the child or user as inactive.

Who can instruct us

We prefer to accept instructions through the Tapestry web interface or apps. This interface has options for authorising different users and giving them different levels of permission about what they can instruct us to do.

We may also accept instructions through our support ticket system or by email if they come from:

- Someone who we have verified is registered on the relevant Tapestry account with the status of a 'manager'.
- Someone who we have verified is an appropriate representative of the account owner (e.g., the head of a school, or the director or manager of a nursery).

Depending on the nature of the instruction and the route by which we receive the instruction, we may need to take extra steps to verify that the instruction is legitimate. This may lead to a delay in us carrying out the instruction.

If someone who isn't authorised tries to instruct us to do something, we will tell you about it. For example, this most commonly applies to relatives you add to the Tapestry account who ask us for access to their children's data because they cannot log in or you haven't provided them with data they think they are entitled to. We will direct those relatives back to you.

What does only 'written' instructions mean?

Under data protection law, we are not allowed to accept verbal instructions for data processing.

If you speak to us face to face or by telephone, you will need you to confirm any instructions you give us by:

- Carrying them out yourself through the Tapestry web interface or app
- Replying to our emailed summary of your instructions, confirming that you wish us to proceed.
- Repeating your instructions in a message through our support ticket system,
- Repeating your instructions by email,
- Repeating your instructions in a letter to us.

Instructions we do and don't accept

Sometimes our customers write to us with a 'data processing agreement' or 'data processing schedule' that sets out how they intend to use Tapestry (e.g., they intend to use Tapestry to store assessments, but not pictures and videos and intend to share those with other staff but not relatives). It is important to note that while we don't require you to store any particular data about any particular person, we also don't prevent you from storing any particular data about any particular person. So, in the case of the example, if an authorised member of staff later chose to upload a video or share an observation with a relative, we would not stop them.

What this means is that we cannot limit your use of Tapestry beyond the options we give users with 'manager' accounts on Tapestry to set permissions for other users. If you instruct us to apply further limitations, for example by sending us a schedule describing how you intend to use Tapestry, we cannot comply. However, we are always happy to provide you with help and guidance in how to set permissions within Tapestry to meet your needs.

Similarly, whilst we are always keen to receive suggestions about how to improve our security, we cannot accept instructions to apply particular security measures to your account that aren't already available in the Tapestry control panel. For example, we cannot currently accept instructions to restrict access to Tapestry for particular users to particular locations or times of day, though we have got features like that on our todo list.

We will ensure that people we use to process your data are subject to a duty of confidence

Our staff who process your data are:

1. Contractually bound to keep your data confidential.
2. Vetted by us. This includes a DBS check, which is updated annually.
3. Appropriately trained in data protection.

We will take appropriate measures to ensure the security of our processing

The measures we take are described in Annex B.

We have started the process of becoming certified as ISO 27001 compliant. When we have become certified we will update this contract to confirm that we are.

We will engage sub-processors only with your prior consent

We use sub-processors in a way that is compliant with UK and EU data protection law. Our sub-processors, what they do, and our process for seeking your agreement to any changes are described in Annex D.

We will assist you in providing subject access and allowing data subjects to exercise their rights under data protection law

You can download all the information that has been entered into Tapestry.

We provide a section in the control panel where you can download a single file that brings together all the information Tapestry holds about a particular child or a particular user.

You can correct all the information that has been entered into Tapestry.

You can delete all the information that you have entered into Tapestry.

We will assist you in meeting your legal data protection obligations

The security of processing

We describe our current security approach in Annex B.

If you believe that there is something that should be described in Annex B but is not, please let us know.

If you wish us to describe our security in a particular way (such as by filling out forms for you) then we may pass on our costs in doing so.

We do not usually implement bespoke security measures. However, we are always interested in improving our service, so please do let us know of anything that you would like to see.

Notification of personal data breaches

If we become aware of, or suspect, a data breach, we will tell you without undue delay. If you become aware of, or suspect, a breach, please tell us as soon as you can.

If there is a personal data breach, we will:

1. Help you to prevent further breaches (e.g., if someone has stolen a computer used by you to log into Tapestry, and you are concerned that your Tapestry password was stored on that computer, we can disable the relevant accounts and change the relevant passwords).
2. Help you to work out who has been affected.
3. Help you to work out what data may have been breached.

4. Help you to determine the cause of the breach.

5. Help you in your dealing with the Information Commissioners Office.

In the UK, The Information Commissioners Office require you to notify them of any data breach that is "likely to result in a risk to the rights and freedoms of individuals" within 72 hours of you becoming aware of it. EU data protection law has a similar requirement. We will prioritise our work to help you to meet that deadline.

If you wish us to go further than that, we will do our best but may have to pass on our costs in helping you.

Data protection impact assessments

We cannot carry out a data protection impact assessment for you, because we do not know what data you intend to place in Tapestry, who you intend to provide access to it, and what controls you intend to place on its access.

This contract should provide you with the material you would need from us in order to carry out your own data protection impact assessment. In particular you will probably want to review Annex C: Tapestry Privacy which contains what data *could* be collected and who it *could* be shared with, and Annex B: Tapestry Security which outlines the controls that we have in place around data security and suggests some issues that you would need to think about in your use of Tapestry.

If you wish us to provide additional help with your impact assessment, we will do our best but may have to pass on our costs in helping you.

Deleted: go further than that

We will delete or return all personal data to you as requested at the end of the contract

You can delete data at any time. You can download data at any time.

At the end of the contract our standard practice is to delete your data from our systems after 90 days. The data will be deleted from our backup systems 90 days after it is deleted from our systems. We are happy to delete your data sooner if you ask us to.

We are happy to return your data to you at any time. If you want your data in a particular format, we will do our best, but may have to pass on our costs in providing it to you in that format.

We will not delete data if we are required by law to keep it (for instance, for an ongoing police or data protection investigation).

We will submit to your audits and inspections

We provide our approach to security in Annex B for you to audit.

We have started the process of becoming ISO 27001 certified. When we have done so, we will update this contract and provide you with access to the certification for you to audit.

If you want to submit us to further audit or inspection, we will do our best to help you, but may have to pass on our costs in complying with your request.

We will provide you with the information to meet your legal obligations

We believe this contract and its annexes, combined with the tools provided within Tapestry, provide you with what you need to meet your legal obligations. If you think there is something missing, please let us know.

If you have a specific or unusual request for information, we will do our best to help you, but may have to pass on our costs in complying with your request.

We will tell you if we become aware of a data breach

If we become aware of a data breach, we will tell you about it and help you to meet your obligations as we've described above. We will do this without undue delay. Please keep your contact details up to date so that we can contact you quickly.

If we suspect a possible data breach we may 'lock down' access to Tapestry if we think that would help prevent a further breach. This would mean that some or all users of Tapestry would lose partial or complete access to Tapestry while we investigate and fix whatever led to the breach. We would inform you as soon as possible if we need to do this.

We will tell you immediately if we are asked to do something infringing data protection law

If we are asked to do something that we believe infringes data protection law we will not do so, and we will try and reach you through the contact details you have given us to explain what has happened.

If something goes wrong

Complaints

If you have a complaint, then please contact us at customer.service@eyfs.info.

Our Data Protection Officer

If you have a concern that we have not addressed, please contact our Data Protection Officer:

Lauren Foley dpo@eyfs.info WaterCourt 65 High Street Lewes England BN7 1XG UK

Deleted: 1 Southdown Avenue

Deleted: 1EL

Frequently Asked Questions

With regard to Brexit: will the data be hosted and backed up in the UK once Brexit is finalised?

The current guidance from the ICO is that it will be completely fine for data about UK people to be stored and processed in the EEA at the end of the transition period, even if the

Deleted: We do not know yet how data protection law will change with Brexit.

UK and EU do not reach any agreement. But we are keeping an eye on developments and will make whatever changes are required to be compliant with UK data protection law as it changes.

Annex B: Tapestry Security

This annex relates to the use of Tapestry, our online learning journal. Annex E relates to data in our billing and support system. Annex F relates to data in our discussion forum.

Security of a software service or product involves many aspects, and satisfying yourself that you should put your trust in a product can and should require that you ask questions of the organisation and people overseeing that security. This annex aims to give you an understanding of who we are and how we have addressed the important issue of protecting the integrity of Tapestry.

Security Responsibilities

Security is only as strong as the weakest link. We therefore need to work with you, the account holder, together with any staff and relatives you give permission to use Tapestry to ensure the overall system is secure. This annex explains what we do and what we hope you will do.

The latest copy of this annex, together with our terms and conditions are always available in the control panel of your copy of Tapestry.

Who are we?

Tapestry is the name of a product that was conceived, developed and is owned by The Foundation Stage Forum Ltd., an early years organisation that has provided resources and support for the early years workforce since February 2003. We have contracts with many local authorities, some of which have been in place for ten or more years.

The Foundation Stage Forum Ltd

The Foundation Stage Forum Ltd is a VAT registered, private UK limited company.

Our company number is 05757213.

Our registered office is at:

WaterCourt
65 High Street
Lewes
England
BN7 1XG

Deleted: 1, Southdown Avenue

Deleted: East Sussex

Deleted: 1EL

Our VAT registration number is 932933317.

You can write to us at our registered office, or email us at customer.service@eyfs.info.

Our contracts are under English law.

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We have two directors: Helen and Stephen Edwards.

Director: Stephen Edwards MSc

Steve is the founder of the FSF. He worked for many years as a technical manager for the telecommunications organisation Ericsson, having completed a Masters Degree in information systems. He became interested in the early years as a result of his wife (Helen, see below) setting up a nursery in their home, and left Ericsson to set up the FSF in 2002 as a resource and support network for the early years workforce. He has been fully occupied with the FSF ever since, conceiving and driving the development of Tapestry as a part of this commitment.

Steve is the board member responsible for security.

Director: Helen Edwards DPhil

Helen has been working with young children since 1989, firstly as a primary school teacher, and then as a successful nursery owner/manager, followed by employment as a local authority advisor and university tutor, and more recently as an Ofsted inspector. She also holds the EYP status.

Data Protection Officer: Lauren Foley

Lauren Foley is our Data Protection Officer. Her direct email is dpo@eyfs.info.

Lauren joined The Foundation Stage Forum in 2014 after graduating from the University of Birmingham. She was designated our data protection officer after completing GDPR training in November 2017.

Data Protection Law

We are compliant with UK and EU data protection law. We describe our approach to data protection in Annex A.

To summarise it in brief: You, the Tapestry account manager, own the data you put on Tapestry. We, The Foundation Stage Forum Ltd, do not. In technical terms, you are the Data Controller, we are the Data Processor.

We will only do things with data that you, or people that you give permission to, request.

We will not access your data without your permission.

We only use the data you enter to provide, fix and improve the service you see: an online learning journal that helps you to monitor the progress of children, communicate with parents and the government and manage your activities.

To be absolutely clear: we don't use the data for marketing; we don't share the data with others to do marketing.

You should be aware of your responsibilities as a data controller. You can find out more at the Information Commissioner's Office website: https://ico.org.uk/for-organisations/.

You are responsible for making sure that you only put data on Tapestry where you have permission to do so. i.e., if a parent has agreed with you that no photos of their child should be taken, you are responsible for ensuring that none of the photos added to Tapestry depict that child.

Access to data

Only you, and those you authorise, will have access to your Tapestry accounts. You can restrict the people you authorise to only be able to view data about some children.

If we need to access your account to sort out a problem you are having, we will ask your permission first.

We will not give Tapestry account information, or access to your Tapestry account, to anyone other than those individuals you have set up as staff members.

Relatives contacting us for access details will always be referred to you, the Tapestry account holder.

Under the data protection act, individuals have a right to see a copy of information that an organisation holds about them. As the data controller, you will need to respond to those requests and we, as the data processor, will help you. This is normally easy, since you can always see and print the information you have entered.

Deleting data when it is no longer needed

You can modify and delete the data you enter.

In the common case of children leaving your setting, you can move them into a 'deleted' area, where (after a delay of ninety days to avoid disastrous mistakes occurring) their data will be deleted (this includes relevant pictures, videos, journals and reports).

You can instruct us to delete *all* your data at any time. But this is all or nothing. If you just want to delete *some* of your data, you will need to use the control panel in the system to do so yourself.

If you let your subscription to Tapestry lapse, we will delete all data associated with it. We delay the deletion for 90 days in case your subscription has inadvertently lapsed (e.g., it happened while you are on holiday, or there was a delay in your Local Authority paying our invoice) but if you explicitly ask us to then we will delete your data immediately.

Data will remain in our backups for 90 further days. If you wish, you can instruct us to delete *all* your data from these backups. But it is all or nothing. We cannot delete *some* of your data on these backups.

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Once the data is deleted from our backups we can no longer recover it.

Organisational data security

ISO 27001

We are working towards becoming independently certified as ISO 27001 compliant. When we have achieved certification we will update this contract and provide you with access to the certification.

Our data centre, Amazon Web Services, has been independently certified as ISO 27001 compliant.

Staff

We are careful in who we employ. All our staff with access to your data have been checked and cleared by the Disclosure and Barring Service (DBS) and we check their DBS status annually.

The company that hosts our servers and databases, AWS, also vets their staff (though in practice we would never expect them to see your data).

You are responsible for only giving access to Tapestry to people you trust and who actually need access. For instance, please remember to make staff inactive once they have left your service or if they are facing relevant disciplinary procedures.

Please also ensure that, when you give access to relatives of children, you are careful to allocate them to the correct children, to enter their email address correctly, and to make them inactive once the child has left your setting.

Procedures

Our procedures are designed to minimise our access to your data. For example, we wouldn't log into your account without your permission and even then would only do so if it was necessary to resolve a fault or problem you were experiencing.

We are similarly careful with our suppliers. The company that hosts our servers and databases, AWS, operates on a similar principle of minimal access. They are ISO27001 accredited, which means they have a complete and appropriate set of security procedures. We would never expect them to need access to your data.

It is important that you think about your procedures for what sort of data you put on Tapestry and what you allow your staff and relatives to do with it.

For instance, you should think about:

- Whether you give all staff access to data about all children, or just some children.
- When it is appropriate for your staff to take and share photos and videos.
- What instructions you should give to parents as to what is appropriate for them to add, and what they may do with material that you add (e.g., insisting no photos are

uploaded to social media sites by parents without the written permission of the parents whose children are depicted in photos, videos or text.)

Passwords

The main way we control access to Tapestry is through passwords.

Neither you, nor we, can see what passwords have been used (technically, we hash the passwords before storing them using bcrypt and we never write passwords to any log files).

Our staff use strong passwords and, for the more secure systems, have to supplement the correct password with other security measures (such as logging in from our office IP address and/or using two-factor authentication).

You are responsible for training your staff, and encouraging any relatives, to adopt sensible precautions around their use of passwords – don't share them, don't reuse them, and make them hard to guess.

Incorrect password attempts will result in access for that user being prevented for a period of time. If you suspect one of your staff or relative accounts has or could have been compromised, you can make it inactive. This will prevent access using that account. At a minimum, you should then contact the staff or relative and ask them to change their password on this system and any other system on which they have used a similar password.

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You can choose a minimum password strength that you permit the people you add to Tapestry to use. We won't let this minimum be any less than 10 characters and we allow and encourage you to set a tougher standard than that (by, for instance, requiring longer passwords).

For your staff, we also provide an option where they cannot login without a different member of staff (such as a manager) logging in first. We call this PIN only staff.

If you wish, you can set an initial password and PIN for the staff and relatives that you add, but we strongly discourage this. We prefer you to use the option of sending links that allow users to set their own passwords and PIN without you seeing them.

We allow users to reset their own passwords using their email address. You, and managers you nominate, can also reset passwords for staff and relatives. If a member of staff or a relative contacts us because they have lost access to the email address associated with an account, we will direct them back to you.

If you have lost access to your email address associated with Tapestry, or you have taken over a Tapestry account due to the departure of the previous account owner and don't have access, then we can add an email address for the new manager. In order to verify that the request is legitimate we have to take several steps. Even if these steps are successful, they may mean a delay of weeks during which time Tapestry may not be accessible by you. To

avoid this, please ensure you update contact details before a manager departs and, ideally, always register more than one manager on the Tapestry system.

We do not currently have a facility for you to restrict access to particular locations or particular devices. That makes it doubly important that you take sensible precautions over passwords.

If you believe the password for one or more accounts has or could have been compromised, please immediately make that account inactive using the Tapestry control panel or, if you are unable to do so, contact us and we will do it for you. Please then contact us to discuss how to re-activate the accounts in a way that ensures they remain secure.

Because passwords can be reset by email, if you believe that the email account associated with a Tapestry account has been compromised, please treat it as if the password has been compromised: make the Tapestry account inactive and contact us.

Technical data security

The Tapestry web service and data are hosted in a cloud hosting environment operated by AWS in the EU (primarily the Republic of Ireland, with backups in Germany). AWS is the largest cloud hosting provider in the world and provides a secure platform for some of the world's largest online service providers.

Physical security

AWS ensure that our servers are physically secure. AWS data centres are housed in nondescript facilities. Physical access is strictly controlled both at the perimeter and at building ingress points by professional security staff utilizing video surveillance, intrusion detection systems, and other electronic means. Authorized staff must pass two-factor authentication a minimum of two times to access data centre floors. All visitors and contractors are required to present identification and are signed in and continually escorted by authorized staff.

AWS only provides data centre access and information to employees and contractors who have a legitimate business need for such privileges. When an employee no longer has a business need for these privileges, his or her access is immediately revoked, even if they continue to be an employee of AWS. All physical access to data centres by AWS employees is logged and audited routinely.

We make sure that the devices we use to connect to the Tapestry servers are physically secure.

We also don't routinely store any of your data on our local devices. It is usually only stored on our servers. On the very rare occasions when we have to (in order, for instance, to diagnose a bug which we have not been able to replicate in any other way), we store as little as possible, for as short as time as possible, with access limited to as few people as possible. We also ensure that the machines we store it on are secure, including ensuring that their storage is encrypted.

It is important that you make sure that the devices you use to connect with Tapestry are physically secure. In particular, if you use some form of password manager on a device that remembers your Tapestry password then, at a minimum, make sure that the device also requires a password to login or unlock.

The Tapestry website doesn't store data that you have entered on your laptop or desktop. Therefore, if your computer is stolen, so long as the password wasn't stored on the computer then the person who stole the computer will not be able to access Tapestry data without guessing your password.

If you were logged into Tapestry when your laptop or desktop was stolen then, so long as the browser is open and the machine hasn't been switched off, the person who stole the computer has a short time when they could use your account. Therefore it is important that you either log off when you leave a computer unattended, or ensure your computer automatically locks its screen when you leave it and requires a secure password to unlock.

The iOS and Android Tapestry apps don't store passwords locally, only temporarily store some data (such as copies of images that are being shown on screen), and require a password or pin to be entered to open the app. Therefore, if the device is stolen, the person who stole it would not have significant access to Tapestry data without guessing your password or PIN.

The devices may have copies of the pictures and videos that have been taken outside of the app. There is also a setting that allows copies of pictures and videos taken within the app to be stored in the device's picture gallery. However, by default this setting is disabled. If you download data (such as PDFs of journals) from Tapestry to your device, those are at risk.

Software security

We, together with AWS, ensure that the software running on our servers is up to date. We run regular automated tests and internal security reviews to examine the configuration and security of our servers.

Similarly, we ensure that the devices we use to connect to Tapestry are up to date and free from viruses and compromising software.

It is important that you take similar care with the devices you use to connect to Tapestry to ensure they are up to date and free from viruses or compromising software. If you give relatives access, please also encourage them to do the same.

Encryption

Connections between you and the Tapestry servers are encrypted.

Connections between the Tapestry apps and our servers are similarly encrypted.

Connections between our office computers and Tapestry are encrypted.

Your data is encrypted at rest on our servers. This includes our backups of your data.

Deleted: Tapestry uses Enhanced Validation Certification (EVC), which does not offer any greater degree of technical protection (encryption is still performed at the same strength) but does offer a visible assurance that the service is being provided by a validated organisation (the Foundation Stage Forum Ltd).

It is important that you check that you are connected to the official Tapestry site before entering your password. The correct URL is https://tapestryjournal.com. We also have an old URL https://eylj.org that we keep running for users that have not updated their bookmarks or links. You should never enter your Tapestry password in any other site.

There should *always* be a padlock or similar symbol to show that the connection to https://tapestryjournal.com is encrypted.

It is important that, if your browser reports any security error, such as a certificate being invalid, you do not accept the situation and enter your password. It is likely to be a genuine security warning. Contact your IT support, or contact us.

If anything at all makes you suspicious do not enter your password. Instead take a screenshot and contact your IT support or contact us.

Please pass this on to people to who you give access: 1) Double check the URL 2) Double check the security padlock 3) Do not enter your password if you get a browser warning or see anything suspicious: take a screenshot and contact us.

Please note that from June 2020, Tapestry no longer uses Enhanced Validation Certification (EVC): it never offered any greater degree of technical protection (encryption is still performed at the same strength) and modern browsers no longer use it to offer a visible assurance that the service is being provided by a validated organisation (The Foundation Stage Forum Ltd).

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Deleted: There should be a padlock or similar symbol to show that the connection is encrypted. Clicking on the padlock or symbol should provide you with information about the connection which should include the fact that the site is owned by the Foundation Stage Forum Ltd

Deleted: The SHA1 fingerprint of our certificate is DC F6 23 A3 35 97 98 98 6E 6B 29 91 51 B2 35 93 DA 1F 7F DC¶

Partitioning

Our network is partitioned to provide minimum access between our servers and the internet. In particular, our databases cannot directly access or be accessed from the internet, but only from specific servers. Only a handful of servers can be accessed from the internet, and only on specific ports and using specific protocols (e.g., no unencrypted connections are permitted). This reduces the likelihood that external hackers can gain access to our servers and then get data out.

Our data is partitioned so that your data is held in a separate database from that of other accounts. This reduces the likelihood that a compromise in somebody else's account (because, for instance, they use an easily guessable password) would lead to a compromise of your data.

Our software is partitioned so that it only has the minimum level of privileges to carry out whatever task it is currently doing. This reduces the likelihood that somebody who hacked into one part of our code could use it to compromise other areas.

Logging

We log activity on our system. Some of these logs are available to you in the Tapestry control panel. We retain more detailed logs to help diagnose and fix faults.

Verification (also known as Penetration Testing)

We employ independent firms to check that our systems are secure by attempting to hack or penetrate them. These firms are accredited by the relevant industry bodies.

The penetration tests cover both the web and the app versions of Tapestry.

The penetration tests include authenticated tests, where the testers are provided with login details to Tapestry accounts to check whether they can exploit those to see or extract data that should not be visible.

If you have a legitimate interest in Tapestry (e.g., you are the account owner, a prospective customer or a parent) we are happy to provide a summary of what the independent testers found – please contact us at customer.service@eyfs.info. Please also get in touch if you want to find out when the last test took place or the next test is scheduled.

We also regularly run automated security tests and carry out internal security reviews.

Capacity, Redundancy and Backups

Our system's capacity scales to meet demand. We do not currently limit the number of users, or the amount of data that they store, we just add the required storage and servers to meet the demand, in most cases automatically.

If a particular account is using our system excessively we may need to discuss the possibility of an increased subscription fee, but we have never yet had to do this.

Our system is redundant and should survive the loss of any server or, indeed, the loss of a physical data centre. This means that we have at least two copies of each operational server and all data is stored in at least two locations.

We also retain backups of all data in a different physical location (at the time of writing, the primary physical locations are in the Republic of Ireland, the backup physical locations are in Germany).

These backups should be, at most, 24 hours old and we should have 90 days of backups.

The backups are treated with the same care as the primary data (in particular, they are encrypted in transit and rest and stored in AWS facilities with the same physical security as described in the 'physical security' section above).

Please note that backups are for disaster recovery. We will use them to restore your data should it become lost or corrupted on the live system. It is not designed for easy access to restore specific bits of data that you have deliberately deleted from the live system. If you ask us to retrieve specific bits of information from the backups, we will do so, but we may need to charge our costs.

Keeping in touch about security

If you suspect a security issue (e.g., you believe that passwords on your account may be compromised because, for instance, computers have been stolen) then email us at customer.service@eyfs.info. Please include a descriptive subject line in your email (i.e., don't just say "Help!" but say "Help! Our computers have been stolen").

If we have a security concern about your account, we will try and reach the primary contact we have listed. This will initially be the person that set up the account. You can change this using the Control Panel within Tapestry (Settings > Contact Details). Please keep this information up to date.

If you or we suspect a security problem, our first step will usually be to lock down the accounts whilst we work together to establish what happened and the best course of action.

Frequently asked security questions

Below are some frequently asked questions that relate to security. If you have a question that hasn't been covered by this document, please ask us at customer.service@eyfs.info. Please note that, for security reasons, we may not answer some questions (such as, for instance, the exact versions of software that we are using).

Can you fill out this security questionnaire for me?

To keep our price down, we do not enter into bespoke contracts or fill out security checklists. However, we hope that our contract, including its annexes, include all the answers you need and cover all the events that you are concerned about and that you can use them to fill out whatever paperwork you require for your own systems.

If you have questions about our service that aren't covered then do get in touch and, if we can, we will add the answers to this contract.

Do you offer a service level agreement?

To keep our price down, we do not. However, we take fulfilling our obligations to you very seriously and will do our utmost to ensure our service is there whenever you need it.

Are you insured?

Yes. Our insurance covers the standard corporate liabilities. In addition, it covers liabilities relating to hacking and relating to data breaches. Like all insurance it is subject to excesses, limits and exclusions.

What happens if my account subscription should expire?

We want to avoid painful mistakes happening because, for instance, a subscription expires during a school holiday and nobody is around to pay the bill. So we do not immediately delete your data when your subscription expires unless you specifically ask us to.

However, 90 days after your subscription expires we will permanently delete your data. Data will remain in our backups for 90 further days.

If you wish, you can instruct us to delete all your data sooner.

Do you store data outside of the EU or the UK?

No. Almost all data remains in the EU. Some data may temporarily be accessed or stored in the UK in order to provide support, diagnose problems or fix bugs.

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What encryption principles are used for data in transit?

We regularly check our encryption meets modern standards and improve it as appropriate. At the moment we use a 2048 bit key, SHA256 with RSA and allow TLS1.0, TLS1.1, and TLS1.2.

Have you disabled TLS 1.0 support?

Not yet: An appreciable proportion of our customers still use devices that are only able to use TLS 1.0.

However, we are keeping this under regular review and would strongly like to disable it at some point this year.

What encryption key management processes are in place?

We use AWS to manage our encryption keys and provide them to authorised servers at the right moment.

The data centre hosting Tapestry is ISO 27001 accredited. Which version of ISO 27001 is it, and who is the accrediting company?

The version is 2013, and the accrediting company is BMTRADA.

Do you follow any other standards or hold any other certifications?

Unless mentioned above, no. We take security very seriously and regularly review what we do. But we have not yet, for instance, undergone ISO27001 accreditation as a business.

Which board member is responsible for security?

Our Managing Director, Stephen Edwards, is responsible for security.

Do you have a documented framework for security governance, with policies governing key aspects of information security relevant to the service?

We do not yet have a complete set of documentation. We have started on the process of creating an ISO 27001 compliant documentation set, but the process is not yet complete.

Can you provide evidence that security and information security are part of your financial and operational risk reporting mechanisms, ensuring that the board would be kept informed of security and information risk?

We are a small firm so our board, Stephen Edwards and Helen Edwards, are closely involved in every decision taken by the firm.

We are very aware of the importance of information security. We discuss it in almost every meeting and we continuously attempt to improve our security.

We have a weekly formal review of our security state (see above)

We get independent penetration testers to review our system (see above)

Can you provide evidence of processes to identify and ensure compliance with applicable legal and regulatory requirements?

We discuss compliance regularly in our senior management meetings and track compliance tasks to completion.

Deleted: in almost every meeting, particularly during this period of transition to the GDPR

We have appointed a Data Protection Officer to hold us to account on this point.

Do you track the status, location and configuration of service components throughout their lifetime?

Yes. Our software configuration is managed under version control, with repeatable builds and change logging.

Yes. Our hardware configuration is managed under version control, with repeatable builds and change logging.

Do you assess changes to the service for potential security impact and monitor that impact to completion?

Yes.

How are potential new threats, vulnerabilities or exploitation techniques which could affect the service assessed?

We run regular automated tests and internal security reviews to examine the configuration and security of our servers.

We engage external penetration testers to assess our system against the latest threats.

Do we use relevant sources of information relating to threat, vulnerability and exploitation techniques, e.g. NIST, NCSC?

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Yes. We monitor CVEs relating to the software our service depends on.

Yes. We regularly review guidance from the NCSC and OWASP. We do not regularly review guidance from NIST.

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How are known vulnerabilities prioritised and tracked until mitigations have been deployed?

We have automated notifications of vulnerabilities that are in our deployed code. These notifications are only quietened when fixes have been deployed.

We have internal issue tracking for required code and deployment changes.

We review and prioritise remaining security actions at least once a week.

What are the timescales for implementing mitigations? E.g. in patching policy?

This depends on the vulnerability.

For instance, if we believe the vulnerability could lead to data exposure, we would immediately take Tapestry offline while we fix the vulnerability. Because Tapestry would be offline, it would be our highest priority to fix. We have procedures for calling in engineers out of hours and at weekends. We have procedures for deploying changes to our production configuration within hours.

If the vulnerability was assessed as being of low risk, it would be deployed as part of our regular code and configuration updates. These tend to be made at least once every two weeks and are often made several times a week.

Other than for fault-finding, are activity logs monitored for suspicious activity, potential compromises or inappropriate use of the service?

Activity logs for our backend system have automated alerting for suspicious activity. These alerts are seen by all developers and by Stephen Edwards.

Activity logs for our customers are not monitored by us. They are available to customers to monitor.

Do we have an incident management process?

Yes. An incident will be uniquely identified and a named individual will be allocated responsibility for managing an incident through our support system. We have standard procedures for common incidents.

What is the process for the vendor to report incidents to the customer?

See “Keeping in touch about security” above.

Is 2-factor authentication (2FA) available to end users?

No. But if sufficient numbers of users ask for it, we will implement it: Get in touch with us at customer.service@eyfs.info.

Can we require passwords to be changed every X days?

No. The UK National Cyber Security Centre recommend that you DO NOT require users to change passwords every X days.

If you suspect a password or email account may have been compromised, you can make the account inactive and then manually force the password to be changed. We can do this in bulk for all accounts if you contact us.

Which NCSC system architecture do you use?

Of the list at https://www.ncsc.gov.uk/guidance/systems-administration-architectures our system is closest to the 'bastion' model.

The service is run on partitioned and private networks. Management functions are carried out by devices on the corporate network which access the private networks through bastions.

What provision is made for customers to access / monitor audit records for system / data access?

Customers have direct self-service access to logs that show changes to data.

We can provide logs of who has viewed data on request to customer.service@eyfs.info.

Does your organisation have differentiated access to data depending on the sensitivity level?

Yes. Our default is 'no access' and our systems are designed to minimise access to data. Different people and the different roles they carry out have different access to data and different requirements for what authorisation they must have before accessing it. We regularly review who can access what and why to ensure we are private and secure by default.

Annex C: Tapestry Privacy

This annex describes our privacy policy for people who access the Tapestry online learning journal service, (https://tapestryjournal.com). This policy is intended to be shared with any person who uses Tapestry as part of their "right to be informed" under UK or EU data protection law. Since we operate as a Data Processor for our customers, the Data Controller (the childminder, educator, nursery, school or similar educational organisation), will need to provide extra information to fulfil the "right to be informed". We describe this extra information briefly in 'Annex A: Tapestry Data Protection' and you can get more guidance from the UK Information Commissioner's Office: https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-to-be-informed/.

We are The Foundation Stage Forum Ltd, a company registered in England with company number 05757213 and a registered address of WaterCourt, 65 High Street, Lewes, England, BN7 1XG, UK.

Our customers are childminders, educators, nurseries, schools or similar educational organisations.

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You are someone who has been given access to Tapestry by one of our customers. For example, you could be a member of staff, a relative of a child, the child themselves, or someone acting on behalf of a child.

You may have rights under UK or EU Data Protection legislation relating to information we store about you. These rights are described here: https://ico.org.uk/for-the-public/. If you want to exercise those rights, please contact the customer who is storing data in Tapestry in the first instance (e.g., the school or nursery). If they want help in carrying out your request, they can contact us.

Our lead supervisory authority for data protection is the UK Information Commissioner's Office (https://ico.org.uk).

The Service

Our customers pay us to provide them with a service that allows them to create online learning journals for children under their care, monitor those children's progress and share this information with their staff and, if they wish, those children's parents and relatives.

What data do we collect?

Our customers may choose to store some of the following data on our service:

- The names and email addresses of their staff
- The names, dates of birth and postcodes of their children
- The names and email addresses of the parents and relatives of their children
- The contents of a learning journal:
  - assessments of children's performance
  - notes, photographs and videos of the children
  - comments by staff and relatives
- A record of the children's care:
  - what they ate and drank
  - toileting
  - how they slept
  - whether they had any accidents
  - comments by staff and relatives
- A register of the children's attendance:
  - when they were recorded as being present

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  - notes relating to that attendance (e.g., whether they didn't attend because they were ill)

- Activities that are planned:
  - worksheets and other materials needed to carry out the activity
  - questions and answers on the activity by staff and relatives
- Memos or notices that the customer wishes to share with relatives:
  - documents that might be attached to the Memo
  - questions and comments made by staff and relatives
- Reflections on particular children, particular activities or particular aspects of the customer's setting.
  - comments and additional reflections by other staff.
- Documents that the customer needs to manage or share with relatives.

Our customers store this information in order to record, analyse and, if they wish, share the progress of their children.

Our customers have the freedom to choose what data they store and who they store it about.

Our customers choose who has access to the data.

Our customers are able to correct and delete data at will.

Our customers must tell you, as part of your right to be informed, what data they are storing, why they are storing it and who they are sharing it with.

In providing the service, we will send automated emails to staff and parents in order to confirm email addresses, reset passwords and notify them of events relating to the customer (such as when a new observation is added about a child). We never send any marketing information, though we do send staff a newsletter about Tapestry.

We ONLY access the data stored by our customers in order to carry out our customer's instructions, to maintain or improve the service or to fix faults. We do not use our customer's data for marketing. We use sub-contractors to process some of the data, but we do not otherwise share this data with other organisations.

If your contact details are registered on Tapestry in the 'contact details' section, or as a 'manager' then we may contact you if we have a question or concern about the associated Tapestry account.

When you visit the Tapestry web site we collect your:

- IP address, together with

- Information your computer sends about its web browser and operating system, and
- What pages you look at (e.g., the list of observations), but not the content of those pages (i.e., we could not tell directly from the data whether the list of observations contained information about a particular child, though given time and access to the data above it would be possible to figure that out).

We use this information to monitor the security of our service, to help us figure out how to improve the service (e.g., what browsers should we support? How much capacity should we add?) and to improve the way we market the service (e.g., what search terms were used to discover our site). We do not share it.

If you use our phone or tablet application we collect:

- The IP address of the network your phone or tablet is on, together with
- The make and model of your phone or tablet, together with
- The version of your phone or tablet's operating system, together with
- Details of any crashes that occur in the application, and
- What screens you look at in the application (e.g., the list of observations), but not the content of those screens (i.e., we could not tell directly from the data whether the list of observations contained information about a particular child, though given time and access to the data above it would be possible to figure that out).

We use this information to monitor the security of our service and to help us figure out how to improve the service (e.g., what causes crashes? which crashes need fixing most urgently?). We do not share it.

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What is the lawful basis for storing this data

Our customers decide and must tell you the lawful basis for the data they add to Tapestry. Please note, your consent is not the only lawful basis for storing data and our customers may have a different legal basis.

Whose data is it?

We don't claim ownership of the data entered into Tapestry. We only use it according to our customer's instructions to provide the service described above.

Formally, in UK and EU data protection legislation terms, our customers are the "Data Controller" and we are the "Data Processor".

There are three exceptions to this, where we are the "Data Controller":

1. The content of our billing system
2. The content of our support ticket system

3. The content of our forums

These exceptions are described in more detail in Annex E and Annex F.

Who do we share data with?

We do not share data, except as explicitly requested by our customers.

If they wished, our customers might give other people (e.g., staff or parents) access to data. They might download or print some or all of the data and share it with other people (e.g., staff, parents, the government). They might transfer some of the data to another organisation (e.g., parents, the government, another educational establishment looking after a child).

We ONLY access the data stored by our customers in order to carry out our customer's instructions, to maintain or improve the service, or to fix faults.

How do we collect the data?

Most data is entered by our customers directly into our website or through our phone and tablet applications. Our customers may, if they wish, permit parents and relatives of children to add data to the service.

Some data (described above) is sent automatically by your web browser or by our applications.

We may store cookies on your computer in order to verify that you are logged in and to store your preferences. The cookies themselves do not contain any identifiable information about you or about what you look at.

Can I see my data that is stored on your system?

Yes. The school, childminder, nursery or similar educational organisation, can give you a copy of data about you that they or you have stored in Tapestry. We can provide you with a copy of any of the other data that has been collected (e.g., our records of your IP address and / or make and model of your tablets etc.).

Can I have my data corrected or deleted?

Yes. The school, childminder, nursery or similar educational organisation, can correct or delete the data they or you have stored in Tapestry.

The process of deletion is gradual: initially deleted data is moved to a 'deleted' area in case it was deleted in error. After a delay, it is then permanently deleted from our main systems. After a further delay, it is then permanently deleted from our backups.

What are our customer's responsibilities?

Our customers decide who to add data about, what data to add, and how long to keep it for. They have overall responsibility for complying with Data Protection law (or the equivalent in other countries).

We describe this in more detail in the contract we have with our customers. But, for instance, they have to:

- Ensure they have a legal basis for what data they store on Tapestry and who they share it with.
- Think about what information it is appropriate to share with whom, given their situation and that of the children under their care.
- Respond to requests for access to data.
- Train their staff about sensible security and confidentiality precautions:
  - Taking care of passwords.
  - Taking care not to install software on computers that may compromise security.
  - Taking care not to access material from inappropriate places where it can't be kept appropriately confidential.
- Delete data when it is no longer required.
- Remove access for people who no longer need access.
- Give parents instructions in accordance with their safeguarding policy.

Contacting Us

You can contact us at customer.service@eyfs.info or WaterCourt, 65 High Street, Lewes, England, BN7 1XG, UK.

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We also have a Data Protection Officer, Lauren Foley, who can be reached at dpo@eyfs.info.

Annex D: Tapestry Sub-processors

Not all parts of Tapestry are run in-house. Below are a list of the sub-contractors that we use to process some of your data. They are under a written contract that ensures they are compliant with UK data protection law.

For the avoidance of doubt: We are accountable to you for this contract. If one of our sub-processors does something wrong, it is our fault – we won't pass the buck.

For the avoidance of doubt: We instruct our sub-processors in ways that are consistent with this contract.

For instance: Although Amazon Web Services have data centres outside of the EU and, technically, could move your data there, they are contractually bound not to do so without our instruction and we would not instruct them to do so.

For instance: Although Amazon Web Services could, technically, access your data, they are contractually bound not to except if it is strictly necessary to deliver their service to us. Even then, their employees are contractually obliged to keep data confidential and secure.

List of sub-processors

To continue to use Tapestry, we require your consent to our use of the following sub-processors:

- Amazon Web Services. They host Tapestry. They are ISO 27001 compliant. Their address is 410 Terry Avenue North Seattle WA 98109-5210.

If, and only if, you enable push notifications then you will be consenting to sending the contents of the notifications via:

- Apple. For push notifications sent to the iOS app. Their address is One Apple Park Way, Cupertino, California 95014, U.S.A.
- Google. For push notifications sent to the Android app. Their address is 1600 Amphitheatre Parkway, Mountain View, CA 94043, United States.
- Amazon. For push notifications sent to the Amazon Fire app. Their address is 410 Terry Avenue North Seattle WA 98109-5210.

Note that the end user of the Tapestry app will also need to consent before push notifications will be sent to them.

Changes to sub-processors

We may, occasionally, need to add or change the sub-contractors we use to process some of your data.

If we do, then UK and EU data protection law requires us to tell you and to obtain your agreement.

We've included the list of sub-processors as part of this contract which means that if we want to change them we will do so by proposing a change to this contract with you. We will give you as much notice as possible so you can discuss any changes with us. We will then ask for your written agreement to the change in contract.

Annex E: Billing and support data

1. We are The Foundation Stage Forum Ltd, a company registered in England with company number 05757213 and a registered address of WaterCourt, 65 High Street, Lewes, England, BN7 1XG, UK.

2. You are a childminder, educator, nursery, school or similar educational organisation.

3. This annex relates to data in our billing and support system. It does not relate to data placed in the Tapestry online learning journal (see Annex A) or to data placed in our discussion forums (see Annex F) or to support material, such as tutorials, videos and descriptions of our product that are hosted on our websites (see the sites' individual privacy policies, for example https://tapestry.info/privacy-policy.html and https://eyfs.info/privacy.html/).

What data do we collect?

4. We collect the following information about people who contact us by email or through our support ticket system:

- The person's email address and the contents of the email

5. If you contact us by telephone, post or face-to-face we may also keep notes of those interactions.

6. We store:

- Your name, email address, telephone number and postal address
- The name, email address and telephone numbers of anyone you tell us who administers or pays for your account with us.

6. Credit card payment information is given directly to a payment service provider. We do not hold any credit card information ourselves.

Why do you need this data?

7. Our lawful basis for collecting this data under EU and UK data protection law is 'contract'. We need this data to:

- Charge you for our service.
- Respond to questions or problems raised by you about our service.
- Contact you if we have questions about your account.
- Decide what changes to make to our service.

Who do you share this data with?

8. We make use of subcontractors to provide our service to you and they may see some or all of this data:

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- Amazon Web Services - For hosting.
- Barnian Media Ltd - For technical support.
- Global Payments - For managing credit card payments.
- Zoho Mail - For managing our email

9. If you contact us in relation to a particular Tapestry account then we may share that data with other people who we believe represent the organisation that owns that account. For example, if a teacher contacted us to instruct us to permanently delete a particular child's data, and then the head of the school later contacted us to ask why a child had been deleted, we would share the instruction from the teacher with the head.
10. We do not use or share your data for any reason other than to provide or improve our service. For the avoidance of doubt: we do not sell your data.

Where is the data stored?

11. Your data is stored within the EU and UK. Our processing is carried out within the EU or UK.

How long do you keep this data?

12. We keep your data for up to 7 years. We keep data this long in case it is required in an audit and to help us decide what changes to make to our service.

How do I exercise my rights under data protection law?

13. We are the data controller of this data.
14. Your rights under UK data protection law are described at https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/. They include the right to see and correct this data.
15. To exercise those rights, contact us at customer.service@eyfs.info.
16. If you are in the EU, your rights under the GDPR are similar and can be exercised in the same way.
17. We also have a Data Protection Officer, Lauren Foley, who can be reached at dpo@eyfs.info.
18. Our lead supervisory authority for data protection is the UK Information Commissioner's Office (https://ico.org.uk).

Annex F: Use of our discussion forum

1. We are The Foundation Stage Forum Ltd, a company registered in England with company number 05757213 and a registered address of WaterCourt, 65 High Street, Lewes, England, BN7 1XG, UK.

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2. You are a childminder, educator, nursery, school or similar educational organisation.

3. We have a discussion forum (https://eyfs.info) that you may use to discuss issues facing childminders, educators, nurseries, schools or similar educational organisations.

Liability

4. We do not vouch for the accuracy, completeness or usefulness of any material on the forum. Use it at your own risk.

5. The material expresses the views of the author of the material, and not necessarily our views.

6. If you feel any material on the forum is objectionable, please contact us immediately at customer.service@eyfs.info.

Content and ownership of your messages

7. Don't post anything we won't like.

    - We like professional discussion of the issues facing childminders, educators, nurseries, schools or similar educational organisations.

    - We don't like things that are unkind, illegal, lies, use language you wouldn't want children to hear, or are shameless advertising.

8. Don't post anything that you don't have permission to post. For instance, if you didn't write the material you are posting, make sure you have the permission of the person who wrote it *before* you post it.

9. On shameless advertising: Occasionally during the course of a discussion it may be appropriate for a you to mention a product or service with which you are involved if it helps the discussion and doesn't annoy anyone. We will use our discretion in those cases.

10. If we don't like what you post, or fear you may not have permission to post it, we will remove it.

11. If we keep having to remove your material, or if we *really* don't like it, we will bar you from the forum.

12. When you post material, you retain copyright but grant us the right to use the material:

- without payment,
- in any way we choose,
- anywhere in the world,
- forever.

13. If we use your material, we will try to attribute it to you.

14. If you wish to copy material posted by someone else, please contact us or the person who posted for permission.

Privacy and Data Protection

15. We store any data that you submit to us, plus your IP address, details about your browser and computer and which pages on our site you view.

16. Our lawful basis for storing and using the data is 'contract'. We store and process this data in order to:

    - provide a discussion forum,
    - monitor abuse,
    - fix bugs
    - and to improve our service.

17. Your data is stored within the EU or the UK. Our processing is carried out within the EU or the UK. Our forum is accessible from outside of the EU and the UK, so material you post may be viewed from outside of the EU and the UK.

18. Your forum account will lapse once your Tapestry subscription lapses or, if you have a separate forum subscription directly or through your local authority, once that subscription lapses.

19. When your forum account lapses you will no longer be able to log into the forum or post material to the forum. At our discretion, the material you have posted may remain on the forum.

20. When your forum account has lapsed we will only use the personal information that you have provided us to:

    - help you re-activate your forum account if you later wish to re-subscribe
    - keep track of who posted what material in case we need to attribute it to you or in case we need to verify that you had permission to post the material.

21. We will delete the personal information that you have provided us at most 7 years after your forum account has lapsed. At our discretion, the material you have posted may remain on the forum.

22. We are the data controller for this data. To exercise your rights under UK or EU data protection law you can contact us at customer.service@eyfs.info.

23. We have a Data Protection Officer, Lauren Foley, who can be reached at dpo@eyfs.info.

24. Our lead supervisory authority for data protection is the UK Information Commissioner's Office (https://ico.org.uk).

Annex G: Standard Contractual Clauses for EU customers

This Annex is for customers who need it in order to be compliant with the law in their country.

It applies:

1. To customers who are a Data Controller based in the EEA and

2. if the UK ends its transition agreement with the EU without an agreement that renders this section unneccessary.

It contains the Standard Contractual Clauses from 2010/87/EU without modification.

If it applies to you, then it is considered to be signed when the overall contract is agreed to by both parties and from the end of the transition period between the UK and EU.

If it does not apply to you, then this section is to be ignored.

You can find out more at https://edpb.europa.eu/sites/edpb/files/files/file1/edpb-2019-02-12-infonote-nodeal-brexit_en.pdf.

For the avoidance of doubt, if any part of these standard contractual clauses contradicts another part of the contract, these standard contractual clauses are the ones that are binding.

STANDARD CONTRACTUAL CLAUSES (PROCESSORS)

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection, You, the party agreeing to this contract (the data exporter) and We, The Foundation Stage Forum Ltd, a company registered in England with company number 05757213 and a registered address of WaterCourt, 65 High Street, Lewes, England, BN7 1XG, UK (the data importer) each a 'party'; together 'the parties', HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1

Definitions

For the purposes of the Clauses:

(a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (1);

(b) 'the data exporter' means the controller who transfers the personal data;

(c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

(d) 'the sub-processor' means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) 'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2

Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

Clause 3

Third-party beneficiary clause

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data

exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the sub-processor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4

Obligations of the data exporter

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

(b) that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

(g) to forward any notification received from the data importer or any sub-processor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for sub-processing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i) that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a sub-processor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j) that it will ensure compliance with Clause 4(a) to (i).

Clause 5

Obligations of the data importer (2)

The data importer agrees and warrants:

(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

(e) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;

(ii) any accidental or unauthorised access; and

(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for sub-processing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the sub-processor will be carried out in accordance with Clause 11;

(j) to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

Clause 6

Liability

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or sub-processor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his sub-processor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim

against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract of by operation of law, in which case the data subject can enforce its rights against such entity. The data importer may not rely on a breach by a sub-processor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the sub-processor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the sub-processor agrees that the data subject may issue a claim against the data sub-processor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the sub-processor shall be limited to its own processing operations under the Clauses.

Clause 7

Mediation and jurisdiction

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

(a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8

Cooperation with supervisory authorities

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any sub-processor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub-processor preventing the conduct of an audit of the data importer, or any sub-processor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5(b).

Clause 9

Governing law

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

Clause 10

Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11

Sub-processing

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the sub-processor which imposes the same obligations on the sub-processor as are imposed on the data importer under the Clauses (3). Where the sub-processor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the sub-processor's obligations under such agreement.

2. The prior written contract between the data importer and the sub-processor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

3. The provisions relating to data protection aspects for sub-processing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established, namely …

4. The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be

updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12

Obligation after the termination of personal data-processing services

1. The parties agree that on the termination of the provision of data-processing services, the data importer and the sub-processor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the sub-processor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data-processing facilities for an audit of the measures referred to in paragraph 1.

Appendix 1

to the Standard Contractual Clauses

Data exporter

The data exporter is a childminder, educator, nursery, school or similar educational organisation.

Data importer

The data importer is a provider of services as detailed in Annex A: Tapestry Privacy.

Data subjects

The data subjects are detailed in Annex A: Tapestry Privacy.

Categories of data

The categories of data are detailed in Annex A: Tapestry Privacy.

Processing operations

The data processing activities are detailed in Annex A: Tapestry Privacy.

Appendix 2

to the Standard Contractual Clauses

This Appendix forms part of the Clauses and must be completed and signed by the parties.

The technical and organisation security measures implemented by the data importer are detailed in Annex A: Tapestry Data Protection

Changes to this contract

Below is a list of material changes to this document. If you spot a change that should be in this list, please let us know.

This version of the contract

Deleted: Next

Deleted: (release TBD)

Line numbers mentioned in this section are the line numbers marked on the PDF copy of the 2020 May 26 version of this contract.

- The non-contractual note on Brexit: Updated to reflect that we are now in a transition period.
- Everywhere: Clarify usages of UK and EU now that the UK is no longer part of the EU.
- Everywhere: Fix spelling and typos
- Overview: Update registered address of The Foundation Stage Forum Ltd (line 240). Clarify that eyfs.info is not just a forum, it has education resources as well (line 250). Clarify the wording again to try and make it clearer who can claim from whom if it turns out that one party is not responsible for a data protection breach but the other is (line 341). Clarify that, for EU customers, parts of the contract may not be under UK law (line 344).
- Annex A: Update registered address of The Foundation Stage Forum Ltd (line 358). Make the Annex consistent with the Overview: the contract is under English law (line 398). Include our ICO registration number (line 400). Refer to the 'Standard Contractual Clauses' for EU customers (line 402). Clarify that when answering a support ticket requires us to view your data, that data will be viewed in the UK (which is now outside of the EU) (line 422). Clarify where in the document you can find help when carrying out a Data Protection Impact Assessment (line 718). Update the Brexit FAQ (line 779).
- Annex B: Update registered address of The Foundation Stage Forum Ltd (line 811). Make the Annex consistent with the Overview: the contract is under English law (line 819). Update the section on encryption to include guidance on how to stay safe and to include the forthcoming changes to our certificate (line 1044 onwards).
- Annex C: Update registered address of The Foundation Stage Forum Ltd (line 1306). Refer to new functions that customers could be using (line 1344).
- Annex E: Fix numbering. Update registered address of The Foundation Stage Forum Ltd (line 1515). Point out where the other privacy police are (line 1523). Note change of payment processor from SagePay to Global Payments (this is for payment data where The Foundation Stage Forum Ltd is the Data Controller) (line 1549).

- Annex F: Update registered address of The Foundation Stage Forum Ltd (line 1581).
- Annex G: A new annex containing the EU Standard Contractual Clauses from decision 2010/87/EU for customers who are in the EU (line 1656 onwards).

2019 April 18

Line numbers mentioned in this section are the line numbers marked on the PDF copy of the 2019 April 18 version of this contract.

- Overview: Clause 26 make it clear that there would not be a limit to liability if you or we need to claim back the compensation we have paid under a breach of data protection law (line 307).
- Annex A: Tapestry Data Protection: Explain that if, and only if, push notifications are enabled by you and the end user of the app, then sometimes the contents of the notification might go outside of the EU on its way to the company that makes the end user's phone or tablet operating system (line 389).
- Annex A: Tapestry Data Protection: Mention that, if you use the new Register functionality, you might be storing data about a child's attendance (line 407).
- Annex A: Tapestry Data Protection: Fix a typo "Repeating your in a letter to us." should be : "Repeating your instruction in a letter to us" (line 580).
- Annex B: Tapestry Security: Take out reference to when the last penetration test was, this becomes out of date too quickly. Add in how to get hold of the summary of the test and to contact us for when the last test took place and when the next one is scheduled (line 1022).
- Annex C: Tapestry Privacy: Mention that, if the customer uses the forthcoming Register functionality, they might be storing data about a child's attendance (line 1258).
- Annex D: Tapestry Subprocessors: We have added Apple, Google and Amazon as our forthcoming apps will offer push notifications and those notifications go via the maker of the phone or tablet's operating system. Because we are the Data Processor for this data, you need to consent to using these sub-processors. You can provide your consent by enabling push notifications in your Tapestry Control panel. If you do not provide consent the only functionality that will be missing is push notifications (line 1402).
- Annex E: Billing and Support Data: We have changed our email provider from Fastmail to Zoho Mail. Because we are the Data Controller for this, consent is not formally required from you to make this change (line 1453).

2018 May 1

Line numbers mentioned in this section are the line numbers marked on the PDF copy of the 2018 May 1 version of this contract.

Deleted:)

Tapestry Data Protection

- Add a section pointing out where to find in this contract the standard terms required in a data processing agreement (lines 303-323)
- Attempt to clarify the wording describing that viewing Tapestry from outside the EU means data will be transferred outside the EU to get to you (lines 351-358)
- Rephrase "What data is placed into Tapestry?" to more closely match the language of subject matter, nature and purpose, etc. that is used in data protection legislation (lines 360-375)
- Remove Bursar from the list of examples of who can instruct us (line 520).
- Confirm that if someone who isn't authorised tries to instruct us to do something, we will tell you about it. (lines 525-526)
- Clarify what 'written' instruction means (lines 530-540)
- Added a section "Instructions we do and don't accept" (lines 541-562).
- Confirm that our staff who process data are appropriately trained in data protection (line 568).
- The tools to allow download of user's data are now available (line 581).
- Remove section "[NOT YET IMPLEMENTED We do provide some example documents on risks that you can customise when carrying out your own assessments.]" – we have provided some guidance in our forum, but not yet example documents (line 617).

Tapestry Security

- Remove the word 'reset' from links (line 847).
- Clarify the wording that confirms connections between the Tapestry apps and our servers are encrypted (line 938).
- Change email to reach for keeping in touch about security. In urgent cases we would call if we have appropriate contact details (line 1013).

Tapestry Privacy

- Remove the word 'usually'. Our customers are always the data controllers (line 1176)

Tapestry Sub Processor

- Remove the reference to Crashlytics, the forthcoming versions of the Tapestry apps will no longer use this sub-processor (line 1153).

2018 March 12 (Second Draft)

Line numbers mentioned in this section are the line numbers marked on the PDF copy of the 2018 March 12 draft.

Across all sections

- Fixed typos and improved some wording.
- Adjust numbering that occurs because of other changes.
- Make links to emails and websites clickable.

A note on this draft

- Mention the list of changes (line 163).
- Fix dates (line 174).

Overview

- Clarify that we do sometimes call people back, and offer paid-for telephone support sessions (lines 189-192).
- State explicitly that we are GDPR compliant and this contract contains the required clauses (lines 212-215).
- State that the limit on liability is reciprocal (lines 268-269)
- Clarify that some liabilities are set in law and we aren't attempting to override them (line 268). In particular, in relation to liabilities from breaches in data protection law (lines 270-275).

Annex A: Tapestry Data Protection

- Provide more detail on where data is stored (lines 308-330).
- Confirm that we won't change where data is stored without your agreement (lines 309-311).
- Reference the Privacy Policy for a fuller explanation of what data is covered by this data processing agreement (line 345).
- Confirm that we will get your *written* consent before changing our sub-processors (line 363).
- Confirm that we will tell you if we become aware of a breach (line 375, line 527, lines 578-582).
- Suggest careful consideration of the lawful basis for adding data to Tapestry (lines 384-387).
- Expand on the implications of the right to be informed (lines 439-451).
- Clarify we don't license your data (line 469).
- Clarify who can tell you to restrict processing of data (it isn't us) (line 474).
- Clarify who can instruct us (lines 480-493).

- Confirm that we use sub-processors in a way that is compliant with data protection law and point to the Annex for a description of how we will seek your agreement if we wish to change them. (lines 505-507).
- Clarify that we will help you to 'lock-down' your account if you suspect a breach (line 531-534).
- Clarify that you have to notify the data protection regulator in the case of a breach (line 539).
- Clarify we won't delete data if we are not allowed to by law (lines 562-563).
- Clarify that we may partially or entirely lock down your account if we suspect a breach (lines 583-587).
- Add a FAQ on Brexit (lines 601-605).

Annex B: Tapestry Security

- Add VAT number (line 637)
- Confirm that when data is deleted from our backups, it is no longer recoverable by us (line 714).
- Add a reminder about what to do if you suspect a password or email account has been compromised (lines 795-803).
- Clarify when and how we might store data on our local devices (lines 824-829).
- Provide more detail on what our penetration tests cover (lines 906-912).
- Confirm that we are insured (lines 969-972).
- Make our TLS 1.0 support more obvious (lines 987-991).
- Clarify that you can't force password changes every X days (lines 1078-1083).
- Confirm we have differentiated data access policies (lines 1095-1101).

Annex C: Tapestry Privacy

- Clarify that the Data Controller will need to add more information to fulfil a subject's right to be informed (lines 1106-1113, lines 1153-1154).
- Give examples of who 'you' might be (lines 1120-1121).
- Clarify that we may contact 'managers' registered with Tapestry using the contact details they have entered if we have a question or concern about the associated Tapestry account (lines 1165-1167).
- Clarify we also collect your IP address if you use our phone or tablet app (line 1182).
- Confirm that we do not share data about your computer or tablet (line 1193).

- Clarify that the Data Controller will need to provide the lawful basis (line 1194-1197).
- Remove troublesome reference to who owns data: keeping the fact that we don't, but not claiming that you do (line 1199-1200).

Annex D: Tapestry Sub-processors

- Confirm that they are under a written contract with us (line 1266).
- Confirm that we use them in a way that is consistent with this contract, and give examples in relation to common questions. (lines 1271-1279).
- Remove references to sub-processors we have now eliminated (line 1288).
- Explain how we will seek your written consent if we need to add or change sub-processors (lines 1290-1299).

Annex E: Billing and support data

- Explicitly state our lawful basis for processing data (line 1322).
- Remove reference to United Hosting - we no longer use them (line 1330).
- Clarify that we would share data relating to an account with other representatives of that account. (lines 1334-1339).
- Clarify that we do use your data to improve our service (line 1341).

Annex F: Use of our discussion forum

- Explicitly state our lawful basis for processing data (line 1405).

2018 January 5 (First draft)

- First public draft of new, more detailed, contract.