

## Privacy Notice

### Introduction

By you registering for and/or sitting HPAT-Ireland The Australian Council *for* Educational Research Ltd (ABN 19 004 98 145) of 19 Prospect Hill Road Camberwell Australia 3124 (**ACER**) will collect your personal information to prepare for, administer and finalise all activities to satisfy the purposes for which you may sit HPAT-Ireland, including:

- (a) investigating any suspected misconduct and determining and administering any consequences for misconduct;
- (b) disclosing to the universities that require HPAT-Ireland scores and the Central Applications Office and them collecting, storing, using, disclosing your personal information in accordance with their policies from time to time; and
- (c) disclosing to approved research bodies that have an interest in HPAT-Ireland data. Any research report will include anonymised data only.

### **(the Purpose).**

In respect of any act or omission of ACER concerning your personal information, in pursuit of the Purpose, ACER may be subject to the:

- (a) *Privacy Act 1988 (Cth) (Privacy Act)*; and /or
- (b) *General Data Protection Regulation (EU) 2016/679 (GDPR)*.

### **The personal information ACER collects in pursuit of the Purpose:**

The information ACER may collect in pursuit of the Purpose about you includes your:

- registration information;
- payment details;
- test answers and results;
- application (if any) for special testing conditions including health information;
- identification information; and
- communications with ACER relating to the Purpose.

### **(Personal Information)**

## The Privacy Act:

To the extent of the applicability of the Privacy Act to your Personal Information collected in pursuit of the Purpose:

You CONSENT to ACER:

- (a) collecting and using any sensitive (such as health) information, for example, in case you need special consideration in sitting HPAT-Ireland;
- (b) collecting, storing, using, disclosing and transferring OUTSIDE OF AUSTRALIA, for purposes related to your registration, your personal information in accordance with its privacy policy specified at the end of this statement. YOU ARE NOTIFIED that the persons to whom the information is disclosed outside of Australia have no obligation to abide by the Australian Privacy Principles contained in the Privacy Act. The consequences of this may be, the:
  - i. country of the person may not have similar privacy laws or measures by which you may pursue any of your rights in respect of privacy as that of Australia; and
  - ii. person may not handle your personal information in the manner designated under the Australian Privacy Principles and you may not have any mechanism with which to seek redress.

Should you not wish to provide the above consents or wish to access and/or amend your personal information or wish to make a complaint related to privacy please contact the HPAT-Ireland Office at [hpat-ireland@acer.org](mailto:hpat-ireland@acer.org). For further information concerning how ACER handles your personal information or what privacy rights you have please see: <https://www.acer.org/privacy>.

## GDPR

To the extent of the applicability of the GDPR to your Personal Data collected in pursuit of the Purpose:

### Definitions

The following items used or referred to in this document are defined below:

- Data controller: the company, organisation or person that decides (jointly or alone) on the means and purpose of processing of personal data;
- Processing: any action including storage, collection, usage, destruction, combining, publishing or otherwise constitute any form of operation on personal data; and
- Personal data: any information related to an identified or identifiable natural living person.

## ACER roles and contact information

ACER:

- is the Data Controller and Processor and is committed to protecting your rights in accordance with GDPR; and
- has a Data Protection Officer who can be contacted at:
  - contact number :+44 7989305294
  - email address: [DPO@acer.org](mailto:DPO@acer.org)

## Legal basis for processing your information

(1)	By registering for HPAT-Ireland ACER will be required to collect, store, use and share information about you in pursuit of the Purpose <b>and for reasons deemed necessary for the performance of your contractual agreement</b> with ACER.
(2)	ACER will obtain explicit <b>consent</b> from you when collecting or handling special information in order to assist with health, disability or special assistance you need to undertake the HPAT-Ireland (e.g. reasonable adjustment applications and services to candidates with disabilities).
(3)	Processing of your personal data may also be <b>necessary for the pursuit of ACER's legitimate interests</b> (see below) <b>or by a third party's legitimate interests</b> -but only where it is not unwarranted and will not cause a prejudicial effect on your rights and freedoms, or legitimate interests.
(4)	Processing of your personal data may also be necessary <b>for the performance of a task carried out in the public interest or in the exercise of official authority vested in the consortium of Universities instigating HPAT-Ireland.</b>
(5)	Processing of Special Categories data is necessary for the <b>statistical and research purposes</b> in accordance with article 89(1) based on the duties in any relevant equality or discrimination laws.

## Legitimate interests

ACER has a legitimate interest in:

- (a) Providing you with HPAT-Ireland to assist you in pursuing higher education;
- (b) Safeguarding and promoting your welfare and the welfare of other students;
- (c) Promoting the objects and interests of ACER;
- (d) Facilitating the efficient operation of ACER;
- (e) Ensuring that all relevant legal obligations of ACER are complied with and;
- (f) Defence of legal.

## Third Party legitimate Interests

In addition your Personal Data may be processed for the legitimate interests of others. For example:

- (a) Banking or other financial institutions in respect of payment of fees, refunds or charge backs;
- (b) Potential providers of tertiary education you have approached;
- (c) Professional or statutory bodies responsible for the management of university admissions;

- (d) Government agencies with duties relating to prevention and detection of crime, collection of a tax or duty or safeguarding national security; or
- (e) when investigating a complaint.

## **Disclosure of your Personal Data**

Personal Data is protected by ACER and will not be disclosed to third parties without consent, or, as is permitted by law. This section outlines the major organisations and the most common circumstances in which ACER discloses your Personal Data.

Where necessary in pursuit of the Purpose, your Personal Data may be:

- (a) shared internally within ACER and/or its related contracted service provider companies for the Purpose; and
- (b) disclosed to:
  - Banking or other financial institutions in respect of payment of fees, refunds or charge backs;
  - Potential providers of education you have approached;
  - Professional or statutory bodies responsible for the management of university admissions;
  - Government agencies with duties relating to prevention and detection of crime, collection of a tax or duty or safeguarding national security; and
  - Your parents or guardians where consent has been obtained.

## **Cross-border data transfers**

ACER is based in Australia and any activity in respect of your Personal Data mainly occurs in Australia and exclusively in pursuit of the Purpose. Some of the Recipients of your Personal Data detailed above may be located outside the European Economic Area.

If your personal information is collected from within the European Economic Area you acknowledge that you understand that your data will be transferred to Australia in pursuit of the Purpose. In that instance your personal information will be collected, used, stored and disclosed in accordance with the GDPR and the EEA representative under GDPR legislation is ACER UK Company No 5572704 13-15 Canfield Place, London NW6 3BT UK.

## **Retention periods**

ACER may retain your Personal Data collected in pursuit of the Purpose for a period of up to ten years, for your assistance, so you or your relevant education provider can verify results and Personal Data.

## **Your rights**

Under the GDPR you have a right of access to your Personal Data which ACER holds about you, subject to certain exemptions, by way of making an access request.

If you submit an access request to ACER, you are entitled to:

- Be told whether ACER holds any Personal Data about you;
- Be given a description of the Personal Data, the reasons it is being processed, and whether it will be or has been given to any other organisations or people;
- Be given a copy of the information comprising the Personal Data and given details of the source of the data (where this is available);
- Be told the purpose of Processing;
- Be told the categories of Personal Data concerned;
- Be told the recipients or categories of recipients to whom the Personal Data has been or will be disclosed, particularly 3rd countries or international organisations – where this is the case you are also entitled to be informed of appropriate safeguards relating to the transfer of information;
- Be told the period data will be stored;
- Be told the right to request rectification, erasure or restriction of processing;
- Be told the right to lodge a complaint; and
- Be told the existence of automated decision making including profiling.

These rights apply to electronic Personal Data, and to Personal Data in "manual" (i.e. non-electronic) formats subject to certain exemptions.

## **Exemptions to your rights**

The GDPR includes various exemptions in which a Data Controller can refuse to provide access to Personal Data. The most likely situations in which ACER could refuse to release information in response to a subject access request are where:

- The release of the information would jeopardise the prevention or detection of crime, or the apprehension or prosecution of offenders;
- The request relates specifically to access to assessment material;
- The request relates to Personal Data contained ACER's or the HPAT-Ireland University User Group's confidential information;
- The request relates to Personal Data which records ACER's intentions in relation to any negotiations with you, and the release of the Personal Data would prejudice the negotiations;
- The Personal Data requested is covered by legal professional privilege;
- The Personal Data requested relates to management forecasting or management planning, and its release to you would prejudice ACER's business or activities; or
- The request relates to access to Personal Data which has been retained for the purposes of historical or statistical research, the conditions set out in the data protection laws for processing for research purposes have been met, and the results of the research have not been published in a way which identifies individuals.

If Personal Data is withheld from you as a result of an exemption under the GDPR, it will be explained why the Personal Data has been withheld and the relevant exemption, unless doing so would itself disclose information which would be subject to the exemption.

The GDPR allows ACER to refuse to act on your request, or to charge you a reasonable fee (taking into account the administrative costs of providing the information) where it's considered your request to be manifestly unfounded or excessive, in particular because the request is repetitive or unduly onerous in character.

ACER has to protect the data protection rights and other legal rights of other individuals when it responds to subject access requests. Information which does not relate to you may be 'blanked out' or redacted, particularly if it relates to other individuals. Sometimes it may not be possible to release Personal Data relating to you because doing so would also reveal information about other persons who have not consented to their data being released, and it would not be reasonable in the circumstances to release the data without their consent. In such cases, you will be informed that Personal Data about you has been withheld and the reasons for doing so.

If we consider that you have made a subject access request which is manifestly unfounded or excessive in nature (for example because a request is repetitive), it is possible for ACER to:

- Charge a reasonable fee taking into account the administrative costs of providing the information; or
- Refuse to act on the request.

If it is determined that a fee should be charged, you will be notified, in writing, of that fact, the level of the fee, and the reason for requesting the fee, without delay.

If it is determined that your request will be refused, you will be notified, in writing, of that fact and the reasons for the refusal to act on the request, without delay.

## **How do I submit a request?**

You can make your subject access request by telephone or in person, by contacting the DPO at the contact details provided above.

When making your request please be as specific as possible about the Personal Data which you want access to, as this will assist in processing your request. For example, if you only want Personal Data relating to your academic record, you should indicate that. A general request such as "please send me all of the Personal Data which you hold about me" is likely to lead ACER to contact you for further information or clarification.

Proof of ID will be required to ensure that ACER is releasing Personal Data to the correct person. ACER will inform you of what is required and in what form it is required. It will usually involve photographic and authoritative documentation such as passport and driving license documents.

## **What happens next?**

You will be sent an acknowledgement of your request as soon as possible. This will indicate the deadline by when ACER will send you a response (usually within 28 days).

You may be asked for further information to assist.

Your request will be responded to as soon as possible, and within 28 days of receipt of your request (unless there are grounds to extend that timescale).

The Personal Data will usually be provided in the format in which you make the access request e.g. digitally or by post.

If you request further copies of the Personal Data ACER may charge a reasonable fee based on administrative costs.

### **Can I appeal?**

If you are dissatisfied with the response to your access request, you have the right to apply directly to the privacy regulator in your relevant country. Further information about how to enforce your rights under applicable data protection laws is available on the relevant privacy regulator's website.