

DATA PROTECTION IMPACT ASSESSMENT

Deployment of "Kestrel Insight" — AI-assisted early identification of pupils at risk of underachievement

Controller: Ardglas Education Trust · **Processor and AI system provider:** Kestrel Learning Ltd

Reference: AET-DPIA-2026-014 · **Date:** 2 September 2026 · **Classification:** Internal — Restricted

Prepared by: J. Otutu, external data protection adviser

> **SPECIMEN.** Ardglas Education Trust and Kestrel Learning Ltd are invented, as is every name, figure and system in this document. The legal analysis is real and current as at 2 September 2026.

1. EXECUTIVE SUMMARY

1.1 What is being assessed

Ardglas Education Trust ("the Trust") is the patron body for eleven post-primary schools in Ireland, serving approximately 7,400 pupils aged 12 to 18. The Trust proposes to deploy **Kestrel Insight**, supplied by Kestrel Learning Ltd, which uses a machine learning model to identify pupils who may be at risk of underachievement or disengagement, so that staff can offer support earlier.

The system ingests attendance, assessment results, virtual learning environment engagement data and structured teacher observations. It produces a three-band risk indicator per pupil, refreshed weekly, with an indication of the factors that most influenced the result. A named teacher reviews each indicator and decides what, if anything, to do.

1.2 Why a DPIA is mandatory

The processing meets multiple mandatory triggers, set out at section 3: systematic and extensive evaluation based on automated processing including profiling; children as data subjects; large scale; innovative technology; and inclusion on the Data Protection Commission's Article 35(4) list.

1.3 Outcome

Nineteen risks were identified. Before mitigation: four very high, nine high, six medium. After the twenty-seven measures at section 8, **no risk remains very high; three remain high** with accepted, monitored controls:

- 1 **Automation bias** (R-01) — teachers deferring to the output rather than judging independently, which would convert decision support into automated decision-making in substance.
- 2 **Differential accuracy across pupil groups** (R-02) — the model performing worse for pupils with additional needs or from lower-income areas, disadvantaging those already disadvantaged.

- 3 **Undetected false negatives (R-15)** — at a recall of 0.58, roughly four in ten genuinely at-risk pupils are never flagged, and **every other safeguard in this assessment operates only on pupils who are flagged**. No control in this document can detect harm to a child sitting in the Green band who needed help. This risk is not reducible below Medium and is the reason for measure M-25.

1.4 Conclusion

Two design changes are required before deployment, and prior consultation with the Data Protection Commission is required.

Change 1 — the learning support flag must not be processed. Section 6.4 sets out the analysis. In short: whether a pupil receives learning support reveals health data; Article 9 processing requires a condition; the condition the Trust intended to rely on does not exist in Irish law because the enabling regulations have never been made. There is therefore no lawful route to this field and it is removed from scope.

Change 2 — one term in shadow mode before any band is shown to any teacher. Section 6.2 explains why the necessity case cannot be closed without it.

Prior consultation under Article 36 is required. Three risks remain high after mitigation. The processing concerns children, involves profiling, and appears on the DPC's mandatory list. An earlier draft of this assessment concluded that consultation was not required, reasoning that the residual risk was high on the internal scale but not "high" in the sense Article 36 contemplates. That reasoning does not survive scrutiny: a controller cannot score a risk High and then define the score away. The Trust will consult.

2. ROLES

Party	GDPR role	AI Act role
Ardglas Education Trust	Controller	Deployer
Kestrel Learning Ltd	Processor	Provider
Northlake Cloud Services Inc. (US)	Sub-processor	—
Individual schools	Not separate controllers (see 2.1)	—

2.1 School-level responsibility

The eleven schools do not act as independent controllers. The decision to deploy, the configuration, retention and escalation pathways are set centrally. Schools exercise operational discretion over what to do with a flag, within Trust policy. This was assessed rather than assumed; had the schools been separate controllers, an Article 26 joint controller arrangement would be required.

This finding creates a difficulty for the lawful basis, addressed at 6.3.

2.2 Provider and processor are different roles

Kestrel Learning is the Trust's processor under GDPR and the provider of a high-risk AI system under the AI Act. Article 28 processor duties do not discharge provider duties, and the Trust's controller duties do not discharge its deployer duties. Section 9 treats them separately.

3. SCREENING

3.1 Article 35(3) triggers

Trigger	Met	Reasoning
35(3)(a) systematic and extensive evaluation, including profiling, on which decisions producing legal or similarly significant effects are based	Yes	Every pupil scored weekly; outcomes influence access to support and pastoral escalation
35(3)(b) large scale special category processing	No, following the change at 1.4	With the learning support flag removed, no special category data is processed by design. Residual inference risk is treated at 6.4 and R-05, not as a 35(3)(b) trigger
35(3)(c) systematic monitoring of publicly accessible area	No	—

3.2 EDPB criteria (WP248 rev.01)

WP248 states that a controller **can consider** that processing meeting two or more criteria requires a DPIA; it is an indicator, not a rule. This processing meets seven.

- 1 Evaluation or scoring — yes
- 2 Automated decision-making with legal or similarly significant effect — yes, assessed at 6.5
- 3 Systematic monitoring — yes, weekly through the school year
- 4 Sensitive data or data of a highly personal nature — yes; educational attainment and behavioural observation of children
- 5 Data processed on a large scale — yes; 7,400 pupils, eleven sites
- 6 Matching or combining datasets — yes; attendance, assessment, telemetry and observations
- 7 **Data concerning vulnerable data subjects — yes, and this is the governing factor.** Children cannot meaningfully refuse a system operated by their school, and stand in an evident power imbalance
- 8 Innovative use of new technological solutions — yes
- 9 Preventing exercise of a right or use of a service — not directly

3.3 DPC Article 35(4) list

The Commission's list includes processing children's personal data for profiling or automated decision-making, and use of new technologies to process personal data of vulnerable persons. Both apply.

3.4 Conclusion

A DPIA is mandatory. It was commenced before processing began, per Article 35(1). No pupil data has been supplied to the processor.

4. THE PROCESSING — NATURE

4.1 Sequence

- 1 **Nightly extract** from the Trust's student information system to an endpoint operated by Kestrel Learning. *This is a restricted transfer to a third country; see section 10.*
- 2 **Feature construction** — approximately 40 derived features, for example rolling six-week attendance trend, assessment variance against the pupil's own prior performance, days since last VLE login, ratio of submitted to set assignments.
- 3 **Model inference** — a gradient-boosted decision tree model produces a probability between 0 and 1 for the outcome "pupil will be recorded as significantly below expected progress at the next reporting point."
- 4 **Banding** to Green, Amber or Red at Trust-configured thresholds.
- 5 **Explanation** — the four highest-contributing features with direction of effect.
- 6 **Teacher review** — the year head sees band and factors, and records: no action, informal check-in, referral to learning support, or referral to pastoral care.
- 7 **Feedback** — recorded decisions and outcomes return to the provider, restricted per M-14.

4.2 Exclusions

The system does not use facial imagery, webcam, voice or any biometric input; does not infer emotional state, mood or affect; does not monitor pupils outside the VLE; does not communicate any output to a pupil or parent directly; and does not feed examination results, certification or admissions.

The first two exclusions are not preference. **Inferring emotions in educational institutions is a prohibited practice under Article 5(1)(f) of the AI Act and has been since 2 February 2025**, subject to a narrow exception where the system is put in place for medical or safety reasons, which is not engaged here. A system with that capability would be unlawful outright, not merely high risk. Absence of the capability is confirmed in writing and is an express contractual restriction on future product change.

4.3 The model

Attribute	Detail
Type	Gradient-boosted decision trees
Training data	Pseudonymised records, 34 institutions, 2022–2025, approx. 210,000 pupil-terms
Trust data used in training	No; inference only, contractually prohibited without separate written instruction
Retraining	Twice yearly by provider; 30 days' notice to the Trust
Explainability	SHAP values, four highest-magnitude features surfaced
Reported performance	AUC 0.81; precision 0.62, recall 0.58, at the Amber threshold
Independently validated	No. See R-06

Two limitations in that row matter more than the headline figure.

First, all published metrics are stated at the Amber threshold, but section 6.5 establishes that the significant effects arise at Red. The provider has supplied no performance data at Red, and bands are configured at Trust

level, so the provider's figures do not describe the Trust's configuration at all. M-06 requires this.

Second, the training window spans cohorts disrupted by pandemic-era schooling, whose attendance and engagement patterns are unlikely to generalise.

5. THE PROCESSING — SCOPE

5.1 Data inventory

Category	Fields	Source	Volume
Identifiers	Pseudonymous pupil ID, year group, school code	SIS	7,400
Attendance	Daily present/absent/late, authorised flag	SIS	~1.3m records/yr
Assessment	Continuous assessment marks, term grades, subject	SIS	~370,000/yr
Engagement	VLE logins, time on task, submission timestamps	VLE	~4.2m events/yr
Teacher observations	Fixed taxonomy entries; free text capped at 200 characters	SIS	~55,000/yr
Derived	Risk score, band, contributing factors	Generated	7,400 weekly

5.2 Data not supplied

Pupil name, address and date of birth (pseudonymous ID substituted); free-text pastoral and safeguarding notes; medical information and individual education plans; ethnicity, nationality and home language; family circumstances, social work involvement and free school meal status; disciplinary records.

Learning support status was originally in scope and has been removed. The provider advised it materially improves accuracy. That advice is not accepted as sufficient, because no lawful basis exists for processing it; see 6.4. If the provider wishes it reinstated, the route is for the Trust to identify an operative Article 9 condition, not for the Trust to accept an accuracy argument.

Recording refusals matters because minimisation is only evidenced by what was declined.

5.3 Retention

Data	Retention	Justification
Raw extract at processor	90 days rolling	Operationally necessary for trend features
Scores, bands, explanations	Current academic year + 1	Year-on-year continuity of support
Teacher decisions	7 years, held by the Trust, not the processor	Aligns with pupil record retention. See 5.5
Provider feedback dataset	Aggregated, non-identifying only	M-14
Audit logs	2 years	Accountability and security

5.4 Volume and duration

7,400 pupils scored weekly across 36 weeks: 266,400 assessments per annum, continuous operation with annual review, **preceded by one term in shadow mode and one term of phased rollout across three schools** (section 13).

5.5 Pupils who leave

The exclusion at 4.2 concerns scoring: leavers are not scored. It does not mean no data about a leaver is retained, because teacher decisions form part of the pupil record and are retained for seven years by the Trust. Records at the processor are deleted within 90 days of a pupil leaving scope (M-19).

6. NECESSITY AND PROPORTIONALITY

6.1 Purpose

To identify pupils at risk of falling behind earlier than existing methods allow. The Trust's current method is teacher referral at three reporting points per year. Internal review found pupils referred at the third point had, on average, already experienced 14 weeks of declining attendance or attainment.

6.2 Is the processing necessary?

Option	Assessment
Retain current process	Rejected; the 14-week lag is documented and carries an educational cost
Rules-based flagging — e.g. attendance below 85%, or a two-band grade fall	Adopted as a parallel control (M-03). Simple rules capture a substantial share of at-risk pupils and are fully explainable. Analysis indicated rules alone miss pupils whose decline is gradual across several dimensions, none individually breaching a threshold
Increase pastoral staffing	Complementary, not alternative; does not address detection latency

The necessity case is not closed, and cannot be closed on present evidence. The claimed advantage of the model over the rules is asserted without an effect size. A proportionality test that permits 266,400 assessments of children per year on the strength of an unquantified increment is not a test at all.

Required: one full term in shadow mode. Scores computed and logged, invisible to all staff, rules-based flags operating as the live process. At the end of term the Trust compares model flags against rules flags against outcomes. If the increment is not material, the machine learning component is not deployed.

This converts M-22 from a promise into evidence, and it is the difference between a proportionality assessment and a justification.

6.3 Lawful basis

Article 6(1)(e), public task, read with Article 6(3).

Article 6(1)(e) requires the task to be laid down in Union or Member State law, per Article 6(3). The relevant duty is in the Education Act 1998, which requires that the educational needs of all students, including those with a disability or other special educational needs, are identified and provided for.

That duty is imposed on the school, discharged through its board of management. It is not imposed on the patron body. Section 2.1 establishes that the Trust is the controller and the schools are not. The controller and the holder of the statutory task are therefore not the same legal person, which is a genuine weakness in the basis rather than a drafting nicety.

Resolution. The Trust processes as controller in order to enable each school to discharge its statutory function, under written arrangements by which the boards of management have requested and mandated central provision. This is defensible but it is not free of doubt, and the Trust should record the mandate in writing from each board before go-live (M-26). The alternative construction — that each school is a controller and the Trust a processor — was considered and rejected on the facts at 2.1, but a supervisory authority could take a different view.

Consent was rejected. It cannot be freely given where pupils and parents cannot refuse a school system without detriment, and offering an illusory choice is worse than offering none. **Public task is the basis precisely because Article 21 then applies; see section 11.**

6.4 Special category data — and why a design feature is being removed

Two routes to Article 9 processing were identified.

Route 1 — the learning support flag. Whether a pupil receives learning support is in many cases a direct revelation of disability. Article 9(1) does not list disability as such, but the field qualifies as data concerning health under Article 4(15) insofar as it reveals health status, which here it does.

Article 9 processing requires a condition under Article 9(2). The Trust's intended route was Article 9(2)(g), substantial public interest, as given effect in Irish law.

That route is not available. Section 51 of the Data Protection Act 2018 is a regulation-making power, not an operative condition: it empowers the Minister to make regulations, which must identify the substantial public interest and the specific safeguards, be referred to the Data Protection Commission for an assessment, and be approved by resolution of both Houses of the Oireachtas. **No such regulations have been made in respect of this processing.** Citing section 51 as though it were itself a permission is a common error and it is wrong.

No other Article 9(2) condition is available. Consent fails for the reasons at 6.3. Article 9(2)(h) concerns health or social care provided by or under the responsibility of a health professional, which this is not.

Conclusion: there is no lawful basis to process the learning support flag. It is removed from scope. The measure that was previously a twelve-month review item becomes a pre-go-live prohibition (M-09).

Route 2 — inference. A model combining attendance decline, engagement collapse and teacher observation may produce outputs from which health or disability status can be inferred, whether or not intended. Following *OT v Vyriausioji tarnybinės etikos komisija* (C-184/20), data from which special category information may be indirectly deduced falls within Article 9.

Because no Article 9 condition is available, **inference must be prevented rather than justified.** The controls are: exclusion of the flag (M-09); suppression of any contributing-factor explanation that would reveal health or support status (M-10a); automated screening and routing of free-text observations (M-10); and quarterly review of surfaced explanations for revelatory content (M-18). Residual risk is R-05, which is not reduced to Low, because prevention of inference cannot be guaranteed.

6.5 Article 22 — automated decision-making

This is the most consequential analysis in the assessment.

Step 1 — is there a decision based solely on automated processing? The Trust's initial answer was no, because a teacher reviews every Amber and Red band. **That framing is incomplete.**

In *SCHUFA Holding* (C-634/21, 7 December 2023) the Court held that the automated establishment of a probability value by one party constitutes automated individual decision-making within Article 22(1) where a third party to whom the value is transmitted **draws strongly** on it. On that authority the relevant question is not only whether the year head's step is meaningful, but whether the *production of the band by Kestrel Learning* is itself an Article 22 decision because the Trust draws strongly upon it.

If it is, the Article 22 obligations attach to the provider as well as to the Trust, and the analysis cannot be discharged by the Trust's human review alone. **M-27 requires this to be resolved contractually and in the provider's own documentation before go-live.** The Trust's working position is that at Green and Amber the Trust does not draw strongly on the value; at Red, on present design, it may.

Step 2 — legal or similarly significant effect? For Red bands, very likely yes. Referral to learning support, setting changes and pastoral escalation affect a child's education, self-perception and standing among peers. The Trust does not argue otherwise.

Step 3 — is the human involvement meaningful? Under WP251 rev.01, a human who applies an automated recommendation without authority and competence to change it does not take the processing outside Article 22. The Trust relies on four factors: express authority to disregard; contextual knowledge the model lacks; presentation of contributing factors rather than a bare band; and the absence of any system-triggered action.

This position is fragile and the Trust records it as fragile. If override rates collapse, the human step is a rubber stamp and the processing becomes Article 22 processing. R-01 is the corresponding risk, and M-01 is its control.

Step 4 — if Article 22 applies, is there an exception? Article 22(2)(a) (necessary for a contract) does not apply. Article 22(2)(c) (explicit consent) is unavailable for the reasons at 6.3. Article 22(2)(b) requires authorisation by Member State law laying down suitable safeguards; **no Irish enactment authorises this processing, so no exception is available.** Were Article 22 to apply, the processing would be unlawful, not merely subject to the Article 22(3) safeguards. That is why M-01 is a suspension trigger rather than a reporting metric.

Article 22(4) is noted: an Article 22 decision may not be based on Article 9 data absent Article 9(2)(a) or 9(2)(g). With the flag removed at 6.4, the Trust does not rely on either.

Recital 71 is directly in point and is often overlooked: automated decision-making of the kind described in Article 22 "should not concern a child." It is a recital and not operative, but it sets the interpretive direction, and a controller processing children at this scale should expect a supervisory authority to read Article 22 strictly.

6.6 Accuracy, and what the model is actually predicting

The model is probabilistic and will be wrong. Precision of 0.62 at Amber means roughly two in five flags are false positives; recall of 0.58 means roughly four in ten at-risk pupils are missed. Both figures are properties of the system, not defects to be excused, and both are disclosed in the pupil-facing notice.

A band is a prediction rather than a statement of fact and cannot be "rectified" as inaccurate. The accuracy principle nonetheless bites on the input data, addressed by M-11.

A deeper problem is not an accuracy problem at all. The target label is "recorded as significantly below expected progress at the next reporting point." That is a human administrative judgement made by staff, not an objective measure of a child's need. **The model is therefore trained to predict past staff behaviour.** Where staff have historically under-recognised need in particular groups, an accurate model reproduces that under-recognition faithfully and reports it as a finding about the child. This is a construct validity problem, it is not detectable by conventional performance metrics, and it is R-11.

6.7 Transparency

Three layers: a pupil-facing notice written for a 12-year-old reading age, co-designed with the Student Council and revised twice on their feedback; a parent and guardian notice, with a standalone summary 30 days before go-live; and a published transparency record comprising this DPIA in redacted form, the system description, fairness testing results and annual review outcomes.

The DPC's *Children Front and Centre: Fundamentals for a Child-Oriented Approach to Data Processing* (December 2021) was applied directly, in particular the fundamentals concerning the best interests of the child as a primary consideration, child-oriented transparency, letting children have their say, and not processing children's data in ways demonstrably counter to their best interests. These are reflected in M-05, M-12, M-13 and M-17.

7. CONSULTATION

Group	Method	Date	Outcome
Pupils — Student Council, 3 schools, 27 pupils aged 13–17	Facilitated workshop	24 Jun 2026	See 7.1
Parents and guardians	Written consultation, 411 responses	Jul 2026	68% supportive, 19% neutral, 13% opposed; principal concern was labelling
Teaching staff	Consultative forum, 40 staff	2 Jul 2026	Workload; fear of blame for missed flags
DPO	Formal review	Throughout	Endorsed subject to shadow-mode term, M-01, M-07, M-09
Processor	Written disclosure pack	Jun–Aug 2026	Two data requests refused; see 5.2

7.1 What pupils said, and what changed

- 1 **"Will it follow me if I move schools within the Trust?"** It would have. Bands now do not transfer on internal moves; the receiving school begins with no score for a minimum of one full term (M-16).
- 2 **"Can I see my own score?"** Originally no, on the grounds it might be distressing. Pupils rejected this as being talked about behind their backs. Any pupil may now request their band and contributing factors, with a supporting conversation (M-12).
- 3 **"What if the computer is wrong about me?"** There is now a documented challenge route with a recorded response within 10 school days (M-13). This exceeds the strict legal minimum.

8. RISK REGISTER AND MEASURES

8.1 Scoring

Risks are assessed **from the pupil's perspective**. Risk to the Trust — reputational, financial, regulatory — is excluded; it belongs in a different document.

Likelihood: 1 Remote · 2 Possible · 3 Likely · 4 Near certain

Severity to the individual: 1 Minimal · 2 Limited · 3 Significant · 4 Severe

Score = L × S. 1–3 Low · 4–7 Medium · 8–11 High · 12–16 Very high.

Severity 3 means consequences the person cannot easily overcome; severity 4 means consequences that are irreversible or affect life chances.

8.2 Register

ID	Risk to the individual	L	S	Pre	Measures	Post	Residual
R-0 1	Teachers defer to the system, so pupils are in substance subject to automated decisions with no available Article 22 exception	3	4	12	M-01, M-02, M-04, M-27	8	High — accepted, monitored
R-0 2	Model performs worse for pupils with additional needs or from lower-income areas, entrenching disadvantage	3	4	12	M-06, M-07, M-08	8	High — accepted, monitored
R-1 5	At-risk pupil is never flagged, and the system displaces the referral route that previously caught them	3	4	12	M-03, M-25, M-22	8	High — not reducible below Medium; see note
R-1 1	Model predicts past staff judgement rather than pupil need, reproducing historic under-recognition as a finding about the child	3	4	12	M-06, M-07, M-08, M-25	6	Medium
R-0 3	Pupil is labelled and treated differently by staff on that basis	3	3	9	M-12, M-15, M-24	6	Medium
R-0 5	Health or disability status is inferred and surfaced to staff with no need to know	3	4	12	M-09, M-10, M-10a, M-18	6	Medium
R-0 6	Model performance is unverified on Trust data and on Trust band thresholds	3	3	9	M-06, M-07, M-22, shadow term	4	Medium
R-0 4	Band follows a pupil across schools or years, making one bad term permanent	3	3	9	M-16, M-19	3	Low

ID	Risk to the individual	L	S	Pre	Measures	Post	Residual
R-08	Personal data breached at processor or sub-processor	2	4	8	M-20, M-21, M-23, M-28	6	Medium
R-12	Free-text observation contains safeguarding or health content	3	3	9	M-10, M-18	4	Medium
R-13	Pupil cannot in practice challenge a band that affects them	3	3	9	M-12, M-13, M-24	6	Medium
R-16	Provider fails or is acquired; a dataset of 7,400 profiled children becomes an asset in a sale	2	4	8	M-29	4	Medium
R-17	Pupil reaches 18; rights remain exercised by a parent, and bands persist past school-leaving	3	3	9	M-30	3	Low
R-18	Parent obtains an older child's band against the child's wishes, or seeks another pupil's data	3	3	9	M-31	4	Medium
R-19	In a small year group a Red band is legible to peers within days; published per-school fairness statistics are themselves disclosive	3	3	9	M-15, M-17a	4	Medium
R-07	Pupils and parents do not understand this is happening or how to object	3	2	6	M-05, M-13, M-17	2	Low
R-09	Data retained longer than necessary	3	2	6	M-19	2	Low
R-10	Pupil data used to train the provider's commercial model	2	3	6	M-14	2	Low
R-14	Onward transfer exposes data to third-country access	2	3	6	M-21, M-23	4	Medium

Note on R-15. Its post-mitigation score is High rather than Medium because the controls are partial by nature. M-03 and M-25 detect the pattern in aggregate; nothing detects the individual child who was missed. The Trust accepts this and records that it accepts it. It is the strongest argument for the shadow-mode term, because a system that is worse than the existing referral route at finding the un-obvious child should not be deployed at all.

8.3 Measures

ID	Measure	Owner	Due
M-01	Human review integrity programme. "Override" is defined as a recorded decision that departs from the indicated action for the band. Every Red requires a recorded rationale. Quarterly blind audit of a random sample of decisions against independently assessed need. Time-on-decision telemetry monitored. An override rate below 8% for two consecutive months is a secondary tripwire, not the primary test. On audit failure, processing is suspended , not merely retrained	DPO	Ongoing
M-02	Mandatory automation bias training before dashboard access; annual refresh	Head of Digital Learning	Pre-go-live
M-03	Rules-based flags run in parallel permanently; divergence logged and reviewed termly	Head of Digital Learning	Pre-go-live
M-04	Interface presents contributing factors and a confidence indicator; never a band alone	Provider	Pre-go-live

ID	Measure	Owner	Due
M-05	Child-friendly notice co-designed with Student Council, issued 30 days before go-live, disclosing the false positive and false negative rates in plain terms	DPO	Pre-go-live
M-06	Provider supplies model card, training data composition, per-subgroup metrics, and performance at the Trust's own Red and Amber thresholds	Provider	Pre-go-live
M-07	Fairness gate. Independent testing before live use. Pass requires: false-negative-rate ratio between any group and the best-performing group ≤ 1.25 ; no group recall below 0.50; equivalent test on false positives; minimum subgroup sample size with confidence intervals reported, where insufficient statistical power is a fail . Lawful basis and controllership for the test data to be settled before testing begins (see note)	DPO + external assessor	Pre-go-live
M-08	M-07 repeated at every retrain; reported to the board	DPO	Twice yearly
M-09	Learning support flag not processed. Pre-go-live prohibition, not a review item	DPO	Pre-go-live
M-10	Free-text screened for health, safeguarding and special category content. Matches are blocked and routed to the Designated Liaison Person , never blocked and returned to the author alone	Provider + Safeguarding	Pre-go-live
M-10a	Contributing-factor explanations suppressed where they would reveal health or support status	Provider	Pre-go-live
M-11	Pupils and parents may correct underlying attendance and assessment data; corrections propagate within 7 days	Head of Operations	Pre-go-live
M-12	Any pupil may request their band and contributing factors, delivered with a supporting conversation	Year heads	Pre-go-live
M-13	Documented challenge route; recorded response within 10 school days	DPO	Pre-go-live
M-14	Contractual prohibition on use of Trust data for training or product development; feedback restricted to aggregated non-identifying outcome statistics	Legal	Pre-go-live
M-15	Bands visible only to year heads and learning support staff, not subject teachers	Provider	Pre-go-live
M-16	Bands do not transfer on internal moves; minimum one clear term	Provider	Pre-go-live
M-17	This DPIA published in redacted form with annual fairness results	DPO	Go-live
M-17a	Fairness statistics published at Trust level only where school-level figures would be disclosive; small-number suppression applied	DPO	Go-live
M-18	Role-based access control; quarterly access log review; quarterly review of surfaced explanations for revelatory content	IT + DPO	Ongoing
M-19	Automated deletion per 5.3; processor deletion within 90 days of a pupil leaving scope; annual deletion certificates	IT	Ongoing
M-20	Article 28 contract including audit rights, sub-processor consent, and breach notification to the Trust without undue delay and in any event within 24 hours	Legal	Pre-go-live
M-21	Chapter V compliance per section 10, including transfer impact assessments for both the UK and US legs	DPO	Pre-go-live
M-22	Twelve-month effectiveness review. If model flags do not materially outperform rules-based flags, the machine learning component is discontinued	CEO + DPO	Sep 2027

ID	Measure	Owner	Due
M-23	Encryption in transit and at rest; annual independent penetration test evidence; Article 32(1)(b)–(d) controls documented	Provider	Ongoing
M-24	Challenge and access volumes reported termly. Zero challenges is treated as a failure signal, not a success signal , and triggers review of whether the route is usable	DPO	Termly
M-25	False negative surveillance. Termly reconciliation of pupils who came to attention through the existing referral route against their band history. Any pupil who required intervention while banded Green for the preceding term is reviewed individually and the pattern reported to the board	Head of Digital Learning	Termly
M-26	Written mandate from each board of management authorising central provision, recorded before go-live	Legal	Pre-go-live
M-27	Provider position on <i>SCHUFA</i> resolved contractually and in provider documentation: whether the provider is itself an Article 22 decision-maker, and which Article 22 obligations it accepts	Legal	Pre-go-live
M-28	Controller-side Article 33 breach procedure with a 72-hour clock, and an Article 34 threshold and template for informing pupils and parents in child-appropriate language	DPO	Pre-go-live
M-29	Contractual change-of-control, insolvency, data return and secure destruction provisions; escrow of the Trust's own data; M-14 restated as binding on successors	Legal	Pre-go-live
M-30	Rights transition at 18: re-notification, transfer of rights from parent to pupil, and deletion of bands on school-leaving	DPO	Pre-go-live
M-31	Parental access protocol: maturity assessment, refusal route where disclosure is contrary to the child's interests, and third-party data handling in teacher observations	DPO	Pre-go-live

Note on M-07. The fairness gate requires testing across additional needs status, English language support and socio-economic band. Section 5.2 records that ethnicity, home language and free school meal status were refused on minimisation grounds, and 6.4 removes the learning support flag. **These positions are in tension: fairness cannot be tested on characteristics the Trust declines to hold.** The tension is real and is not resolved by ignoring it. The Trust's approach is that fairness testing is a separate, time-limited processing operation, conducted by an independent assessor under a distinct Article 28 contract, on a one-off basis with its own lawful basis, and that the data used for testing is not returned to or retained by the operational system. **This must be documented as its own assessment before testing begins.** It is recorded here as an open item, not as a solved problem.

9. EU AI ACT

9.1 Scope

The Trust is established in Ireland and deploys there. Kestrel Learning, though UK-established, places the system on the EU market and is within scope under Article 2(1)(a).

9.2 Prohibited practice screening (Article 5)

Screened before classification, because no amount of documentation makes a prohibited system lawful.

Prohibition	Applicable
Subliminal or manipulative techniques	No
Exploitation of vulnerability due to age	Assessed given the subjects are children. No: the system surfaces information to a teacher and does not materially distort behaviour within Article 5(1)(b)
Social scoring	Assessed. No: used for the purpose for which data was collected, in a single context, with no detrimental treatment in unrelated contexts
Emotion inference in education	No, and excluded by design and contract; see 4.2
Biometric categorisation	No
Real-time remote biometric identification	No

9.3 Classification

Annex III point 3(b): AI systems intended to be used to evaluate learning outcomes, including where those outcomes are used to steer the learning process of natural persons in education and vocational training institutions at all levels.

Kestrel Insight is high risk. Two points are recorded rather than glossed:

- The system **predicts** rather than evaluates outcomes. The Trust's view is that 3(b) is nonetheless engaged, because the prediction is used to steer the learning process, which is the operative concern of the provision.
- **Point 3(c)**, systems used to assess the appropriate level of education a person will receive or be able to access, is arguably a better fit where a band influences setting decisions. The Trust treats the system as high risk on either footing, so the classification outcome is unaffected, but the provider's technical documentation should address both.

The Article 6(3) derogation does not apply: the system is not performing a narrow procedural task and it performs profiling of natural persons, which under Article 6(3) makes the derogation unavailable regardless.

9.4 Timing

Obligation	Applies from
Article 5 prohibited practices	2 February 2025 — in force
Article 4 AI literacy	2 February 2025 — in force, and not deferred
GPAI obligations	2 August 2025 — in force
Article 50 transparency	2 August 2026 — in force (Article 50(2) watermarking duty moves to 2 December 2026 for systems already on the market)
Annex III standalone high-risk obligations	2 December 2027
Annex I product-embedded high-risk	2 August 2028

The Annex III regime was originally due to apply from 2 August 2026. It was deferred by **Regulation (EU) 2026/1744, the Digital Omnibus on AI, published in the Official Journal on 24 July 2026 and in force from 27 July 2026.**

Two consequences:

- 1 **The deferral is a deferral, not a cancellation.** Retrofitting technical documentation, logging and a risk management system into a live system is materially harder than building it in. The Trust should contract now for the December 2027 position (M-32).
- 2 **Nothing in the GDPR is deferred, and neither are Articles 4 or 5.** Every obligation in the rest of this assessment applies today.

M-32 — Provider to evidence full Annex III provider compliance (risk management system, data governance, technical documentation, record-keeping and logging, transparency and instructions for use, human oversight design, accuracy, robustness and cybersecurity, conformity assessment and CE marking, and registration in the EU database) no later than 1 September 2027, with a right to terminate without penalty on failure. Owner: Legal. Due: pre-go-live.

9.5 Deployer obligations (Article 26 and related)

Applying from 2 December 2027, to be built now.

Obligation	Position
Article 4 AI literacy — already binding	Gap. Staff training under M-02 addresses automation bias but is not an AI literacy programme. Extend before go-live
26(1) use per instructions for use	To be aligned once provider instructions are issued
26(2) assign oversight to competent, trained, supported persons with authority	Substantially addressed by M-01, M-02, M-04 — but note the tension: R-01 remains High precisely because that oversight is fragile. The obligation is met in design; its effectiveness is the open risk
26(4) ensure input data is relevant and sufficiently representative	M-06, M-07, M-11
26(5) monitor operation; report serious incidents	Process required; gap noted
26(6) retain automatically generated logs, minimum six months	Confirm provider log retention; 2-year audit log likely sufficient
26(7) inform workers' representatives before putting into service	Teachers' consultative forum consulted 2 July 2026. Whether that forum constitutes workers' representatives under Irish industrial relations practice is to be verified before this is recorded as met
26(8) inform affected persons they are subject to a high-risk system, and use the provider's Article 13 information in the DPIA	M-05, M-17. The provider's Article 13 instructions for use are not yet available; this DPIA is to be revisited on receipt
Article 49(3) deployer registration in the EU database	Applies to public authorities and bodies acting on their behalf. Gap; to be registered
26(9) cooperate with authorities	Standing commitment

9.6 Article 27 — Fundamental Rights Impact Assessment

A FRIA is required. Article 27(1) applies to deployers that are bodies governed by public law, **and to private entities providing public services**. An Irish school patron trust providing publicly funded education falls within the second limb, which is the one relied on here.

Article 27(1) element	Status
(a) deployer's processes in which the system will be used	4.1
(b) period and frequency of intended use	5.4

Article 27(1) element	Status
(c) categories of persons and groups likely to be affected	5.1, with attention to pupils with additional needs and those from lower-income areas
(d) specific risks of harm to those groups	R-02, R-03, R-11, R-15, R-19 — requires expansion beyond data protection harms to educational and dignitary harms
(e) human oversight measures	M-01, M-02, M-04
(f) measures on materialisation, including governance and complaint mechanisms	M-13, M-24

Article 27(4) provides that where these obligations are already met through the DPIA, the FRIA **shall complement** it. This assessment is therefore the foundation of the FRIA rather than a substitute for it. The distinction still matters: the DPIA asks whether data is processed lawfully and proportionately; the FRIA asks whether people are treated fairly and can meaningfully challenge outcomes. **A pupil can be lawfully processed and still be unfairly disadvantaged.**

Gap: FRIA to be completed and notified to the market surveillance authority before the obligation applies.

9.7 Article 86 — right to explanation

Where a decision is taken on the basis of output from an Annex III high-risk system and **the affected person considers it to have an adverse impact on their health, safety or fundamental rights**, they have the right to a clear and meaningful explanation of the role of the AI system in the decision procedure and the main elements of the decision taken.

M-12 and M-13 deliver this in substance already. **Whether Article 86 travelled with the deferred high-risk package or remains on the original schedule is not settled on the material reviewed, and the Trust should not assume the later date.** The measures are in place regardless.

10. INTERNATIONAL TRANSFERS (CHAPTER V)

Two transfers occur. **The first was previously unaddressed in this assessment and is the more significant.**

10.1 Ireland to the United Kingdom — Kestrel Learning

The nightly extract at 4.1 step 1 is a transfer of personal data to a processor established in a third country. The United Kingdom is the subject of a Commission adequacy decision, so the transfer proceeds on that basis under Article 45 and no Article 46 mechanism is required.

Two conditions attach. First, UK adequacy is subject to periodic review and to a sunset mechanism; the Trust cannot treat it as permanent. M-33 requires the Trust to monitor its status and to have SCCs pre-negotiated and executable within 30 days so that the transfer does not become unlawful on lapse. Second, the Trust must confirm whether Kestrel Learning is required to designate an EU representative under Article 27 GDPR, given it processes data of pupils in the Union.

10.2 United Kingdom to the United States — Northlake Cloud Services

Hosting and compute are provided from the United States.

- **Mechanism.** Whether Northlake is certified under the EU-US Data Privacy Framework is to be confirmed and evidenced. If it is not, Article 46(2)(c) standard contractual clauses are required, module three, processor to sub-processor.
- **Transfer impact assessment.** Required in either case, following *Schrems II* (C-311/18) and EDPB Recommendations 01/2020. It must address US surveillance law, in particular FISA section 702 and Executive Order 12333, and the extraterritorial reach of the CLOUD Act, and assess whether the data — behavioural and educational profiles of identifiable children — attracts particular risk.
- **Supplementary measures.** Encryption with keys held exclusively within the EEA or UK, so that the sub-processor cannot access plaintext; documented policy on government access requests including challenge and notification; and transparency reporting.

M-21 covers both legs. **Neither transfer may proceed until the assessment is complete.**

11. DATA SUBJECT RIGHTS

Right	Delivery
Information (13, 14)	Three-layer notice; M-05, M-17
Access (15)	Existing DSAR process. The risk band, the contributing factors and the teacher's recorded decision are all personal data and are all in scope
Rectification (16)	M-11 for input data. A prediction cannot be rectified as wrong; a pupil may add a statement of disagreement to the record
Erasure (17)	Limited, as the basis is public task; available on successful objection and on expiry of retention
Restriction (18)	Available pending resolution of a challenge under M-13
Portability (20)	Not applicable; the basis is public task
Object (21)	Applies and is genuine. On objection the pupil is excluded from scoring unless the Trust demonstrates compelling legitimate grounds. The exclusion route is built and tested before go-live
Not to be subject to automated decisions (22)	See 6.5. Preserved by meaningful human review, with no exception available if that review fails

Children exercising their own rights. A pupil of sufficient maturity may exercise their own rights, assessed case by case rather than by fixed age, with parental involvement as the default for younger pupils. M-31 governs the harder cases: a parent seeking an older child's band against the child's wishes, and requests touching another pupil's data within teacher observations.

At 18 the pupil becomes an adult during the retention period. M-30 governs re-notification, transfer of rights from parent to pupil, and deletion of bands on school-leaving.

12. SECURITY AND BREACH

- **Article 32.** Controls documented against 32(1)(a)–(d): pseudonymisation and encryption; confidentiality, integrity, availability and resilience; restoration of availability after incident; and a process for regular testing and evaluation. M-23 evidences the last of these annually.

- **Article 33.** M-28 establishes the controller-side 72-hour procedure. The processor's 24-hour notification under M-20 feeds it and does not replace it.
- **Article 34.** Threshold and template for informing pupils and parents, in child-appropriate language, prepared in advance rather than drafted under pressure.
- **Article 30.** This processing is recorded in the Trust's record of processing activities; this DPIA is cross-referenced from that entry.
- **Article 28(3)(f).** The processor is contractually obliged to assist the Trust with this and future assessments.

13. MONITORING

What	Frequency	Owner	Escalation
Human review integrity audit	Quarterly	DPO	Audit failure → suspend
Override rate (secondary tripwire)	Monthly	DPO	Below 8% for two months → investigate
Subgroup performance, both error types	Every retrain, min. twice yearly	DPO + external	Fails M-07 thresholds → halt
False negative reconciliation	Termly	Head of Digital Learning	Any Green-banded pupil requiring intervention → individual review
Challenge and access volumes	Termly	DPO	Zero → investigate usability
Rules versus model divergence	Termly	Head of Digital Learning	Feeds M-22
Access log and explanation review	Quarterly	IT + DPO	Out-of-role access → incident
Provider AI Act readiness	Quarterly from Jan 2027	Legal	Behind schedule → exercise M-32
UK adequacy status	Quarterly	DPO	Change → execute SCCs within 30 days
Full DPIA review	6-monthly or on material change	DPO	—

14. DEPLOYMENT CONDITIONS

- 1 **Prior consultation with the Data Protection Commission concluded.**
 - 2 **Learning support flag removed** from the integration and confirmed by the provider in writing (M-09).
 - 3 **One full term in shadow mode**, bands invisible to all staff, with the comparison at 6.2 completed and reviewed.
 - 4 **M-07 fairness gate passed**, on the ratio and power basis, with the lawful basis for the test itself documented first.
 - 5 **Phased rollout** — three schools for one term before Trust-wide deployment.
 - 6 **Article 28 contract executed** including M-14, M-27, M-29 and M-32.
 - 7 **Chapter V assessments completed** for both transfer legs (section 10).
 - 8 **Board of management mandates** obtained in writing (M-26).
 - 9 **Notices issued** at least 30 days before go-live.
 - 10 **Objection, access and challenge routes built and tested**, not merely documented.
 - 11 **Safeguarding routing under M-10 tested end to end** with the Designated Liaison Person.
-

15. SIGN-OFF

Role	Name	Date
Prepared by	J. Otutu, external data protection adviser	2 Sep 2026
Reviewed by	Data Protection Officer	
Endorsed by	Head of Digital Learning	
Endorsed by	Head of Safeguarding	
Approved by	Chief Executive	

Approval confirms that the Trust accepts the three residual high risks, commits to the thirty-three measures and eleven deployment conditions, and accepts that failure of the M-01 audit or the M-07 gate requires suspension of processing.

ANNEX A — RISK MATRIX

	S1 Minimal	S2 Limited	S3 Significant	S4 Severe
L4 Near certain	4 Med	8 High	12 Very high	16 Very high
L3 Likely	3 Low	6 Med	9 High	12 Very high
L2 Possible	2 Low	4 Med	6 Med	8 High
L1 Remote	1 Low	2 Low	3 Low	4 Med

ANNEX B — TECHNICAL TERMS

AUC — how well a model separates two groups; 0.5 is chance, 1.0 is perfect.

Precision — of the pupils flagged, the proportion genuinely at risk.

Recall — of the pupils genuinely at risk, the proportion the system flags.

SHAP — a method for attributing a model's output to its input features.

ANNEX C — AUTHORITIES RELIED ON

- *SCHUFA Holding (Scoring)*, C-634/21, 7 December 2023 — a probability value can itself constitute automated individual decision-making where a third party draws strongly on it
- *OT v Vyriausioji tarnybinis etikos komisija*, C-184/20 — data permitting indirect deduction of special category information falls within Article 9
- *Schrems II*, C-311/18 — assessment of third-country law before transfer
- WP248 rev.01 — DPIA guidelines
- WP251 rev.01 — automated decision-making and profiling guidelines
- EDPB Recommendations 01/2020 — supplementary measures for transfers
- Data Protection Commission, *Children Front and Centre: Fundamentals for a Child-Oriented Approach to Data Processing*, December 2021
- Regulation (EU) 2026/1744 (Digital Omnibus on AI), OJ 24 July 2026, in force 27 July 2026
- Data Protection Act 2018 (Ireland), section 51 — **regulation-making power; no regulations made**
- Education Act 1998 (Ireland)

Specimen. Ardglass Education Trust and Kestrel Learning Ltd do not exist. No client information appears in this document.