



Facultaire
Studentenraad

GEESTESWETENSCHAPPEN

Dhr. prof. dr. F.P. Weerman
Kloveniersburgwal 48
1012 CX Amsterdam

Spuistraat 134
1012 VB Amsterdam
(020) 525 3278
fsr-fgw@uva.nl
studentenraad.nl/fgw

Datum	25 mei 2020	Ons kenmerk	20fgw010
Contactpersoon	Zazie van Dorp	Uw kenmerk	-
Bijlage(n)	0		
Betreft	Unsolicited advice Proctoring		

Dear Dean, dear Fred,

By sending this letter, the Faculty Student Council of the Faculty of Humanities (FSR FGw) gives advice on proctoring at the faculty. On 6 May 2020 the FSR FGw received the mail 'Online Proctoring: if there is no alternative'. As the Faculty Student Council of Humanities, we are very concerned about the use of proctoring by the UvA and would like to express our opposition to it in this unsolicited advice.

On 29 April 2020 the CSR submitted an unsolicited advice (1920-7) and at the time of writing the online petition 'Stop the use of online proctoring exams at University of Amsterdam' has 3900 signatures. We understand that this is a complicated and difficult time, it is for all of us. Despite the fact that we understand that the board is faced with complex considerations, the balancing of interests to switch to the use of proctoring, despite all the opposition, is not well enough argued. Forcing students to be recorded in their own environment is unheard of. Moreover, there are many students without access to a stable internet connection or with an outdated laptop, making the exams impossible for them. The UvA and thus the faculty of humanities should motivate their balancing of interests more thoroughly. The consequences that both proctoring itself and refusing it can have on students' results are unacceptable.

In this unsolicited advice, we will briefly address our concerns in the areas of privacy, mental health, technical inconvenience, inequality, trust and sustainable alternatives.

Privacy

The use of proctoring software and in particular Proctorio is an invasion of students' privacy. Proctorio uses a room scan, listens through your microphone, monitors how the student moves his eye and which tabs he has open, amongst other things. Students are advised to 'tidy up their room' if they do not want something from their house to be seen on camera. This is unacceptable and does not take students into consideration. Your home or the house where you are staying temporarily is your private sphere. Your home and your computer tell an incredible amount about your private life. It is unacceptable to intrude into a student's private life during an exam. At on-site examination you choose which stuff you take with you and a couple of supervisors that you can see monitor the whole group of students. At a proctoring exam you will have to swallow that some software or even a person is looking at and in your room and computer directly. A greater invasion of privacy is almost impossible. Moreover, this does not take into account a huge group of students. Many students live with housemates or are with their families and cannot empty or 'tidy' a room. Let alone that they can get their house quiet for a couple of hours.

The advice of the UvA to go to a 'neutral place', such as a 'library or educational institution', if you are abroad and have a bad internet connection is short-sighted. Many countries have lockdown measures that prevent you from going to these types of public buildings. In addition, 'neutral place' is a rather vague statement. Not all countries have 'neutral' places where students can and want to sit. And according to the UvA, what is a neutral place does not necessarily have to be a neutral place for students who are abroad, on the recommendation of the UvA itself, and cannot return to the Netherlands.

Moreover, all responsibility now lies with the student, it is basically said: if you do not have a safe, pleasant or suitable environment at home then it is your own responsibility to come up with a solution. It is written to students in the Netherlands that if, due to personal circumstances, they cannot take the exam at home, they can, after consultation, possibly take the exam in one of the university buildings. The examination board has to approve the reason of the student; an appeal to privacy will not be accepted as a reason to qualify for an exception. If the student does not have a safe home environment or does not want or cannot take the examination at home for other reasons, he will be forced to make his private life known to the examination board. This is unacceptable. The university is responsible for providing a safe environment that respects the privacy of all students. Being monitored in your own room is therefore not a reasonable alternative to on site examination.

As described by, among others, Solove and Reiman, surveillance can lead to a chilling effect.^{1 2} Because you know that you are intensely monitored by, for example, Proctorio, you feel less free in your own home and no longer feel free to do or even think what you want. Proctoring can therefore lead to a negative change in behavior. For example, you are so afraid that you will be considered a fraudster if your wifi malfunctions, your mother talks too loud in the other room or your political poster is still on the screen that you make the whole exam under stress. Monitoring by Proctorio can therefore lead to poorer concentration during your exam. Another chilling effect is adapting to the 'lowest-common denominator of conventionality' which leads to a less critical attitude.³ Since the Faculty of Humanities distinguishes itself by teaching students to think critically and to express themselves critically, this is an effect that students should not experience during their studies.

The privacy statement published by the UvA on 6 May states that students' personal data will be processed on the basis of "*legitiem belang*" (article 6 section 1 under f GDPR). In (f) it states: "processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child." We join with the CSR who already wrote that they have serious doubts "whether the benefits of proctoring outweigh the fundamental rights of students as described in article 6 section 1 under f of the *Algemene Verordening Gegevensbescherming (AVG)*"⁴

Similarly, Sarah Eskens of the UvA's own IViR emphasizes that the UvA hardly motivates why the interests or fundamental rights of the student do not outweigh the interests of the UvA in the case of proctoring.⁵ Simply stating that proctoring is in line with the GDPR is not sufficient as it is not well enough argued. For our students, we expect a detailed explanation of why the UvA invokes (f). In this explanation we would like to see both the balancing of interests and a motivation why proctoring is necessary.

¹ Solove, Daniel J. 2006. "A Taxonomy of Privacy". *University of Pennsylvania Law Review* 154 (3): 477. <https://doi.org/10.2307/40041279>.

² Reiman, Jeffrey H. 2017. 'Driving to the Panopticon: A Philosophical Exploration of the Risks to Privacy Posed by the Highway Technology of the Future'. In *Privacy*, onder redactie van Eric Barendt, 1ste dr., 159-76. Routledge. <https://doi.org/10.4324/9781315246024-8>.

³ Reiman, Jeffrey H. 2017. 'Driving to the Panopticon: A Philosophical Exploration of the Risks to Privacy Posed by the Highway Technology of the Future'. In *Privacy*, onder redactie van Eric Barendt, 1ste dr., 159-76. Routledge. <https://doi.org/10.4324/9781315246024-8>. p. 41

⁴ Unsolicited Advice Proctoring, 1920-7, by CSR.

⁵ <https://www.folia.nl/actueel/137844/uva-kiest-ondanks-privacybezwaren-definitief-voor-online-surveillance>.

We would also like to draw the dean's and the UvA's attention to the fact that an appeal to privacy cannot be declared unfounded in advance. By invoking "legitimate interest" or "the public interest" (the (f) or (e) ground in the GDPR), a student has the right to object (Article 21 of the GDPR). If a student lodges an objection, the UvA must again weigh up the interests involved, taking into account the student's specific personal circumstances. Students should always be able to explain their personal objections. Proctoring may constitute too serious an invasion of privacy for the reasons stated above. The UvA should take this seriously. Rejecting an appeal to privacy as a single fact categorically is not possible and unacceptable.

Finally, we would like to briefly point out that privacy violations do not only affect the life of an individual student. Privacy is often seen as constitutive for society. Violations of our privacy are therefore more widely understood by us than 'just' the 'mental pain and distress' of individual students. Privacy violations can actually harm our society and individual activities that have made positive contributions to this society. ⁶

We close this section with a quote from a book edited by UvA's own chair of the Department of Philosophy in which the above point is made very clear.: "Invasions of privacy are often not simply isolated incursions into "aspects relating to personal identity," as significant as that is for the individual, but are in fact an erosion of one of the essential foundations of a democratic society."⁷ We urge the faculty to take our privacy concerns into account.

Mental Health

Many students experience increased stress since the corona outbreak. Students have to juggle their worries about their study progress, finances, and (lost) jobs. Because of these difficult circumstances, many students experience an increase in mental health problems. Students can't move around as much, can't see their friends and family, and have to sit behind their laptops all day. In addition, many students do not even have a desk to sit at, are stuck abroad or with their parents. This enormous change already causes so much stress and (increased) mental problems that proctoring can really be the last straw for students.

Students are told that proctoring is there to make their study progress run smoothly, but both the students and the FSR-FGw don't experience it that way at all. Proctoring is not a plaster on the wound of worries about study progress and should therefore not be presented as such.

⁶ Solove, Daniel J. 2006. "A Taxonomy of Privacy". *University of Pennsylvania Law Review* 154 (3): 477. <https://doi.org/10.2307/40041279>. p. 487

⁷ Roessler, Beate, en Dorota Mokrosinska. 2015. Social Dimensions of Privacy: Interdisciplinary Perspectives. <http://dx.doi.org/10.1017/CBO9781107280557>.

We have received several messages from students who are very concerned about proctoring. They experience an increase in stress which causes an increase in mental health problems. Many students can't concentrate anymore because the feeling of being watched in your own house is terrible. They feel discouraged because they feel forced to accept this form of extreme surveillance. Students should not be forced to 'do the class next year', with the additional chance that the exams will be online again. Many students also let us know that they have reduced concentration due to concerns about technical problems. Many students have malfunctioning wifi or older laptops. Students abroad cannot borrow a laptop and several students in the Netherlands do not receive a response from the UvA to questions about borrowing laptops or a malfunctioning internet connection. Some students were only confirmed a week in advance that they had to do their exams with proctoring software and were therefore very worried. Many students also report that their laptops heat up so quickly that they are constantly worried about whether they will be identified as fraudsters due to technical defects. Students should not experience increased workload, extra stress and an increase in mental problems as a result of the UvA introducing proctoring at this already difficult time. We urge the dean to take students' mental health seriously.

Inequality

Economic, social and financial differences between students lead to different opportunities. The use of proctoring increases inequality between students and this is something that we, as the student council, are concerned about. On several levels, the use of proctoring is worrying. Some students, on the advice of the UvA at the time, are abroad. Students abroad with outdated laptops, a bad internet connection or a difficult home situation are left to their fate. See, for example, our comments on the use of the term 'neutral place' under the heading 'privacy'.

Students in the Netherlands also notice a difference between the student with a study room and the student who lives with six housemates on 40 square meters. Differences in finances also play a major role in inequality. Many students cannot financially afford to refuse proctoring and take a course next year. This makes it easier for students with more money to choose to refuse. The university is responsible for providing reasonable examination alternatives that do not increase the inequality between its students.

Trust

As a student council, we want to emphasize that the starting point of suspicion is not a good starting point for education, not even in exams. Trusting your students is vital to educate students in a healthy way and to overcome a crisis. Proctoring creates a feeling of mistrust among students. Apart from the uncomfortable feeling, this starting point of suspicion also creates extra stress among students because they are afraid of being classified as fraudsters. As was written by professors and department chairs of our own faculty in the NRC: "It is high time to give confidence to prospective students, including those

from abroad, making it clear that it does make sense to start a university study in September". We would like to see it made clear to both students and prospective students that we, as a university, proceed on the basis of trust in our students, rather than suspicion.

Sustainable alternatives

We would like the faculty to invest time and money in researching sustainable exam alternatives and alternative forms of education rather than in programs such as Proctorio. We would also like to see that the faculty shares the findings of this research with the FSR-FGw. has been described many times above, proctoring is too one-sided an alternative to on site examination. Our university is bursting with competent scientists who could all help us think about alternative forms of exams. Replacing on site examination with proctoring is unnecessary and unacceptable. We endorse the CSR, who state in their unsolicited advice that there are enough viable alternatives for conducting exams. We want to urge the faculty to consider all alternatives and not to present proctoring as the only option. Since there is a good chance that a lot of education will still be online next year, we strongly urge the faculty to use the 'summer holidays' between July and September to conduct research into a UvA-worthy alternative for examinations.

Conclusion

The FSR FGw opposes the use of proctoring software for exams. Because of objections concerning privacy, data protection, mental health, inequality, technical shortcomings and a starting point of suspicion, we cannot accept proctoring. In conclusion, we have formulated a number of points that we hope the dean and the faculty will implement. We want to be actively involved in the issue of alternative examination and proctoring at our faculty. The FSR FGw urges the dean to respond to the objections made in this unsolicited advice. The FSR FGw is, of course, willing to explain its advice in more detail in a zoom meeting.

The FSR-FGw advises the dean to:

- Provide an alternative method if a student refuses or is unable to take an exam with proctoring. This alternative method cannot lead to further study delay. (This point comes from the CSR's unsolicited advice).
- State that students are allowed to object to the processing of their data. If the UvA is going to process students' personal data in the context of online proctoring on the basis of a "*gerechtvaardigd belang*" or a task of general interest, students may object to this processing.⁸
- Urge the UvA to withdraw the comment that an appeal to privacy will not get accepted and remove it from their website. An appeal to privacy as a single fact cannot be categorically rejected.

⁸ <https://www.saraheskens.eu/blog/online-proctoring.html>



- Urge the UvA and the faculty of humanities to come up with a detailed explanation of why the UvA invokes (f) of Article 6 section 1 of the GDPR. In this explanation we would like to see both the balancing of interests and a motivation why proctoring is necessary.
- Make clear arrangements for students abroad who do not have a good computer, internet or location to make their exams.
- Review all examination and teaching alternatives and do not suggest proctoring as the only option.
- Devote time and money to researching a UvA-worthy alternative to exams during the 'summer holidays' between July and September.
- Actively involve the faculty student councils when discussing the implementation of proctoring.

Hoping to have informed you sufficiently.

Met vriendelijke groet,
Namens de FSR FGw,

Freya Chiappino
Voorzitter FSR FGw