

# **DATA PROTECTION ACT 1998**

## **UNDERTAKING**

Data Controller: Scottish Court Service

Saughton House  
Broomhouse Drive  
Edinburgh  
EH11 3XD

I, Eleanor Emberson, Chief Executive of the Scottish Court Service ("SCS"), for and on behalf of SCS, hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. The Scottish Court Service is the data controller as defined in section 1(1) of the Data Protection Act 1998 (the "Act"), in respect of the processing of personal data carried out by SCS and is referred to in this Undertaking as the "data controller". Section 4(4) of the Act provides that, subject to section 27(1) of the Act, it is the duty of a data controller to comply with the data protection principles in relation to all personal data in respect of which it is a data controller.
2. The Information Commissioner (the "Commissioner") noted a report in the Scottish newspaper, the Daily Record, on 25 September 2010, involving the discovery of court documents containing sensitive personal data at a recycling centre in Glasgow. Enquiries were raised with the data controller to establish how these papers came to be disposed of inappropriately.
3. Investigations revealed that the papers had been used by a law reporter and that no checks on the security of his procedures had been undertaken by the data controller prior to sharing the data. Measures have now been taken to improve security by the individual concerned and the data controller will also implement changes to its procedures.
4. The Commissioner has considered the data controller's compliance with the provisions of the Act in the light of this matter. The relevant provision of the Act is the Seventh Data Protection Principle. This Principle is set out in Schedule 1, Part I to the Act. The Commissioner has also considered the fact that some of the data involved in this incident consisted of information as to the sexual lives and/or criminal convictions of the data subjects. Personal data containing such information is defined as "sensitive personal data" under section 2(f)-(h) of the Act.
5. Following consideration of the remedial action that has been taken

by the data controller, it is agreed that in consideration of the Commissioner not exercising his powers to serve an Enforcement Notice under section 40 of the Act, the data controller undertakes as follows:

**The data controller shall, as from the date of this Undertaking and for so long as similar standards are required by the Act or other successor legislation, ensure that personal data are processed in accordance with the Seventh Data Protection Principle in Part I of Schedule 1 to the Act, and in particular that:**

- (1) All staff are aware of the data controller's policy for the storage, use and disclosure or sharing of personal data and are appropriately trained how to follow that policy;**
- (2) Adequate checks are carried out on all parties to data-sharing, who shall also enter into a Memorandum of Understanding with the data controller in the format proposed at Annex G of its report on this incident;**
- (3) Compliance with the data controller's policy on data protection and with any such Memorandum of Understanding is appropriately and regularly monitored;**
- (4) The data controller shall implement such other security measures as it deems appropriate to ensure that personal data is protected against unauthorised and unlawful processing, accidental loss, destruction, and/or damage.**

Dated

Signed .....  
Eleanor Emberson  
Chief Executive  
Scottish Court Service

Signed .....  
Mick Gorrill  
Head of Enforcement  
For and on behalf of the Information Commissioner