

significant amount of NHS BEN information including some sensitive personal data. The investigation also highlighted other shortcomings within NHS BEN in terms of the overall ICT infrastructure.

5. 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 accessible data consisted of information relating to the physical or mental health or condition of the data subjects. Personal data containing such information is defined as 'sensitive personal data' under section 2(e) of the Act.
6. 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) Technical security measures are adequate to prevent unauthorised access to personal data;**
- (2) The 'Information Asset Register' currently underway is completed as a matter of priority with particular emphasis on file management and review of retention periods;**
- (3) The data controller shall ensure that comprehensive policies are in place regarding the storage and use of personal data;**
- (4) Staff are aware of the data controller's policies for the storage and use of personal data and are appropriately trained how to follow those policies;**
- (5) The data controller shall implement the recommended solutions detailed in the ICO's final audit report within the agreed timescales.**

Dated.....

Signed.....

Denise McLellan
Chief Executive
NHS Birmingham East and North

Signed.....

Sally-anne Poole
Head of Enforcement
For and on behalf of the Information Commissioner