

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: NHS Liverpool Community Health
Wilkinson Place
No 2 Enterprise Way
Wavertree Technology Park
Liverpool
L13 1FB

I, Bernie Cuthel, Chief Executive, of NHS Liverpool Community Health for and on behalf of NHS Liverpool Community Health hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. NHS Liverpool Community Health 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 NHS Liverpool Community Health 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") was informed by the data controller that preschool health records relating to 31 children had been lost during a move of premises. The records in question also contained sensitive personal data concerning the medical history of the birth mothers of the children.
3. Contradictory instructions given to staff members by the removal company led to confusion over whether files could be transported within the current filing cabinets. This meant that on the day of the move, files unexpectedly had to be transferred into crates which could not be locked. No inventory as to the number of crates or filing cabinets was taken. Additionally, the data controller did not have a contract in place with the removal company used for the move of premises.
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 lost in this incident consisted of information as to the physical health or condition of the data subjects. Personal data containing such information is defined as

“sensitive personal data” under section 2 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) In all cases where third party suppliers of goods or services will have access to personal data, a written contract is entered into prior to work commencing, which covers the requirements as to data security and compliance with the seventh principle laid down in paragraphs 11 and 12 of Part II of Schedule 1 to the Act;
- (2) Clear policies and procedures will be put in place to support staff when moving offices, all staff are made aware of the data controller's new procedures, and are appropriately trained to follow these procedures in all future cases;
- (3) The data controller shall implement such other security measures as it deems appropriate to ensure that personal data is protected against unauthorised and unlawful process, accidental loss, destruction, and/or damage.

Dated.....03.03.11.....

Signed..........

Bernie Cuthel
Chief Executive
NHS Liverpool Community Health

Signed..........

Mick Gorrill
Assistant Commissioner Regulatory Action Division
For and on behalf of the Information Commissioner