

# **DATA PROTECTION ACT 1998**

## **UNDERTAKING**

Data Controller: Borough of Poole

Civic Centre  
Poole  
Dorset  
BH15 2RU

I, John McBride, Chief Executive of the Borough of Poole, for and on behalf of the Borough of Poole, hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. The Borough of Poole 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 the Borough of Poole 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 provided with a report that faxes containing personal data had been sent to the same incorrect fax number on three separate occasions during 2010. On the first occasion, in August, the sender realised the mistake as soon as the fax had been sent and immediately contacted the recipient, who then destroyed the fax without delay. This fax contained some sensitive personal data about an individual's mental health issues.
3. The second and third incidents occurred within a week of each other in December 2010, and both involved the transmission of a consent form giving only minor amounts of non-sensitive personal data. These errors were not realised at the time and came to light only on 5 January 2011, when the recipient returned to his business address after the Christmas break. The faxes were retrieved a couple of days later.
4. Enquiries revealed that, while the data controller had previously issued some guidance about the use of faxes, this was not sufficiently clear and robust. This was recognised by the data controller, which subsequently issued clearer and stronger instructions about this issue. The Commissioner also considered that staff training in this area was weak, and this had contributed to these errors.
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 data involved in this incident consisted of information as to the 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) All staff are made aware of the data controller's policies for the storage, transmission and use of personal data and are appropriately trained how to follow these;**
- (2) Staff training and awareness of data protection matters is regularly updated and refreshed;**
- (3) Compliance with all the data controller's policies on data protection matters 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 .....  
John McBride  
Chief Executive  
For and on behalf of the Borough of Poole

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