

# **DATA PROTECTION ACT 1998**

## **UNDERTAKING**

Data Controller: Dunelm Medical Practice

Kelvin House  
1-2 Victor Terrace  
Bearpark  
Durham  
DH7 7DG

I, Dr David Smart, Senior Managing Partner, of Dunelm Medical Practice, for and on behalf of Dunelm Medical Practice hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. Dunelm Medical Practice (the practice) 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 Dunelm Medical Practice 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 of an incident which occurred on 04 February 2011, where sensitive personal data (including medical information) was inappropriately disclosed by facsimile transmission.
3. Dunelm Medical Practice wrongly sent two patient discharge letters by facsimile transmission, to an unrelated third party organisation. The organisation in question alerted County Durham and Darlington NHS Foundation Trust of the matter and confirmed they had securely destroyed the documents accordingly. The discharge letters were intended for another branch of the practice, however the practice's facsimile transmission procedure was not followed and the intended facsimile number was incorrectly entered, which resulted in the erroneous communication. Furthermore, the practice failed to identify the risk posed by the routine sending of sensitive personal data by facsimile.

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 disclosed in this incident consisted of information as 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.
5. In deciding what course of action to take, the Commissioner has decided that the volume and nature of the medical information involved in this case, is considered to be nominal and therefore, the potential for substantial damage or distress being caused to the individuals concerned, if compromised, is limited.
6. Furthermore, the Commissioner also noted that this is the first incident brought to his attention involving Dunelm Medical Practice.
7. Upon considering 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. 'Electronic Discharge Letters' are distributed to the appropriate branch surgery by secure email and only faxed in exceptional circumstances;**
- 2. The practice's fax machine is programmed with the numbers of regional branches;**
- 3. All appropriate staff are regularly trained in the use of the practice's 'sharing personal information by fax' procedure.**

- 4. Compliance with the Dunelm Medical Practice's information governance policies and procedures is appropriately and regularly monitored.**
- 5. 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.**

Signed: .....  
**Dr David Smart, Senior Managing Partner  
Dunelm Medical Practice**

Dated: .....

Signed: .....  
**Sally-Anne Poole, Head of Enforcement  
For and on behalf of the Information Commissioner**

Dated: .....