

## **DATA PROTECTION ACT 1998**

### **UNDERTAKING**

Data Controller: East Midlands Ambulance Service NHS Trust

Trust Headquarters  
1 Horizon Place, Mellors Way  
Nottingham Business Park  
Nottingham  
NG8 6PY

I, Tamar Thompson, interim Chief Executive of East Midlands Ambulance Service NHS Trust, for and on behalf of East Midlands Ambulance Service NHS Trust, hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. East Midlands Ambulance Service NHS Trust 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 East Midlands Ambulance Service NHS Trust 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, in December 2010, an adult safeguarding referral form containing personal data relating to one individual was faxed to the wrong number. The form contained the name, address, date of birth and details of the concerns the paramedic had around the mental state of the patient.
3. The fax was sent from the safeguarding desk at Nottinghamshire Emergency Operations Control after the relevant Social Care Team (SCT) had been contacted and had provided a fax number. The Trust had a safe haven fax policy in place which included a ring ahead procedure. The data controller rang the intended recipient prior to sending the fax in accordance with this procedure. The recipient of the fax

(an engineering company) contacted the data controller's control centre to advise it had been received in error and confirmed that it had been shredded.

4. In deciding what action to take the Commissioner has considered that, whilst the fax contained sensitive personal data, the volume of data is limited and relates to one individual. Further the information compromised is unlikely to cause substantial damage or distress to the affected data subject. He has also taken into account the fact that the misdirection of the fax arose as EMAS had been provided with the wrong fax number. The number provided was correctly entered by the data controller.
5. The Commissioner has also noted that this is the only security incident involving the data controller which has been brought to his attention.
6. 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 likely to be defined as "sensitive personal data" under section 2 (e) of the Act.
7. 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) it ensures that staff sending faxes are given specific training in the use of the data controller's Safe Haven Policy fax procedure. The data controller should advise its staff to take all reasonable steps to ensure that only pre-programmed fax numbers are used and that they are accurate and up to date;**

**(2) Compliance with the data controller's policies on data protection and IT security issues is appropriately and regularly monitored.**

**(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 processing, accidental loss, destruction, and/or damage.**

Signed .....

Dated.....

Tamar Thompson  
Interim Chief Executive  
East Midlands Ambulance Service NHS Trust

Signed .....

Dated.....

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