

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: Kirklees Metropolitan Council

Second Floor
Civic Centre 3
Market Street
Huddersfield
HD1 2EY

I, Adrian Lythgo, Chief Executive, of Kirklees Metropolitan Council, for and on behalf of Kirklees Metropolitan Council hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. Kirklees Metropolitan Council 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 Authority 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 notified that in July 2010 care workers contracted by the data controller had left client personal data clearly visible in their cars whilst on visits. The data consisted of call summary and time sheets.
3. The data included information relating to the physical health of 18 vulnerable elderly people. The error was compounded because the data controller was initially informed of a similar incident in January 2010 but failed to take appropriate action resulting in two further similar incidents in July 2010 and March 2011. The Commissioner's investigation revealed a lack of sufficient checks and controls in the security procedures carried out by a data processor on behalf of the data controller.
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 patient. Personal data containing such information is defined as "sensitive personal data" under section 2[(e)] 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) Sufficient guarantees are obtained in respect of the technical and organisational security measures provided by the data processor;**
- (2) Any processing of personal data carried out by a data processor on behalf of a data controller is regularly monitored to ensure that the security measures are adequate to prevent unauthorised access to personal data;**
- (3) Personal data and sensitive personal data is not disclosed to anyone except in accordance with the Act; and, in particular, care staff making home visits receive appropriate additional training and support;**
- (4) Procedures are put in place to ensure any reported breach of security is acted upon promptly and enforced. Where necessary staff should receive appropriate additional training and support in this respect;**
- (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.**

Dated.....

Signed.....

Adrian Lythgo
Chief Executive
Kirklees Metropolitan Council

Signed.....

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