

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: Lancashire Teaching Hospitals NHS Foundation Trust

Royal Preston Hospital
Sharoe Green Lane (North)
Preston
PR2 9HT

I, Tony Curtis, Chief Executive of Lancashire Teaching Hospitals NHS Foundation Trust (the 'Trust'), for and on behalf of the Trust, hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. Lancashire Teaching Hospitals NHS Foundation 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 the 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 provided with a report indicating that, on two separate occasions, a document known as a 'discharge summary' had been faxed inadvertently to a member of the public rather than to the intended GP. On the first occasion, the recipient contacted the data controller and consequently shredded the fax immediately. As a result, the data controller was subsequently unable to identify the patient concerned.
3. On the second occasion, the fax was returned to the data controller and the patient concerned was informed of the incident by his medical consultant. The data controller has since taken significant measures to prevent recurrence of such incidents in future, and has co-operated throughout with the Commissioner's enquiries.
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 involved 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. The Commissioner has further considered the fact that the first fax was shredded immediately on receipt, making it impossible to identify the patient; and that the second patient, when notified of the incident, indicated that the disclosure of personal data was not a priority. Consequently, the Commissioner did not feel that imposition of a civil monetary penalty was warranted in these circumstances.
6. Following consideration of the remedial action that has been taken by the data controller, it is agreed that in consideration of the Commissioner also 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 aware of the data controller's policies for the storage and use of personal data, and especially the procedure for transmission of such data by facsimile or other electronic means, and are appropriately trained how to follow those policies;**
- (2) Compliance with the data controller's policies on data protection and information governance 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.**

Dated

Signed
Tony Curtis
Chief Executive
Lancashire Teaching Hospitals NHS Foundation Trust

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