DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: **Northamptonshire Healthcare NHS Foundation Trust**

                                    Sudborough House
                                    St Mary's Hospital
                                    London Road
                                    Kettering
                                    NN15 7PW

I, Ron Shields, Chief Executive, of Northamptonshire Healthcare NHS Foundation 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. Northamptonshire Healthcare 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 of the loss of one individual's medical records by the data controller. The personal data was recognised as missing when the data controller received a subject access request from the individual concerned.

3. On receiving the subject access request, records originally provided to them by their predecessor trust were searched. In doing so, it was found that these records were not indexed. The data controller was unable to locate the individual's records but was able to provide a partial set comprised of letters held in complaints files. On finding that all the records held were not indexed, the data controller did ensure that they were then indexed and is in the process of converting all its paper medical records to an electronic format to prevent a reoccurrence of such an incident.

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 lost 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. 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 measures are in place for the storage of paper records to ensure that subject access requests are responded to appropriately;**

(2) **Physical security measures in respect of paper medical records are sufficiently adequate to prevent unauthorised access to, accidental loss or destruction of, or damage to personal data;**

(3) **All staff are aware of the data controller's policies for the storage and use of personal data and the management of patient records, and are appropriately trained how to follow that policy;**

(4) **Compliance with the data controller's policies on data protection and records management 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 process, accidental loss, destruction, and/or damage.**

Dated……………………………………………

Signed……………………………………………

Ron Shields
Chief Executive
Northamptonshire Healthcare NHS Foundation Trust

Signed……………………………………………

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