

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: Eastleigh Borough Council
Civic Offices
Leigh Road
Eastleigh
Hampshire
SO50 9YN

I, Bernie Topham, Chief Executive of Eastleigh Borough Council ("the council"), for and on behalf of the council, hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. Eastleigh Borough 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 council. 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. In April 2011, the Information Commissioner (the "Commissioner") became aware of a press article in which a member of the public claimed that a document maintained by the data controller containing the names of potentially aggressive clients, had been divulged to him by someone within the council. This individual was aware that his own name was on the list, and felt that the information held about him was inaccurate.
3. The list referred to several individuals, and in some cases, included information about their criminal convictions and mental health. Such lists are routinely maintained by councils to protect their staff and other people to whom they have a duty of care. In this case, the data controller has explained that the list's contents were based on any previous known episodes of violent or aggressive behaviour, and took into account any further potential risk.
4. In deciding what action to take, the Commissioner has considered that the circumstances of the disclosure remain unclear. The individual who brought the situation to light has

declined to comment on who within the council gave him the information, whether he received a full or partial copy of the list, or how the details were passed onto him. Therefore, it has not been possible to determine with certainty whether the list was indeed released by someone within the council.

5. However, the Commissioner's investigations into the matter revealed several general shortcomings surrounding the data controller's maintenance and monitoring of the list, along with associated security and access arrangements. It was also acknowledged that the list contained excessive information for its purpose. The Commissioner has since received assurances that the list's format and contents have been reviewed, and that it is now held securely with highly restricted access.
6. The Commissioner has considered the data controller's compliance with the provisions of the Act in the light of this matter. The relevant provisions of the Act are the Third and Seventh Data Protection Principles. These Principles are set out in Schedule 1 Part I to the Act. The Commissioner has also considered the fact that some of the data potentially compromised in this incident included "sensitive personal data" as defined under section 2 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 Third and Seventh Data Protection Principles in Part I of Schedule 1 to the Act, and in particular that:

1. The list in question is regularly reassessed, and a review date added against all entries to ensure its contents are up to date;
2. All current and future individuals on the list are informed in writing of their inclusion, unless the data controller can clearly justify why doing so would present a further substantial risk;
3. The "notes" section of the list is minimised, with further details held in a separate secure location and only accessible on a strict need to know basis;

4. All other recommendations detailed in the data controller's investigation report are put in place by 30 September 2011;
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.....

Bernie Topham
Chief Executive
Eastleigh Borough Council

Signed.....

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