

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: Walsall Council

Civic Centre
Walsall
WS1 1TP

I, Paul Sheehan, Chief Executive of Walsall Council, for and on behalf of Walsall Council, hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. Walsall 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 Walsall Council 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 about a breach of the Act by an appointed data processor selected to store election related records. The breach concerned the accidental disposal of postal vote statements in a skip. The data controller made efforts to recover this information. However a total of 951 postal vote statements containing data subject's name, address, date of birth and signature remain unrecovered, the majority of which are believed to be in landfill or destroyed.
3. The data controller had no contractual agreement "made and evidenced in writing" with the data processor. Insufficient instructions were provided in relation to the security and retention of this information. These are both requirements of the Act.
4. Appropriate remedial action has been taken by the data controller, resulting in a review of external storage arrangements for personal data.
5. 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. He is satisfied that the potential for detriment to data subjects concerned is limited given the 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 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) Any processing of personal data carried out by a data processor on behalf of the data controller is completed under a contract made and evidenced in writing, and that the data processor will only act on instruction from the data controller.**
- (2) Adequate security checks are carried out on data processors staff, and such staff will be made aware of the data controller's security policy for handling personal data.**
- (3) Sufficient guarantees are obtained in respect of technical and organisational security measures provided by the data processor.**
- (4) Data processor compliance with the data controller's policies on data protection, information security and the retention of personal data 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 processing, accidental loss, destruction, and/or damage.**

Dated.....

Signed.....

Paul Sheehan
Chief Executive
Walsall Council

Signed.....

Sally Anne Poole
Head of Enforcement

ICO Ref: **ENF0380700**



For and on behalf of the Information Commissioner