

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: London Borough of Southwark

PO Box 64529
London
SE1P 5LX

I, Annie Shepperd, Chief Executive of London Borough of Southwark, for and on behalf of London Borough of Southwark hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. London Borough of Southwark 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 London Borough of Southwark 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 data controller provided the Information Commissioner (the 'Commissioner') with details of a data security incident on 03 June 2011. It was reported that an unencrypted iMac computer and various paper records had been inappropriately disposed of in a skip being used to cleanse a decommissioned and vacant property, which was part of a complex previously owned by the data controller. A substantial volume of sensitive personal data relating to 7,200 individuals was contained on the iMac and within the paper records detailing ethnicity, medical history and criminal convictions.
3. The data controller commenced vacating the complex in question in October 2009 and completed this process on 7 December 2009. Tenants remained in one of the properties until the complex was sold by the data controller on 11 May 2011. On 1 June 2011 the new landlord arranged the delivery of two skips to the complex. One was for construction waste from a neighboring site and the second contained residual waste from the final clearance of the former tenant's occupation of the building. It appears the data controller failed to correctly locate and dispose of the iMac and paper records

in question upon vacating the property, despite a formally documented decommissioning procedure. These items were subsequently discovered by the new landlord upon cleansing the property, and disposed of in the skip, where they were later discovered.

4. The Commissioner has noted that the iMac contained highly sensitive and confidential information which had been stored inappropriately. Furthermore, as the data was not encrypted it could be read by anybody accessing the computer using readily available software. It was also noted that the skip in which the items in question were discovered was not located in a public place but was within the security of the complex in question.
5. During the course of the Commissioner's investigation it became clear that the items concerned were incorrectly removed from the data controller's asset register prior to 6 April 2010. The date the paper records fell out of sight is not clear; however, the iMac has been unaccounted for since 2003.
6. 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 compromised in this incident consisted of information as to the ethnicity, physical or mental health or condition and criminal convictions of the data subjects. Personal data containing such information is defined as 'sensitive personal data' under section 2 (a, e, g & h) 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 Seventh Data Protection Principle in Part I of Schedule 1 to the Act, and in particular that:

(1) All action plans previously provided to the Commissioner will be completed on time and adhered to thereafter, specifically to:

- Review and update council data protection guidance and procedure to ensure it fully reflects current legislation plus corporate service and individual responsibility;
- Review of process and procedure around the management of and responsibilities for IT systems, particularly legacy equipment and electronic data management;
- Reinforce the importance of service and individual responsibility for paper records and electronic data;
- Review of process and procedure concerning relocation and decommissioning, that fully encompasses service responsibilities and integrates data management responsibilities;
- Review of the current rationale for the security arrangements associated with vacant buildings and sites.

(2) The data controller should honour its invitation for the ICO to conduct a data protection audit and in due course, should fully engage with the ICO to appropriately address any recommendations made.

Signed:

Annie Shepperd
Chief Executive
London Borough of Southwark

Dated:

Signed:

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

Dated: