

## **DATA PROTECTION ACT 1998**

### **UNDERTAKING**

Data Controller: Phoenix Nursery School

Phoenix Street  
Blakenhall  
Wolverhampton  
WV2 3JS

I, Brigitte Baxter, Head Teacher, of Phoenix Nursery School for and on behalf of Phoenix Nursery School hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

- (1) Phoenix Nursery School 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 Phoenix Nursery School 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 on 5 April 2011, detailing the loss of a backup tape and supporting device. The backup tape contained details of pupils, parents and guardians as held on the school's information management system. Neither the device nor the information held on it were encrypted in any way.
- (3) The lost tape and supporting device were required to be plugged into the school's server at all times and rotated weekly with a second backup tape. The second backup tape was locked in the school's safe when not in use. At the time of the incident the backup tape and supporting device were housed within the school's office, which is kept locked when not in use.
- (4) The data controller noticed the backup device was missing when rotating the backup tape at the end of the week, as per normal procedure. Due to its size, it was at first assumed that the device had been knocked off the server, or

that someone had moved it. No other items were missing and there was no sign of forced entry. However, despite numerous searches, both in the office and around the school, the device was not recovered. The school subsequently contacted all parents and guardians affected by the incident to advise them accordingly.

- (5) The data held on the device has been recovered in full. However, the Commissioner's investigation revealed that the technical measures employed by the school, at the time of the incident, were inadequate.
- (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 a nominal amount of the data lost in this incident consisted of information as to the physical or mental health of the data subjects. Personal data containing such information is defined as "sensitive personal data" under section 2(e) 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 they will:**

- (1) Implement encryption of either the backup device and/or the information contained on the backup tape;**
- (2) Implement measures to securely store the backup tape and accompanying device remotely from the server;**

- (3) Complete a review of current operational processes and procedures with regard to matters of data protection. Where there is a need to do so applicable policies and procedures should be implemented or improved accordingly;**
- (4) Ensure all appropriate staff are aware of the data controller's policy and procedure with regard to matters of data protection and are trained how to comply accordingly;**
- (5) 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.**

Signed: .....

Ms B Baxter  
Head Teacher  
Phoenix Nursery School

Dated: .....

Signed: .....

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

Dated: .....