

# DATA PROTECTION ACT 1998

## UNDERTAKING

Data Controller: Counted4 CIC  
4 Mary Street  
Sunderland  
Tyne & Wear  
SR1 3NH

I, John Harrison, on behalf of Counted4 CIC hereby acknowledge the details set out below and undertake to comply with the terms of the following undertaking:

1. Counted4 CIC 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 Counted4 CIC 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 from the Head of Information Governance at Counted4 CIC, acting on behalf of the data controller, regarding the loss of a filing cabinet which contained the paper records referring to personal details in respect of 84 individuals undergoing Drug Rehabilitation Requirements delivered by Counted4 CIC. Within the information lost were pre-sentence reports relating to a number of individuals, eight files relating to child Protection issues and one file relating to a Multi Agency Protection Arrangements Case.
3. The cabinet was lost during an office move on 29 December 2008 when, as a result of a lack of adequate local planning in respect of the move, a building contractor was employed by a local manager to transport a number of filing cabinets from the previous departmental site to new offices. Cabinets containing data for transfer to the new site were mixed with obsolete cabinets which were to be disposed of. Subsequently it was discovered that a cabinet containing the data in question was disposed of in error.
4. The data controller did not ensure that appropriate technical and organisational measures were taken to prevent the unauthorised processing of personal data and against accidental loss or destruction of, or damage to, personal data. The Commissioner has taken into account the fact that the personal data in question related to criminal records, including child protection issues, and could therefore potentially result in significant distress being caused to the individuals concerned.

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 1 of the Act.
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 or from other data controllers in similar circumstances, ensure that personal data are processed in accordance with the Seventh Data Protection Principle in Schedule 1 Part 1 of the Act, and in particular that:**

- (1) The data controller shall take all reasonable measures to ensure the physical security of personal data being processed in furtherance of the duties of the department;**
- (2) When transporting paper records containing personal information, particularly sensitive personal information the loss of which could cause damage or distress to individuals, the data controller shall ensure appropriate detailed planning of such transfers, with particular regard to the labelling, inventory and secure transit of such data. In particular such data shall not be transported together with other material intended for disposal and shall only be conveyed by a suitable courier.**
- (3) The data controller shall implement such other security measures it deems appropriate to ensure that personal data is protected against unauthorised and unlawful process, accidental loss, destruction, and/or damage;**
- (4) Physical security measures are adequate to prevent unauthorised access to personal data;**
- (5) Staff are aware of the data controller's policy for the storage, use and transfer of personal data, particularly paper records, and are appropriately trained on how to follow that policy.**

Dated..... 9/7/09.....

Signed

Acting CEO  
Counted4 CIC

Signed..



Mick Gorrill  
Assistant Commissioner Regulatory Action Division  
For and on behalf of the Information Commissioner.