

# DATA PROTECTION ACT 1998

## UNDERTAKING

Data Controller: East Cheshire NHS Trust  
1<sup>st</sup> floor, Ingersley Building  
Macclesfield District General Hospital  
Victoria Road  
Macclesfield  
SK10 3BL

I, John Wilbraham, Chief Executive of East Cheshire NHS Trust, for and on behalf of East Cheshire NHS Trust (the "Trust") hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

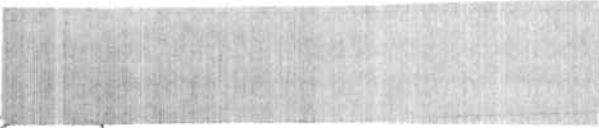
1. East Cheshire NHS Trust is the data controller as defined in section 1(1) of the Data Protection Act 1998 (the "Act"), in respect of the processing of personal data carried out by the Trust and is referred to in this Undertaking as the "data controller". Section 4(4) of the Act provides that, subject 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") received a report that pages from an A&E register, containing personal data relating to over 60 patients, was found in a garden in Newcastle-under-Lyme. This followed an office move involving various departments of the data controller, including A&E, during which an external company was retained to clear out scrap and rubbish from vacated premises.
3. The data controller did not enter into any written contract with the external company, nor were its actions appropriately supervised. It was noted during the clearance operations that boxes of documents were being disposed of in open skips, but the data controller failed to react to this in time to prevent loss of some records.
4. 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 involved in this incident consisted of information as to the physical or mental health or condition of the data subjects. Personal data containing such information is defined as "sensitive personal data" under section 2(e) of the Act.


5. Following consideration of the actions 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, with immediate effect or at the latest by 30 September 2009 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) In all cases where third party suppliers of goods or services will have access to personal data, a written contract is entered into prior to work commencing, which covers the requirements as to data security and compliance with the seventh principle laid down in paragraphs 11 and 12 of Part II of Schedule 1 to the Act;**
- (2) All staff are aware of the data controller's policy for the storage and use of personal data and are appropriately trained how to follow that policy;**
- (3) 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..... 27 July 2009 .....

Signed.   
John Wilbraham  
Chief Executive  
For and on behalf of East Cheshire NHS Trust

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