



DATA PROTECTION ACT 1998

30/11/09

UNDERTAKING

Data Controller: Orbit Heart of England Housing Association
10 Greenhill Street
Stratford-upon-Avon
Warwickshire
CV37 6LG

I, Stewart Fergusson, Managing Director of Orbit Heart of England Housing Association (the "Association"), for and on behalf of the Association, hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. Orbit Heart of England Housing Association 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 Association 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 itself provided a report of a data security incident to the Information Commissioner (the "Commissioner"). The report indicated that 57 paper files had gone missing at the time of an office move, and although 42 of these had been recovered intact, some 15 were still missing. The loss of the files was initially brought to the data controller's attention by a third party, which had found some of them in filing cabinets it had purchased second-hand. The data controller took immediate steps to investigate the matter, contacted affected individuals and introduced a new procedure for future office moves.
3. The files contained a significant amount of personal data relating to each tenant and, in some cases, members of his or her family. The Commissioner's enquiries further revealed that no inventory of files had been made prior to the move, so staff were initially uncertain how many files should have been received at the new office, and that many of the packing crates in which the files were transported had not been unpacked for some six months – until after the third party contacted the data controller.
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 would have consisted of information as to the ethnicity and 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 remedial action that has been taken and proposed 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 staff are made aware of the data controller's new procedures with regard to office moves and disposal of obsolete equipment, and follow these procedures in all future cases;**
- (2) Staff are made 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.....30 November 2009

Signed...
Stewart Fergusson
Managing Director
Orbit Heart of England Housing Association

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