

# DATA PROTECTION ACT 1998

17/3/10

## UNDERTAKING

Data Controller: The Highland Council  
Glenurquhart Road  
Inverness  
IV3 5NX

I, Alistair Dodds, Chief Executive of the Highland Council, for and on behalf of the Highland Council, hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:


1. The Highland Council 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 Highland Council, 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 sensitive personal data relating to several members of one family had been inadvertently disclosed to another, unrelated individual. This had occurred as a result of several members of both families, who lived in the same small village, submitting subject access requests to the data controller at roughly the same date. The officer who usually dealt with such requests went on leave before full responses had been sent, and enquiries revealed that the covering officer had not been made aware that more than one request was outstanding from someone in that village.
3. As a result, when information requested by one family was provided by a department of the data controller, the covering officer assumed that it related to the other family, to whom he had earlier sent some documents left for him by his absent colleague.
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 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 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) A full briefing of all outstanding subject access requests under section 7 of the Act is provided to the covering officer(s) on every occasion on which the officer usually responsible for dealing with such requests is absent;**
- (2) A formal log of all subject access requests under section 7 of the Act is maintained, so that the briefing required under point (1) can be effectively provided;**
- (3) The log mentioned in point (2) above shall contain sufficient detail to allow individual requests from those with the same surname to be clearly identified;**
- (4) The data controller shall implement such other measures as it deems appropriate to ensure that personal data is not disclosed to individuals not authorised to receive it.**

Dated..... 17<sup>th</sup> March 2010 .....

Signed   
Alistair Dodds  
Chief Executive  
The Highland Council

Signed.....   
Mick Gorrill  
Head of Enforcement  
For and on behalf of the Information Commissioner