

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: West Berkshire Council
Market Street
Newbury
Berkshire
RG14 5LD

I, Nick Carter, Chief Executive of West Berkshire Council (the "Council"), for and on behalf of the Council, hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. West Berkshire 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 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") was provided with a report of the loss of a USB stick containing sensitive personal data relating to young people and children. The device had been used since 2005 by a member of the data controller's social work department and was not password-protected or encrypted. This was the second data security incident reported by the data controller within six months.
3. Although the data controller had provided encrypted USB sticks since 2006, it had never previously required the return of unencrypted devices, nor had all staff received appropriate training in data protection issues. Enquiries also revealed monitoring of compliance with the data controller's policies to be inadequate.
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 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(a) and (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) Portable and mobile devices including laptops and other portable media used to store and transmit personal data, the loss of which could cause damage or distress to individuals, are encrypted using encryption software which meets the current standard or equivalent;**
- (2) 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) Compliance with the data controller's policies on data protection and IT security issues is appropriately and regularly monitored;**
- (4) 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 May 2010

Signed ...

Nick Carter
Chief Executive
West Berkshire Council

Signed

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