

DATA PROTECTION ACT 1998

UNDERTAKING



21/10/10

Data Controller: Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth
PO1 2BQ

I, David Williams, Chief Executive of Portsmouth City 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. Portsmouth City 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 inappropriate disclosure of third-party data in response to an individual's subject access request ("SAR").
3. On further investigation, it transpired that the individual tasked with redacting such data from this type of request was neither an employee of the data controller nor acting under a contract as a data processor; all others involved in the process were employees of the data controller. It was also revealed that the supervision and checking of responses to such SARs was inadequate and that the clerk accessing the data had no formal training or guidance on where to search.
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, which 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 a third party. 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) Procedures for dealing with such subject access requests are clearly defined and managed, and all staff involved in such work receive appropriate training in how to follow them;**
- (2) Appropriate checks and supervision are put in place to ensure that third-party data is dealt with in accordance with the Act's requirements and the data controller's policies and procedures;**
- (3) Personal data and sensitive personal data is not disclosed to anyone except in accordance with the Act; and, in particular, the individual(s) tasked with redacting material from SAR responses is/are either employed by the data controller under a contract of employment, or otherwise enter into a formal data processor contract as required by Schedule 1, Part II, paragraphs 11 and 12 to the Act;**
- (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 *21 October 2010*

Signed 
David Williams
Chief Executive
Portsmouth City Council

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