

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: London Borough of Ealing

Ealing Council
Perceval House
14/16 Uxbridge Road
London
W5 2HL

I, Paul Najsarek, Chief Executive of the London Borough of Ealing, for and on behalf of the London Borough of Ealing hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. The London Borough of Ealing 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 London Borough of Ealing 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 informed by the London Borough of Ealing on 18 February 2016 of the loss of a court bundle containing personal and sensitive personal data relating to 27 data subjects including 14 children.
3. [REDACTED] February 2016, a Social Worker attended Court regarding care proceedings [REDACTED]. She left Court, put an envelope containing the documents on the top of her car and then drove off. When she got home she realised that she did not have the documents. Despite searching the car park, the social worker's route home and making enquiries locally, the documents have not been recovered to date.
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 that some of the data lost in this incident consisted information as to the physical or mental health or condition of some of the data subjects. Personal data containing such information is defined as 'sensitive personal data' under section 2[(e)] of the Act.

5. It is acknowledged that the council has submitted mitigating factors with regard to this incident. Training had been given to and completed by the individual involved and suitable procedures were in place.
6. However, during the Commissioner's investigation of the incident she was advised by the council that as of 19 August 2016, only 68% of permanent staff within Social Care had completed refresher Data Protection training. This figure does not include the 27% of staff within Children's services made up of locums. The council are therefore unable to determine if those locums have completed refresher training from records held.
7. On 13-15 May 2013 the Commissioner conducted an audit of the data controller's data protection compliance, in which the lack of mandated, periodic data protection related refresher training was highlighted. The Commissioner's recommendation was accepted by the council and stated: "Annual DP e-learning refresher training to be rolled out in March 2014 with the use of MetaCompliance." The audit was followed up on 18 March 2014, and it was suggested that this outstanding action should be prioritised for completion.
8. During the investigation, the Commissioner was also informed that no records were available relating to the requirements of the council's 'Paper Records Secure Handling and Transit' policy. This refers to the requirement for a management approval request to be made for removal of documents from the council's office and that, having been granted consent, document details are entered into in the office log for reference in case of loss. The Commissioner was also made aware that secure lockable cases had previously been made available but were no longer so.
9. During the audit carried out by the Commissioner in 2013, a recommendation was made that "Self-assessments should consider...LBE policies such as those covering secure data handling/transportation...". With this in mind and given certain aspects of the incident revealed during this investigation, the

manager's role in implementing and enforcing the Paper Records Secure Handling and Transit Policy could either be reviewed or reinforced and that training gaps are identified and, if required, corrected.

10. 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) The council continue to work toward achieving their stated target for 100% completion of mandatory, online data protection refresher training for all permanent, locum and temporary Social Care staff who handle personal data by 3 April 2017. That the same monitoring and recording processes for the completion of this training are applied to those locum, temporary and permanent social care staff.**
- (2) The Recording and monitoring of initial and refresher data protection training for non-permanent staff employed in all other departments of the council involved in the handling of personal data is performed as (1) above.**
- (3) The council ensures the use of MetaCompliance is a sufficiently robust mechanism for delivering and measuring refresher DP related training to meet the council's stated objective of an annual requirement.**
- (4) The LBE Management Investigation Report Recommendations, which are welcomed by the Commissioner, are progressed as follows:**
 - a) The review and, if found to be necessary, implementation of an updated Paper Records Secure Handling and Transit Policy is completed by 3 April 2017.**

- b) That, where changes result from the above, made aware, via MetaCompliance or similar Council's revised policy for the secure handling and transit of personal data and this policy forms part of future data protection training programmes where appropriate.**
 - c) That availability of lockable cases in each area office is completed by 3 April 2017 and that similar arrangements are made in all council departments where removal of similar documents containing personal data from the office is a requirement.**
 - d) That the review of providing Social Workers from localities teams with access to mobile working devices when attending court is completed with recommendations made by 3 April 2017.**
 - e) That the review with the Legal Social Care and Education Department, regarding roles and responsibilities for printing and transporting documents required as part of court bundles, is completed with recommendations made by 3 April 2017.**
- (5) The data controller shall implement such other security measures as are appropriate to ensure that personal data is protected against unauthorised and unlawful processing, accidental loss, destruction, and/or damage.**

Signed:

Paul Najsarek
Chief Executive
London Borough of Ealing

Dated:

ICO Ref: **COM0617270**

Signed:

Stephen Eckersley
Head of Enforcement
For and on behalf of the Information Commissioner

Dated: