

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: 2gether NHS Foundation Trust
Rikenel
Montpellier
Gloucester GL1 1LY

I, Mr Shaun Clee, Chief Executive of 2gether NHS Foundation Trust (the Trust), for and on behalf of the Trust hereby acknowledge the details set out below and undertake to comply with the terms of the following undertaking:

1. 2gether NHS Foundation Trust 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 Trust 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 from Ms Susan O'Connell acting on behalf of the data controller, regarding the theft of four desktop computers, one laptop computer and one memory stick. Both the laptop computer and the memory stick held the personal data of patients of the data controller.
3. The desktop computers, laptop computer and memory stick were stolen from a locked room in the Trust's building at 18 Denmark Rd, Gloucester. The laptop and memory stick held information relating to 56 patients including their name, contact details date of birth, GP, referral date and form, interventions and technical occupational therapy data. The data in question was not encrypted and the portable devices involved were not locked away out of sight contrary to Trust policy.
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 1 of the Act. The Commissioner has also considered the fact that some of the data stolen 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 or from other data controllers in similar circumstances, ensure that personal data are processed in accordance with the Seventh Data Protection Principle in Schedule 1 Part 1 of 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) Physical security measures and procedures are adequate to prevent the theft of desktop computers that contain personal data, or ensure that such desktop computers are encrypted using encryption software which meets the current standard or equivalent;**
- (3) A clear policy covering the storage and use of personal data is implemented;**
- (4) Staff are aware of the data controller's policy for the storage and use of personal data and are appropriately trained on how to follow that policy;**
- (5) The data controller shall implement such other security measures it deems appropriate to ensure that personal data is protected against unauthorised and unlawful process, accidental loss, destruction, and/or damage.**

Dated.....

Signed.....

Shaun Clee
Chief Executive
2gether NHS Foundation Trust

Signed.....

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