

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: The Highland Council

 Glenurquhart Road
 Inverness
 IV3 5NX

I, Mr Alistair Dodds, Chief Executive of The Highland Council (the Council), Glenurquhart Road, Inverness, IV3 5NX, 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. 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 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 an incident in which two laptop computers were stolen from the data controller's premises. Although the laptop computers were stored within a locked office, no additional physical security measures were in place. The laptop computers contained personal data relating to approximately 1400 individuals, including medical information. The laptop computers were password protected but were not encrypted.
3. 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 these incidents 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.
4. 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 by no later than 30 September 2009 using encryption software which meets the current standard or equivalent;**
- (2) Physical security measures and procedures are adequate to prevent the theft of devices that contain personal data, the loss of which could cause damage or distress to individuals;**
- (3) 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: **2nd June 2009**

Signed (*signature removed*).....
Mr Alistair Dodds
Chief Executive
The Highland Council

Signed (*signature removed*).....
Mick Gorrill
Assistant Commissioner Regulatory Action Division
For and on behalf of the Information Commissioner