

# DATA PROTECTION ACT 1998

## UNDERTAKING

Data Controller: NHS Tayside  
  
King's Cross  
Cleington Road  
Dundee  
DD3 8EA

I, Professor Tony Wells , Chief Executive of NHS Tayside, King's Cross, Cleington Road, Dundee DD3 8EA, for and on behalf of NHS Tayside hereby acknowledge the details set out below and undertake to comply with the terms of the following undertaking:

1. NHS Tayside, 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 NHS Tayside 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 Commissioner was informed that personal data had been found by members of the public in buildings on the site of the former Strathmartine Hospital in Tayside. In response, a report was compiled by NHS Quality Improvement Scotland (the "report") which made national recommendations to mitigate against similar incidents occurring in the future. The recommendations include:
  - Disused buildings should not be used for the storage of any health records or personal identifiable information
  - All information held on patients should be stored in their formal health records; if information is no longer needed it should be disposed of
  - New national protocols for NHS site decommissioning and disposal, bringing together estates and information management staff
  - Annual property transactions returns should be used to confirm that any surplus buildings are properly cleared and closed
  - All NHS staff must be adequately trained in data protection and information management
  - New guidance must be developed on the management of patient-identifiable information held by clinical staff who retire or leave their post.
3. The Commissioner has considered the report, noted that the Health Secretary, Nicola Sturgeon, has accepted these recommendations in

full and considered the data controller's compliance with the provisions of the Act in light of these matters. The relevant provisions of the Act are the Fifth and Seventh Data Protection Principles. These Principles are set out in Schedule 1 Part 1 of the Act.

4. Following consideration of the remedial action that has been and will be taken by the data controller as set out in the report and the fact that the data controller recognises the seriousness of the matter, 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 Fifth and Seventh Data Protection Principles in Schedule 1 Part 1 of the Act.**

Dated.....

Signed.....  
For and on behalf of NHS Tayside

Signed.....  
Ken Macdonald  
Assistant Commissioner (Scotland)  
For and on behalf of the Information Commissioner