

## **DATA PROTECTION ACT 1998**

### **UNDERTAKING**

Data Controller: Aberdeen City Council

2<sup>nd</sup> Floor  
Old Town House  
Broad Street  
Aberdeen  
AB10 1FY

1. I, Valerie Watts, Chief Executive, of Aberdeen City Council, for and on behalf of Aberdeen City Council hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:
2. Aberdeen 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 Aberdeen City 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.
3. On the 29 February 2012 The Information Commissioner (the 'Commissioner') received a breach notification form from the data controller that contained information relating to a data protection incident, which the data controller became aware of on 15 February 2012.
4. A [REDACTED] working from home on a, non-council, personal computer, accessed working documents containing personal data as defined by section 1(1) of the Act.

Upon accessing the files, the computer auto-saved the personal data being processed to the machine's 'My Documents' file. Unbeknown to the [REDACTED], the computer had a file transfer program installed on it. Without knowledge or intention, the [REDACTED] activated the program which then uploaded the entire content of the My Documents file, including the files containing sensitive

personal data, on to the internet.

The Commissioner understands that the Data Controller permitted the [REDACTED] to use non-Council equipment to conduct Council business. He also understands that the Data Controller did not implement any technical or organisational measures which would have prevented a breach of this nature from occurring.

5. 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 the fact that some of the data compromised in this incident consisted of information as to the physical or mental health or condition of the data subjects and the commission or alleged commission of offences. Personal data containing such information is defined as 'sensitive personal data' under section 2(e) and (g), respectively, of the Act.
6. The commissioner has exercised his powers under section 55B of the Act to issue the data controller with a monetary penalty notice ('MPN') in respect of this contravention. The MPN requires the data controller to pay a monetary penalty of £100,000.
7. In addition, 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:
8. **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) **Technical controls, which have already been identified by the data controller, are implemented to prevent those using non-council equipment from downloading personal data and sensitive personal data;**

- (2) All portable and mobile devices including laptops and other portable media used to store and transmit personal data on behalf of the data controller, the loss of which could cause damage or distress to individuals, are encrypted using encryption software which meets the current standard or equivalent;**
  
- (3) 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: .....

Valerie Watts  
Chief Executive  
Aberdeen City Council

Dated: .....

Signed: .....

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

Dated: .....