

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: Health & Care Professions Council

Park House
184 Kennington Park Road
London SE11 4BU

I, Marc Seale, Chief Executive & Registrar of the Health & Care Professions Council (**HCPC**) acknowledge the details set out below and undertake that the HCPC will comply with the terms of the following Undertaking:

1. HCPC 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 HCPC (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 the theft of a suitcase containing a bundle of documents relating to a forthcoming 'fitness to practise' hearing. The suitcase belonged to a member of the hearing panel and was stolen during a train journey in 2011.
3. The investigation of this incident by the Commissioner's staff revealed that the documents within the bundle had been prepared by solicitors acting on behalf of the Data Controller. However, there was no contract in place with the solicitors under which they undertook to act only on instructions from the Data Controller as required by the Act, nor had the Data Controller provided the solicitors with specific instructions or guidance on redaction of documents for hearings.
4. The Commissioner further discovered that, although the Data Controller did provide its panel members with some generic training with regard to their role and a brief outline of confidentiality and data protection, it did not provide them with specific guidance on security of personal data as a matter of course. The Commissioner considered that formal training courses were not required in this case, but that more detailed and specific guidance on data security should be provided to panel members.
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, set out in Part I of Schedule 1 to the Act.

6. 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 Data Controller shall enter into a contract with its solicitors which complies with the requirements of paragraph 12 of Part II of Schedule 1 to the Act, and shall then issue instructions to the solicitors regarding its requirements in relation to the processing of personal data by those solicitors, including specific instructions relating to redaction of documents for hearings;**
- (2) All agents and contractors who are given access to personal data by the Data Controller, such as panel members, shall be provided with specific guidance around data security and regularly reminded of this requirement;**
- (3) Compliance with the Data Controller's policies and guidance on data protection, including compliance by all agents and contractors, shall be appropriately and regularly monitored;**
- (4) The Data Controller shall implement such other security measures as it deems appropriate to ensure that personal data is protected against unauthorised and unlawful processing, accidental loss, destruction and/or damage.**

Dated on publication

Signed ...

Marc Seale
Chief Executive & Registrar
Health & Care Professions Council

Signed

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