

## **DATA PROTECTION ACT 1998**

### **UNDERTAKING**

Data Controller: Treasury Solicitor's Department  
  
One Kemble Street  
London  
WC2B 4TS

I, Sir Paul Jenkins, Treasury Solicitor, of the Treasury Solicitor's Department, for and on behalf of the Treasury Solicitor's Department hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. The Treasury Solicitor's Department 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 Treasury Solicitor's Department 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 contacted by the data controller on 6 February 2012, 24 August 2012, 30 August 2012 and 3 January 2013 and was made aware of several separate breaches of the Act.
3. Three of the self-reported breaches involved case files being sent to a claimant's solicitor and then on to the claimant during the course of litigation with un-redacted third party personal data contained within them. These incidents resulted in the personal data being disclosed in error to third parties.
4. The fourth and remaining self-reported breach involved a bundle of case papers relating to an unfair dismissal claim. These were sent to an individual during the process of the claim and contained personal data relating to another individual's separate claim. This incident resulted in third party personal data being disclosed in error.
5. After investigating all four of the breaches, the Commissioner has found that although the data controller has some

appropriate measures in place to safe guard personal data, there are identifiable gaps within those measures which need addressing in order to achieve greater compliance with the Act. For example, in each of the three breaches referenced above some but not all third party personal data had been redacted prior to the disclosures being made. Staff at the data controller have evidently been made aware of their obligations under the Act and have the knowledge and tools to comply with the Act's requirements but the data controller could go further in terms of its processes and training to ensure future compliance.

6. The Commissioner has considered the data controller's compliance with the provisions of the Act in the light of these matters. 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 these incidents consisted of information relating to the commission or the alleged commission of an offence by the affected data subjects. Personal data containing such information is defined as 'sensitive personal data' under section 2(g) of the Act.
7. 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) a clear, documented procedure for staff to follow when preparing information for disclosure is implemented within 6 months. This should incorporate a defined checking process with emphasis on the steps to be taken prior to release. The procedure should account for both sensitive personal data and personal data relating to third parties;**
- (2) the communication requirements between Junior and Senior lawyers carrying out the disclosure process is defined by a structured, formal procedure with clear**

**lines of communication and implemented within 6 months. The responsibilities of staff members should be clearly explained within this procedure; and**

- (3) a mandatory and comprehensive training programme regarding compliance with the Act for all new and existing staff is put in place within 6 months. This should include how training will be presented, tested, refreshed and the frequency of delivery for each.**

Signed: .....

Sir Paul Jenkins  
Treasury Solicitor  
The Treasury Solicitor's Department

Dated: .....

Signed: .....

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

Dated: .....