

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: The Moray Council

 The Moray Council Office
 High Street
 Elgin
 Moray
 IV30 1BX

I, Roderick Burns, Chief Executive of The Moray Council, for and on behalf of The Moray Council hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. The Moray 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 Moray 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 informed on 4 July 2013 that an employee of The Moray Council had left a bundle of papers relating to a Moray Permanence Panel hearing in a local café. The employee was on her way back to the office she worked at, but had stopped off at the café on route. The bundle contained detailed reports regarding the adoption of two children, as well as shorter reports relating to 19 further children. The reports contained personal and sensitive personal data.
3. The Commissioner's investigation into the matter discovered that the employee responsible for the bundle of papers had signed a confidentiality agreement, which included an explicit requirement to keep the panel papers safe and secure in lock fast facilities. However the Council had not implemented supporting policies or procedures to advise staff on how to keep personal data secure when required outside of the office environment. In addition to this, the training the Council provided in relation to data protection did not cover security of personal data in any detail, and was not mandatory in any

event. The employee involved had not received this training, or any other training related to the security of personal data.

4. 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 lost in this incident consisted of information as to the physical or mental health of the data subjects. Personal data containing such information is defined as 'sensitive personal data' under section 2(d) of the Act.
5. 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 ensures that it implements a policy or procedure for ensuring the security of personal data taken out of the office, and that all staff are made aware of the requirements of that policy or procedure;**
- (2) the data controller ensures that its data protection training is mandatory for all staff handling personal data, and that a system for monitoring completion of the training is properly implemented across the council;**
- (3) the data controller reviews the content of its data protection training to ensure that it adequately covers the potential risks presented by the loss of personal data, and;**
- (4) 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:

Roderick Burns
Chief Executive
The Moray Council

Dated:

Signed:

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

Dated: