

## **DATA PROTECTION ACT 1998**

### **UNDERTAKING**

Data Controller: Nick Perry

Permanent Secretary  
Department of Justice Northern Ireland  
Castle Buildings  
Stormont Estate  
Belfast  
BT4 3SB

I, Nick Perry, Permanent Secretary, of the Department of Justice, for and on behalf of the Department of Justice hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. The Department of Justice, established on 12 April 2010, is the current 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 Department of Justice 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. On 12 November 2012 the Information Commissioner's Office was informed by e-mail by the data controller of a security breach which occurred in 2004 under the data controller's predecessor, a previous public authority.

In the email, the current data controller reported that a member of the public contacted the current data controller to explain that he had found documents which originated from within the service. The individual found the documents in a filing cabinet which he bought at an auction in 2004. The documents in the filing cabinet contained personal data relating to staff and inmates of the prison service. This included paperwork relating to a high profile inmate of the former Maze Prison, the closure of Maze Prison and the personal data of staff who worked at Maze Prison.

3. The Commissioner has considered the compliance by the data controller's predecessor 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 that is defined as 'sensitive personal data' under section 2 of the Act.

4. This Commissioner has taken account of the fact the filing cabinet was sold off by the data controller's predecessor, a previous public authority nine years ago and, therefore, that the incident predates the introduction of his powers under sections 55A and 55B of the Act (introduced by the Criminal Justice and Immigration Act 2008 which came into force on 6 April 2010) to serve a Monetary Penalty Notice.
5. The Commissioner recognises that the current data controller has undergone significant organisational reform since the incident occurred, however, in order safeguard against a further incident of this nature the current data controller must take additional steps to improve its asset management and data protection procedures. As such, 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 current data controller undertakes as follows, without any acceptance of liability in respect of the breach:

**The current 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 record of condemned equipment is updated to include a section which confirms that any assets used to store personal data have been securely emptied or erased prior to removal;**
- 2. Induction and annual refresher training in the requirements of the Act shall be provided to all staff whose role involves the routine processing of personal data, by no later than September 2014;**
- 3. Attendance at training is recorded and monitored and any non-attendance followed up to ensure the schedule is adhered to;**

- 4. Signed acknowledgements are obtained from all staff, new and existing, which demonstrates they have read and understood all information governance and data protection policies and procedures. Signed acknowledgements are to be held centrally on HR records and updated in accordance with the introduction of new polices and policy updates;**
  
- 5. The current data controller shall implement such other security measures as are appropriate to ensure that personal data is protected against accidental loss.**

Signed: .....

Nick Perry  
Permanent Secretary  
Department of Justice

Dated: .....

Signed: .....

Ken Macdonald  
Assistant Commissioner (Scotland & Northern Ireland)  
For and on behalf of the Information Commissioner

Dated: .....