

DATA PROTECTION ACT 1998

UNDERTAKING

Data Controller: Chief Constable
West Midlands Police

PO BOX 52
Lloyd House
Colmore Circus Queensway
Birmingham
B4 6NQ

I, Dave Thompson, Chief Constable of West Midlands Police, hereby acknowledge the details set out below and undertake to comply with the terms of the following Undertaking:

1. The Chief Constable of West Midlands Police 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 West Midlands Police 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 by the data controller that a data breach had occurred in relation to the publicising of a Criminal Behaviour Order.
3. A Criminal Behaviour Order was imposed on two individuals in March 2015. The data controller decided to publicise the order via a leaflet. The offences involved damaging property and threats of violence. The leaflets were to be distributed in the area local to where the offences took place.
4. The Criminal Behaviour Order prohibited the offenders from entering certain areas of Birmingham and from associating with one another in these areas. The leaflet publicised these terms. The order also prohibited the offenders from contacting the victims of and witnesses to the offences. A version of the leaflet included this information, effectively revealing the names of the witnesses to the crime. This leaflet was distributed to approximately 30 homes in April 2015.

5. During the process of creating the leaflet, a detailed risk assessment was completed in relation to the use of photographs of the offenders. No equivalent risk assessment exists for victims or witnesses to an offence.
6. The victims and witnesses named on the leaflet subsequently complained to the data controller that the leaflets were distributed without their consent and knowledge, and left them at risk of intimidation or harm.
7. The data controller has explained to the Commissioner that the version of the leaflet naming the victims and witnesses was a draft, never intended for distribution. The data controller has also explained that it intended to notify the victims and witnesses of the intention to distribute the leaflet.
8. The Commissioner accepts this was the case, but expects that remedial action is taken to ensure the protection of personal data in similar circumstances.
9. 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 related to proceedings for the committal of an offence. Personal data containing such information is defined as 'sensitive personal data' under section 2[(e)] of the Act.
10. 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) Risk assessments are carried out in relation to victims of, or witnesses to, offences during the creation of publicity materials regarding Criminal Behaviour Orders.**
- (2) Victims of and witnesses to an offence are informed before such publicity materials are published.**
- (3) The procedure for the creation, approval and distribution of such publicity materials is to be documented.**
- (4) Processes for the creation of other publicity materials are to be reviewed to ensure that these processes comply with the Data Protection Act 1998.**
- (5) Mandatory data protection training is to be given to all new members of staff, who have access to or otherwise process personal data, on induction.**
- (6) Data protection training is to be refreshed for all members of staff, who have access to or otherwise process personal data, on an annual basis.**
- (7) Systems are to be introduced to monitor the uptake of data protection training.**
- (8) The above steps shall be implemented within three months.**

Signed:

Dave Thompson
Chief Constable
West Midlands Police

Dated:

Signed:

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

Dated: