

Privacy & Data Protection

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- Working Party issues 'Future of Privacy' roadmap, p.18
- Giant database goes live, p.20

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Power to fine — ICO delivers guidance

The UK Information Commissioner's Office (ICO) has published the final version of its guidance ('the Guidance') on how the new power to fine will be used.

This latest development represents the final stages of the process of implementing changes brought in by the Criminal Justice and Immigration Act 2008. In addition to the publication of the Guidance, the government has confirmed that the limit of £500,000 (proposed during its consultation on the monetary penalty regime) will apply, and that the new regime will

come into effect on 6th April this year.

Michael Wills, Justice Minister, commented that "Civil Monetary Penalties of up to half a million pounds will ensure that the Information Commissioner is able to impose robust sanctions on those who commit serious contraventions".

The ICO has stated that, in serving monetary penalties, the Information Commissioner will consider the seriousness of the data breach, the likelihood of substantial damage and distress to individuals, whether

the breach was deliberate or negligent, and what reasonable steps the organisation has taken to prevent breaches.

The government is currently also consulting on the introduction of jail sentences for data protection breaches (the consultation on jail terms closed in the first week of January), a measure which the Information Commissioner supports.

Speaking about his new powers, he said "getting data protection right has never been more important than it is today.

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Innocents to stay on database

The names of nearly one million people who have not been convicted or cautioned for any crime will continue to be stored on the UK Police National Database, according to a government Bill.

The government will limit how long the DNA profiles of people can be kept, but will introduce legislation requiring records of arrests to be held by police for an indefinite period.

The Crime and Security Bill is aimed at addressing

the ruling from the Court of Justice of the European Union in December 2008 that the UK's blanket policy of retaining DNA on all criminal suspects violates the human right to privacy (Article 8 of the European Convention of Human Rights).

It has been established that several police forces are still retaining innocent people's DNA on their databases, pending the enactment of legislation. Also, 20% of the 4.5

million profiles on the National DNA Database are from persons suspected, but not convicted, of crimes.

The Bill recommends a six year limit on retaining the DNA of individuals who are not convicted of crimes. Under current legislation, anyone wanting their DNA records removed has to apply to a Chief Constable.

David Smith, Deputy Commissioner at the ICO, *(Continued on page 17)*