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Headlines:

- EDPS on patients' rights, p.17
- The longer arm of Facebook, p.18
- Disastrous disposal, p.19
- Candidates to confess, p.20

Inside this issue:

ICO gets new powers

The Information Commissioner ('Commissioner') has been given new powers to spot check and fine organisations.

The Ministry of Justice ('MoJ') has produced two reports which contain the detail of the revised role that the regulator will take.

The 'Response to the Data Sharing Review Report', recommends that:

"the Government should bring the new fine provisions fully into force within six months of Royal Assent of the Criminal Justice & Immigration Act 2008, that is, by 8 November 2008.

"The new fine provisions introduced in the [Act], but not yet commenced enable the ICO to impose monetary penalties on data controllers where there has been a breach. We are working with the ICO on these improvements and we hope to bring the new fine provisions into force shortly."

In addition to the recommendations on the new power to fine, the report recommended that notification of breach to the Commissioner should be a matter of good practice, but not mandatory. Also, there will be a new statutory fast track procedure for the government to share data "where there is a genuine case for removing or modifying an existing legal barrier to data sharing."

The second report, which deals with inspection powers and funding arrangements, gives the Commissioner his long awaited inspection powers:

"[the] Ministry of Justice proposes to legislate to allow the ICO to undertake Good Practice Assessments ('GPAs') of public sector data controllers without requiring consent from the organisation in question."

The MoJ, conscious of imposing more burdens on

(Continued on page 17)

UK storage of data deemed unlawful in landmark ruling

The European Court of Human Rights ('ECHR') has unanimously ruled that the UK's blanket policy of retaining DNA on all criminal suspects violates the human right to privacy.

The landmark ruling came about after two individuals requested that Sheffield police destroy DNA and fingerprint data they held on them, when they were no longer suspected of a crime. The police subsequently refused the request, a decision that was upheld in the High Court.

Upon its consideration of the case, the ECHR said that the law (the Police and Criminal Evidence Act 1984) that allows the retention of such data "constitutes a disproportionate interference in the right to respect for private life and cannot be regarded as necessary in a democratic society."

The ECHR dismissed the UK government's argument that the interference was necessary and proportionate for the prevention of crime or disorder and/or the protection of the rights and freedoms of others.

According to the judges, "England, Wales and Northern Ireland appear to be the only jurisdictions within the Council of Europe to allow the indefinite retention of

(Continued on page 17)