

**NEW POSITION ON THE RETENTION OF
POLICE NATIONAL COMPUTER (PNC) RECORDS.**

- In line with the recent Court of Appeal judgment in the case of *Five Chief Constables v the Information Commissioner EWCA Civ 1079 Case No: C1/2008/2124* and the direction from the *Association of Chief Police Officers*, **the 2006 'Step Down' process for Police National Computer (PNC) records has been suspended with immediate effect.** This means that all Police Forces in England and Wales will NOT now 'step down' conviction, caution, reprimand etc data from the PNC. NB The 'step down' process meant that other users of the PNC (i.e. non police agencies) were unaware of the existence of such records.
- In particular, this judgment confirms the power of the Police Service to retain conviction, caution data, in the long term. It justifies a broad interpretation of the policing purpose(s).
- In brief, the Lord Justices decided that the narrow interpretation determined by both the Information Commissioner and the Information Tribunal on what constitutes a policing purpose was incorrect and that the police have a wide duty to share conviction data with a range of other agencies in the criminal justice environment. In particular the Judges focused upon the responsibility to maintain a full list of convictions to prove antecedent history to the Court and the requirement in law for the Police Service to supply conviction data to the Crown Prosecution Service which have a legislative requirement to place before sentencing, a full record of offender's convictions so that the residing Judge or Magistrates can reach an appropriate view on sentencing tariff. Such conviction data was also relevant for the purposes of employment vetting (i.e. Criminal Records Bureau (CRB) Enhanced Disclosure), crime enquiries and child / family proceedings.
- The Lord Justices make clear that it is for Parliament alone and not for the Information Commissioner and/or the Information Tribunal to consider any limitation on the indirect access of others (i.e. non police agencies) for the content of the PNC.
- It confirms that this case should not be confused with S & Marper case. This Appeal relates to conviction data, whereas S & Marper case concerns the retention of biometric data (i.e. DNA), which had been taken from an individual arrested for a recordable offence but not convicted or charged.
- Further to the above explanation, should any member of the public continue to query the retention of PNC records, they should be advised to write to the Information Compliance Unit at HQ.