In brief

Africa embarks on polio immunisation campaign: More than a million polio vaccinators in 23 African countries have embarked on a massive immunisation campaign aimed at immunising 80 million children across sub-Saharan Africa in just four days. The effort is a direct response to an ongoing polio epidemic in the region.

MRC regrets death of "Superman": The Medical Research Council's chief executive, Colin Blakemore, said he was saddened to hear of the death of the actor Christopher Reeve, nine years after he was paralysed in a riding accident (*BMJ* 2003;326:1287-90). "He has been such an effective advocate of stem cell research and very supportive of the UK's legal position and policy on stem cell therapy."

Italians demand change in law: More than a million Italians have signed a petition demanding a referendum to repeal the recent law on assisted reproduction (*BMJ* 2004;328:9 and 2004;328:1334). Italian law stipulates that if more than 500 000 people demand that a law be repealed a referendum must be held. The referendum is likely to be held next spring, unless parliament changes the law before then.

Civet cat is confirmed as source of SARS: Mainland Chinese scientists from the SARS Defence and Cure Scientific Group have said that the primary source of the 2003 outbreak of severe acute respiratory syndrome (SARS) was the civet cat. The animal is a delicacy in southern China and has already been identified as a carrier of the virus (*BMJ* 2004;328:65) but is now confirmed as the main source of human infection.

More women are attending breast screening: The number of women aged over 50 attending for breast screening in the United Kingdom rose by more than 80 000 between 2001-2 and 2002-3, from 1.46 million to 1.54 million. The increase was mainly due to an increase in the upper age limit for the three yearly screen from 64 to 70. See www.cancerscreening.nhs.uk

Patient held informally in hospital had his rights violated

Clare Dyer *legal correspondent, BMJ*

A man with severe learning disabilities who was held informally in a psychiatric hospital for more than four months without the safeguards applying to patients "sectioned" under the Mental Health Act won a ruling at the European Court of Human Rights in Strasbourg last week that his human rights had been violated.

The ruling has important resource implications for the NHS, which will have to provide extra safeguards for tens of thousands of patients—those who are apparently "compliant," mainly with learning disabilities and dementia—who lack the capacity to consent or to object to treatment.

Lucy Scott-Moncrieff, solicitor for the man, named only as HL, said that the government would have to amend the Mental Capacity Bill, now going through parliament, to give patients without the capacity to consent the same safeguards as those compulsorily sectioned. This would mean a system of formal assessments and access

to review tribunals to argue for their release.

The Strasbourg judges said the lack of any fixed rules in UK law governing the admission and detention of "compliant" patients who lack the capacity to consent to treatment was "striking."

They ruled that the circumstances surrounding HL's detention amounted to breaches of his rights to liberty and security, and that the legality of his detention should be reviewed.

HL, aged 55, from Surrey, is autistic, unable to speak, and has "limited" understanding, the court was told. He is often agitated and has a history of self harming behaviour. He had been looked after by paid carers for three years after spending the previous 30 years in an institution.

In July 1997, during a visit to a day centre, he became agitated, hitting himself and banging his head against a wall. Unable to contact his carers, staff called a doctor who sedated him.

He was admitted as an infor-

mal patient to Bournwood Community and Mental Health NHS Trust in Chertsey, Surrey. Because of his mental incapacity, he was held under common law, and not formally detained under the Mental Health Act, which would have given him the right to apply to a review tribunal for release.

His carers went to the High Court to try to secure his release, but a judge ruled that he had not been "detained" in law. The Court of Appeal overturned that decision, but the House of Lords finally ruled that he could be held under the common law doctrine of "necessity."

The Strasbourg judges noted "the lack of any formalised admission procedures indicating who could propose admission, for what reasons and on the basis of what kind of medical and other assessment and conclusions."

Healthcare professionals had "assumed full control of the liberty and treatment of a vulnerable incapacitated individual solely on the basis of their own clinical assessments completed as and when they considered fit."

Without safeguards to protect against misjudgment, said the judges, HL was not protected against "arbitrary deprivations of liberty." □

GMC suggests treatment of pathologist might have been too lenient

Clare Dyer *legal correspondent, BMJ*

A retired pathologist cleared last month of serious professional misconduct over a postmortem examination carried out on a patient of the serial killer GP Harold Shipman may have his acquittal reviewed by the High Court.

A professional conduct committee of the General Medical Council exonerated David Bee over the postmortem examination of Renate Overton, which concluded that she died of natural causes, although she was asthmatic and her notes said that Shipman had administered morphine (*BMJ* 2004;329:820, 9 Oct).

But last week the GMC itself

Pathologist Dr David Bee

announced that it had highlighted the finding to the Council for Healthcare Regulatory Excellence, the watchdog on regulatory bodies in the health field, in case it wanted to exercise its powers to refer "unduly lenient" cases to the High Court.

A GMC spokeswoman said all decisions were routinely sent to the council for consideration, though only exceptional cases were highlighted.

"This is the first time we have

publicly stated that we have highlighted a decision to them. This statement was made in response to significant media interest. It would appear in this instance that the doctor admitted to a serious departure from good medical practice, and a finding of not guilty may be unduly lenient.

"This was an exceptional case. If necessary we will continue to highlight cases to [the Council for Healthcare Regulatory Excellence] where there is a view that the decision made by a PCC [professional conduct committee] panel may be unduly lenient. However, we expect this to be a rare occurrence.

"The decision was not made in response to any outside pressures. All professional conduct committee decisions are examined by the GMC, and any that raise a cause for concern are put before an internal audit group which is led by council members. The decision to refer this case was taken by the president of the GMC after internal discussions including members of this group." □