

REMEDIES IN DATA PROTECTION: Where are we now?

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39 Essex Chambers

DP Damages Claim

- DPA 1998: s.13(1): *“an individual who suffers damage by reason of any contravention by a data controller [of the DPA] is entitled to compensation...”*
- GDPR – Article 82
- DPA 2018 – Sections 168, 169
- Related Claims: Human Rights Act (Article 8), Misuse of Private Information

Damages Claims

- *Lloyd v Google*:
 - Loss of control has an economic value, but
 - De minimis threshold

Damages: Calculation

- Case Law Benchmarks:
 - AB
 - Halliday
 - CR
 - TLT
 - Brown
 - Wooley
 - Katie Price
 - ST

Damages: Calculation

- Other Factors:
 - Judicial College guidelines
 - Vento
 - Article 8 claims

Damages Claims

- County Court or High Court
- High Court: Media and Communications List
 - From 1 October 2019
 - Practice Direction 53B
 - Pleading requirements

Damages Claims

- Jurisdiction: *Ramona AG v Relianco Investments Ltd*

Human Rights/Public Law Claims

- Bridges
 - Article 8/DPA
 - Policy Documents
 - Data Protection Impact Assessments
- Open Rights
 - DPA 2018: Immigration control exemption

Vicarious Liability

- Morrisons
- DPA
- Misuse of private information
- High Court/CA: vicariously liable
- Supreme Court: “*frolic of his own*”

Norwich Pharmacol Orders

- *Mircom International v Virgin Media*
- Build in GDPR protections

- Questions?