CONFERENCE

Data Protection in Seperate Claims

session at

Public Law in 2025:

One Day Symposium

with Richard Hanstock and Matt Lewin



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# Data protection in separate claims

Richard Hanstock & Matt Lewin 29 September 2025

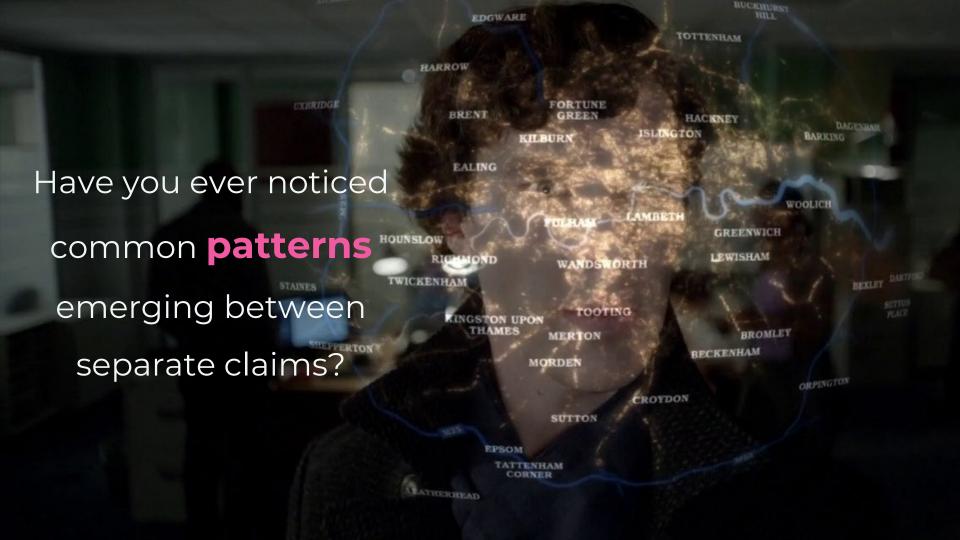




### Kul & ors v DWF Law

[2025] EWHC 1824 (KB)

















- Three claimants (originally 137) involved in RTCs
- Each used the same solicitors (Ersan & Co)
- Almost all the claims settled before trial
- Insurers' solicitors noticed a 'dishonest' pattern
- Witness statement in separate proceedings







- Exhibited Claimants' full names (inc. children)
- Sensitive personal data (medical evidence)
- Not involved in those proceedings
- Claimed breach GDPR Arts 5, 6, 9...
- Focus at trial = pseudonymisation







- Not personal data (unless/until key available)
  - if risk of re-identification none or "insignificant": C-413/23 EDPS v SRB
- Names were not necessary to show the pattern
- Alleged "fundamental dishonesty", not parties
- Not expert evidence, but little probative value?



DWF's witness said his analysis "strongly indicates that all of the claims have been cynically managed so as to contrive an outcome [...] irrespective of the true circumstances of that case"

Mr Justice Freedman in Kerseviciene [2022] EWHC 2951: "it may be that the evidence will **carry no weight** because it was not subjected to the **statistical rigour** of statisticians or other experts"

Mrs Justice Eady in *Kul*: the Claimants **would have expected** their special category data to have been disclosed in open court (in their claims); **disclosure was limited** to the court and the solicitors; processing was pursuant to legitimate **fraud detection** efforts by DWF's clients.

Even without pseudonymisation, the processing was compatible with the UK GDPR.





# **Key takeaways**: *Kul & ors v DWF Law*How to present a **clear pattern** of claims

'Similar fact' evidence

Expert not necessary?

Comparison to baseline

Probative value – make it count **DPIA?** 

Demonstrate
UK GDPR
compatibility





Has the Court of Appeal just made it harder to defend data protection claims?





### Data protection claims: a primer





#### Compensation for non-material damage





# Defending data protection claims: pre-Farley





"... in principle a claimant can recover compensation for fear of the consequences of an infringement if the alleged fear is objectively well-founded but not if the fear is (for instance) purely hypothetical or speculative."

Farley v Paymaster (1836) Ltd [2025] EWCA Civ 1117, [75]



# Defending data protection claims: post-*Farley*



Speculative or hypothetical

Reasonable basis





### Thank you

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