

CONFERENCE

Data Protection in Seperate Claims

session at

Public Law in 2025:
One Day Symposium

with Richard Hanstock and
Matt Lewin

● ● ●
● ● ● cornerstone
● ● ● barristers



Data protection in separate claims

Richard Hanstock & Matt Lewin

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Kul & ors v DWF Law

[2025] EWHC 1824 (KB)



Have you ever noticed
common **patterns**
emerging between
separate claims?





Mere coincidence... or evidence of fraud? Vexatiousness?





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

Kul & ors v DWF Law [2025] EWHC 1824 (KB)

- 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

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*



02

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



Data protection claims: a primer

**Personal data
breach**

**“Material
damage”**

**“Non-material
damage”**

Compensation for non-material damage

***TLT* informal
tariff**

Loss of control

**Psychiatric
damage
awards**

Defending data protection claims: *pre-Farley*

No “distress”

De minimis

Near miss

“... 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*

Unfounded

**Speculative or
hypothetical**

**Reasonable
basis**

Thank you

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