REMEDIES IN DATA PROTECTION: Where are we now?

16 June 2020

Jennifer Thelen
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?