

Reaction: Supreme Court rules in favour of Google

📅 10 November 2021

Today (10 November 2021), the Supreme Court has unanimously overturned the Court of Appeal's 2019 decision in the case *Lloyd (Respondent) v Google LLC (Appellant)* which allowed the claimant, Mr Lloyd, to serve a representative action on Google on behalf of over four million iPhone users who were seeking damages for 'loss of control' of personal data.

The Supreme Court has confirmed that compensation in respect of non-trivial breaches of the Data Protection Act 1998 (1998 Act) is only payable to the extent that a data subject has suffered material damage (i.e. financial loss) or mental distress. Contrary to the view of the Information Commissioner's Office, the Supreme Court rejected the notion that data subjects should have a right to compensation for 'loss of control' of personal data under the 1998 Act.

The Supreme Court also found that the claim could not proceed due to the way it had been framed by the claimant in order to bring it within the scope of being a representative action.

Data lawyer at Browne Jacobson, Loren Hodgetts gave her reaction to the case:

"Whilst this case was heard under the 1998 Act, the principles will be relevant for the purposes of interpreting the meaning of damage under the GDPR.

"In a landscape where we are seeing an increasing number of compensation claims made by individuals against data controllers, this judgment provides a useful reminder that data subjects must show material damage (i.e. financial loss) or mental distress resulting from a breach in order to bring such claims."

Browne Jacobson's [previous article](#) on this case sets out the factual background in more detail.

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