



Lloyd v Google

The Lloyd v Google ruling is one of the most important data protection decisions to date. This was a Supreme Court judgment, which provided companies that process personal data some comfort around representative actions.

Representative actions are a type of claim where **one** person can represent all others who have the same interest as them in the matter. This means that not everyone who is interested in the claim needs to be a party to the claim.

In essence, it makes it easier for large claims to be brought forward.

In this judgment, Mr Lloyd brought a class action on behalf of millions of iPhone users, which he claimed were impacted by a Safari Workaround that Google had deployed between 2011 and 2012. The workaround allowed Google to obtain browser data **from** iPhone users **without** their consent.

Mr Lloyd brought the claim asking for a single amount on behalf of the affected iPhone users estimated at around 750 pounds per user. This was on the basis that every user had lost control of their data, there was value in that data and, the users should receive damages as a result.

The Supreme court dealt with two main questions:

Firstly, whether damages are recoverable for “loss of control” of data, without needing to identify any specific distress or pecuniary loss.

Here, the court decided that loss of control could **not** amount to damage and therefore damages were **not** recoverable.

The second question was whether such claims could be pursued through representative actions.

On this point, the court decided that representative action **could** be brought in a claim of this sort to establish liability for a breach of data protection legislation.

In summary, the court highlighted that although liability **could** be established through representative actions, the scope for obtaining damages through representative actions is limited.

This is because awarding damages often requires an assessment of damages incurred by each individual and this assessment would be difficult to do through representative action.

The decision was welcomed by businesses that handle personal data. Had Mr Lloyd’s claim succeeded, the financial consequences for any business would potentially be significant.

An important point to note is that this claim was brought under the older Data Protection Act 1998 which has since been replaced by the Data Protection Act 2018.

It is therefore only relevant to damages claims under the 1998 Act, **not** claims brought under the UK GDPR and the Data Protection Act 2018 or to claims for misuse of private information.

This means that representative actions could, in the future, potentially be pursued in relation to such claims.