



## Morrisons Judgment

While we were all locked down in April 2020, the wheels of justice continued to turn and a hugely significant Supreme Court judgment was handed down in the *Various Claimants V Morrisons* case.

By way of background, the case involved an employee of Morrisons deliberately leaking the personal data of around 100,000 Morrisons staff members online. The employee, who was acting maliciously and was subsequently jailed, was an internal auditor and had the information for the purpose of disclosing it to the external auditors of Morrisons.

The claimants, comprising of almost 10,000 employees, brought two claims against Morrisons: the first for direct liability under data protection; the second that Morrisons was vicariously liable for the actions of the *rogue* employee. The direct liability claim was dismissed by the High Court, however on the vicarious liability point both the High Court and the Court of Appeal found in favour of the claimants and thus exposed Morrisons to potential claims from all 100,000 affected employees.

However, in a judgment that is frankly good news for employers, the Supreme Court overturned the decision and found in favour of Morrisons.

There were several reasons for the Supreme Court's judgment, including that the motive of the rogue employee had not been properly considered by the lower courts; and that there needed to be more than a causal link between the disclosure from Morrisons to the rogue employee and the deliberate public disclosure.

Ultimately, the key take-away for employers is that the Supreme Court did not open the door for employers being vicariously liable under data protection for the actions of a rogue employee.

There are a couple of quick points to note.

The first is that should an employer allow an employee access to large volumes of personal data which the employee does not require – then a disclosure of this data (deliberate or otherwise) could well expose the employer to direct liability under the GDPR for failing to implement appropriate technical and organisational measures.

The second is the incident in question occurred in 2013 and therefore the Supreme Court was looking at the Data Protection Act 1998 rather than the GDPR, although the principles discussed remain the same and there is little doubt that the judgment would be followed under GDPR.

So, in summary, employers are not automatically liable for the actions of all employees, but it is still vitally important for all employers to ensure that access to personal data is limited to only those employees who need access for their role.