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The consequences of getting data protection wrong for one of your staff

If an employer has breached the Data Protection Act in respect of an employee, the employee is entitled to damages for "distress". A recent case sheds light on how the courts will approach claims of this sort.

The Court of Appeal recently looked at the approach that should be taken if information was wrongly disseminated in the *Halliday v Creation Consumer Finance* case.

This case involved misuse of data relating to credit agreements but the principles would apply if an organisation has got data protection issues wrong for a staff member.

In deciding how much in damages to award, the first issue would be, had there been any identifiable financial loss to the individual? If not, only a nominal sum of £1 would be awarded.

Secondly, there is the issue of the damages for "distress". In this case the individual said, and it wasn't contested, that they were highly distressed when the organisation disregarded an order in respect of the use of data. The claim arose out of a credit sale agreement for a television which resulted in a court order that the individual should be repaid monies and all the data held by the agency should be deleted. It subsequently became apparent that information had not been deleted and showed the individual as owing money, which he didn't, and this information was made available to a credit rating agency.

This and the surrounding background led the judges to think that an award of £750 was appropriate.

Quantification of damages is always particularly fact sensitive, but this does give at least an indication of the sort of award a court might make if a claim of this sort got that far and one can imagine an employment tribunal being influenced by this case.

Halliday v Creation Consumer Finance [2013] EWCA Civ333.

For further information, please contact:

Jane Klauber
Partner
+44 (0)20 8394 6483
Jane.Klauber@russell-cooke.co.uk

James Sinclair Taylor
Partner
+44 (0)20 8394 6480
James.Taylor@russell-cooke.co.uk