



Neutral Citation Number: [2026] EWCA Civ 26

Case No: CA-2025-000112

**IN THE COURT OF APPEAL (CIVIL DIVISION)**  
**ON APPEAL FROM CARDIFF DISTRICT REGISTRY**  
**HIS HONOUR JUDGE JARMAN KC**  
**KB-2024-CDF-000113**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 29/01/2026

Before :

**LORD JUSTICE BEAN**  
**(Vice-President of the Court of Appeal (Civil Division))**  
**LORD JUSTICE MOYLAN**  
and  
**LADY JUSTICE YIP**

-----  
Between :

**PAWEL WYSOKINSKI**  
- and -  
**OCS SECURITY LIMITED**

**Appellant**

**Respondent**

-----  
-----  
**The Appellant appearing in person**  
**Alex Ustych (instructed by Weightmans) for the Respondent**

Hearing dates : 22 January 2026  
-----

**Approved Judgment**

This judgment was handed down remotely at 10.30am on 29 January 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

.....

## **Lady Justice Yip :**

1. The appellant appeals a decision of HHJ Jarman KC, sitting as a judge of the High Court in the Cardiff District Registry, to transfer his data protection and human rights claim to the County Court. He contends that the decision was procedurally unfair and substantively wrong. The respondent contends that although there may have been some minor procedural deficiency, the transfer to the County Court was the only appropriate outcome.
2. At the heart of the appeal lies a single issue: Is the County Court the appropriate venue for the claim? The procedural background makes that determination more circuitous than it might have been, but the essential issue is straightforward.

## **Background**

3. The claim form was issued on 16 December 2024 as a High Court media and communications claim in the Cardiff District Registry. This contravened CPR r.53.4(1) which provides:

“A media and communications claim that is issued in the High Court must be issued in the King’s Bench Division, Royal Courts of Justice, and marked in the top left corner “Media and Communications List”.”

4. CPR r.53.4(2) provides:

“A media and communications claim that is issued in a District Registry of the High Court must be transferred either to the County Court or to the Royal Courts of Justice (as appropriate).”

The judge was therefore obliged to consider whether to transfer the claim to the Royal Courts of Justice or to the County Court.

5. On 31 December 2024, without a hearing and without inviting representations, the judge ordered transfer to the County Court. The order was sealed on 2 January 2025 and served on the appellant by email that day. The order did not record that any party affected by the order may apply to have it set aside, varied or stayed as it should have done pursuant to rule 3.3(5)(b) of the Civil Procedure Rules (CPR).
6. In recitals to the order, the judge recorded that the claim form did not comply with CPR Part 53.4(1) and that the court was making the order under CPR Part 53.4(2). No further reasons were given for the decision to transfer to the County Court.
7. On 9 January 2025, the appellant sent to the court by email a “request for reconsideration”. He set out his belief that the claim was better suited to the High Court. He indicated that he sought an explanation for the basis of the transfer and for why the County Court was deemed more suitable than the High Court. The appellant said:

“I hereby reserve my right to apply to have the order set aside, varied, or stayed. If the reasoning provided is insufficient or procedurally irregular, I may seek appellate intervention to ensure justice is served.”

By way of conclusion, the appellant said:

“I request the court to provide detailed reasoning for the transfer of this claim to the County Court and explain why the County Court is deemed more suitable than the High Court. Should the reasoning demonstrate procedural compliance and legal validity, I will accept the transfer. However, if deficiencies are found, I reserve my right to seek a reconsideration or appeal of the order.”

8. The appellant was apparently told by the court that he would need to file a N244 application (although we have seen no record to that effect). His subsequent attempt to file such an application electronically in the High Court on 15 January 2025 was rejected on the basis that it had been filed in the wrong court. By that stage, the transfer to the County Court had taken effect.
9. The appellant submitted his Appellant’s Notice on 21 January 2025. Permission was granted by Warby LJ, who subsequently granted an application by the respondent to rely on additional material not before the judge below, including the appellant’s pre-action letter of claim and the respondent’s response.

### **Grounds of appeal**

10. The appellant’s grounds of appeal can be summarised in three parts:
  - i) Substantive error: The decision to transfer to the County Court was wrong because the nature and complexity of the claim justifies determination in the High Court.
  - ii) Lack of reasons: The judge failed to explain why the County Court was considered the appropriate court.
  - iii) Breach of procedural fairness: The judge should have afforded the appellant opportunity to make representations about the transfer.
11. Those grounds were developed in written submissions. The focus of the appellant’s oral submissions was an additional argument that the judge made the order too early and without adequate information about the nature of the claim. The appellant contended that the judge could not properly determine whether the claim was appropriate for the County Court before the Particulars of Claim had been filed.

### **The absence of reasons**

12. The extent to which reasons need to be given for an order made on the court’s initiative without a hearing depends on the nature of the decision. There will be times when the reasons can be readily discerned from the order itself and there is no need to say more. It is however usually appropriate for the order to contain brief reasons. There is certainly no need for detailed explanation akin to a judgment. The purpose of giving short reasons is to allow the parties to understand why the judge has made the order that he has so that informed decisions may be made about whether to apply to set aside or vary the order. In turn, that may save the court later dealing with unnecessary applications for reconsideration and/or being asked to supply reasons when the order is no longer fresh in the judge’s mind.

13. It could be argued that there was (just) sufficient reasoning in the recitals to the order to understand why the judge was making the order that he did. The recitals said that it appeared that the claim form did not comply with CPR 53.4(1). The judge said the transfer was made under CPR 53.4(2), which requires that a claim erroneously issued in a District Registry be transferred either to the Royal Courts of Justice or to the County Court “as appropriate”. It can thus be inferred that the judge thought that the County Court was the more appropriate venue for the claim. However, once the appellant sought reasons, a brief explanation for that conclusion ought to have been given.

### **Procedural irregularity**

14. The failure to include the information required by CPR 3.3(5)(b) was an irregularity, as the respondent concedes. While the appellant appears to have appreciated that he could apply to set aside or vary the order within 7 days, his request for reconsideration (sent within that timescale) was not treated as such an application.
15. It does not appear that the appellant’s request for reconsideration was referred to the judge. Had it been, the sensible course would have been for him to provide reasons for his decision to transfer to the County Court rather than to the Royal Courts of Justice and to extend time to provide a short additional period for the appellant to make a formal application under CPR 3.3(5)(a).
16. The appellant acted promptly and reasonably in seeking reasons within 7 days of receiving the order and in making his application within 7 days thereafter.
17. In circumstances where the order contained no reasons for transferring to the County Court rather than the Royal Courts of Justice and no reference to the right to apply to set aside or vary and the time limit for doing so, the better course would have been to accept the application and to allow the appellant to make representations. As it was, the only way in which the appellant was able to seek reconsideration and to obtain a reasoned decision was through this appeal. The use of an appeal for that purpose is not the best use of resources.
18. Nonetheless, the lack of reasons and any procedural deficits in the court below do not themselves determine the outcome of this appeal. The real issue for this court is whether the County Court is the appropriate venue for the claim.

### **Legal framework**

19. CPR Part 53 governs “media and communications claims” and includes data protection claims in that category.
20. The general principle contained in CPR PD 7A 2.1 is that proceedings may only be started in the High Court if the value of the claim is more than £100,000. However, PD 7A 2.10(1) disapplies paragraph 2.1 to media and communications claims, which may be issued in either the High Court or County Court.
21. PD 7A 2.10(2) states that a media and communications claim should be started in the High Court if having regard to factors set out in paragraph 2.4(1) to (3), the claimant believes that the claim ought to be dealt with by a High Court Judge. The relevant factors are the financial value of the claim and the amount in dispute; the complexity

of the facts, legal issues, remedies or procedures involved and the importance of the outcome of the claim to the public in general.

22. If a claimant starts a media and communications claim in the High Court and the court decides that it should have started in the County Court, the court will normally transfer to the County Court on its own initiative (PD 7A 2.10(3)).
23. The normal rules apply in deciding in which court and specialist list a claim that includes issues under the Human Rights Act 1998 should be started (PD 7A 2.11).
24. When a media and communications claim is incorrectly issued in a District Registry, the judge must choose whether to transfer it to the Royal Courts of Justice or the County Court. CPR Part 30 guides that decision, providing the criteria for the transfer of proceedings. Under CPR 30.3(2), the matters to which the court must have regard include the financial value of the claim; the availability of specialist judges; the complexity of the facts, legal issues, remedies or procedures; and the importance of the outcome to the public in general. There are other factors and the list is not intended to be exhaustive.
25. Data protection claims can and do proceed in the County Court. In *Cleary v Marston (Holdings) Ltd* [2021] EWHC 3809 (QB); [2022] Costs LR 1451, Nicklin J (then Judge in Charge of the Media and Communications List) said [23]:

“On a proper reading of CPR 53.1, therefore, there exists a category of non-defamation media and communications claims that are capable of being brought and fairly tried in the county court. Typically, those will be claims where the damages sought are relatively low and the claim does not have any particular complexity. Such claims ought properly to be commenced in the county court. It will be a matter for the district judge in each case, but there is no reason why straightforward claims cannot be dealt with on the Small Claims Track.”

26. Nicklin J cautioned claimants against over-complicating cases. At [27], he said:

“... in the classic data breach case, where, as a result of human error, information being provided to a third party who should not have received it, data protection offers a straightforward remedy, that avoids getting into areas of whether the defendant can be said to have “misused” the relevant personal information.”

Continuing at [28]:

“It is important that claimants (and those advising them) do not pursue claims that add little but yet have the potential to make the case more complicated and lead to increased costs ultimately to resolve what in many cases will be a straightforward claim.”

27. Dealing with the County Court’s ability to deal with claims of this nature, Nicklin J said [32]:

“... Data protection is not the most straightforward of areas of the law. So too, misuse of private information and breach of confidence. But that is not to say that every claim will be legally complicated, and I have no doubt that the judges of the county court, both district and circuit judges, are well able to wrestle with those issues of law that arise. It is to be remembered that district judges, in particular, have an extensive jurisdiction over civil claims which means they have to be ready and able to deal with claims that raise all manner of legal points, some of which may have elements of complexity. But they are experienced judges who are well able and well used to deciding legal points that arise in the context of the litigation.”

28. I would endorse those observations.

### **The appropriate venue for this claim**

29. The claim relates to the actions of a court security guard employed by the respondent. During routine screening, the guard confiscated an item from the appellant, which he asserts he had for medical reasons. He claims that he showed the security guard a copy of a medical exemption certificate or prescription relating to that item. The security guard subsequently disclosed details of the item that had been confiscated to a court usher and a solicitor acting for a third party.
30. The claim form contained limited information. It stated that the appellant claimed against the respondent “for their failure to comply with statutory obligations under UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018”. It stated:

“The claim arises from the Defendant’s confiscation of the Claimant’s medical device and unauthorized disclosure of sensitive medical data (“special category data”) to third parties without consent.”

It was alleged that in addition to breaches under the GDPR and 2018 Act, the appellant’s Article 6 and Article 8 human rights had been violated. In relation to value, the appellant said:

“The Claimant estimates the value of the claim to be between £15,000 and £30,000, based on relevant case law, for the distress caused and nominal damages. In terms of his own nominal damages, he considers £30 to be appropriate.”

It said that Particulars of Claim would follow (as permitted by the rules).

31. On the face of the claim form, the value of the claim was well within the ambit of the County Court and the nature of the claim was not such as to require that it be dealt with by a High Court Judge nominated to sit in the Media and Communications List. The claim form did not suggest any particular complexity whether factual or legal. The claim was predominantly for damages. Although there was reference to seeking “an order for the defendant to comply with their statutory obligations”, no basis for such an

order was identified. The judge was entitled to regard the claim form as containing a relatively straightforward claim for damages in the context of a data protection breach. There was nothing to suggest any significant general public importance.

32. Once it was recognised that the claim had erroneously been issued in a District Registry, the judge was required to decide at that point whether to transfer to the Royal Courts of Justice or to the County Court. On the information then available (from the claim form), the judge was entitled to conclude that the County Court was the more appropriate forum.
33. Had the appellant been afforded the opportunity of reconsideration in the court below, the respondent would have been able to provide the documents which have been provided in the course of this appeal, including the appellant's letter of claim and the respondent's response. It is therefore appropriate that we consider the contents.
34. In response to the appellant's letter of claim, the respondent's solicitors admitted liability, subject to sight of the medical exemption certificate or prescription shown to the security officer. It was admitted that disclosure of details of medication the appellant was authorised to use was a breach of his statutory data protection rights. The respondent contended that the claim would attract only nominal damages and said that corrective action had been taken including the dismissal of the security guard from his role. The appellant was put to proof of the alleged impact of the breach and his claim that he had suffered significant distress, anxiety and emotional harm.
35. It is apparent therefore that the issues likely to arise are straightforward factual issues. Indeed, if the appellant provides the exemption certificate or prescription as requested, there may well be no dispute about liability. The assessment of damages including the assessment of any distress, anxiety or emotional harm is an entirely straightforward exercise and one conducted in the County Court up and down the country on a daily basis.
36. In his written submissions, the appellant asserted that the matter involves significant legal complexity and would be better addressed in the High Court. However, none of the matters he raised lead to the conclusion that the claim cannot be dealt with perfectly well by a judge of the County Court.
37. The fact that the disclosure took place in the context of other legal proceedings does not have any bearing on the decision. If the appellant had any complaint about the fairness of the other proceedings as a result of the disclosure, that would need to have been pursued in those proceedings, whether by appeal or otherwise. This claim does not offer any vehicle for exploring what happened in the other proceedings. That is so whether the claim proceeds in the County Court or the High Court.
38. This appeal has afforded the opportunity to consider the parties' submissions on the appropriate court for this claim and additional material which was not before the judge when he made the decision. Such consideration affirms that the judge's decision was right. Even had the appellant been afforded the opportunity to make representations in the court below, it was inevitable that the claim should be transferred to the County Court.

## Conclusion

39. The appellant should have been afforded an opportunity to make his representations about transfer in the court below. Had that happened and had reasons been given for the decision to transfer to the County Court, this appeal may well have been avoided. However, any procedural deficiencies do not ultimately affect the correctness of the judge's decision that the County Court was the appropriate forum for this claim. The claim is neither complex nor of high value and raises no issue warranting trial by a High Court Judge. It follows that transfer to the County Court was the inevitable outcome.
40. For those reasons, I would dismiss the appeal.

## Costs

41. In those circumstances, the respondent seeks its costs of the appeal and has submitted a Statement of Costs showing a total claim for costs in excess of £33,000. Mr Ustych submitted that even if there had been procedural deficiencies in the court below, that should not affect the usual position that the unsuccessful party should pay the successful party's costs. The core issue was the venue for the claim.
42. The appellant submits there should be no order as to costs or that the respondent's costs should be disallowed. He relies upon the procedural deficiencies below and alleged inflation of the respondent's costs, which he says are disproportionate to the nature of the appeal.
43. The court always has a discretion as to whether costs are payable by one party to another and as to the amount of such costs (CPR 44.2(1)). The general rule is that the unsuccessful party will pay the successful party's costs but the court may make a different order (CPR 44.2(2)). In deciding what order (if any) to make about costs, the court will have regard to all the circumstances (CPR 44.4). Such circumstances include the conduct of the parties and whether a party has succeeded on part of its case even if not wholly successful.
44. Although it cannot realistically be said that the appellant has succeeded on his appeal in part or that the respondent has acted improperly in responding to the appeal, the procedural deficiencies below contributed to the appeal being pursued and there is force in the appellant's argument that the costs incurred by the respondent were disproportionate to the nature of the appeal. In all the circumstances, I do not consider it reasonable for the appellant to be held responsible for the entirety of the costs incurred by the respondent. Equally, I do not agree with the appellant's submission that there should be no order for costs. I consider that the appellant should pay a contribution towards the respondent's costs.
45. The appellant asked that if an order for costs was made against him, he be afforded time to pay. It seems to me that issues as to enforcement are best left to the conclusion of the underlying claim, save that any damages or costs awarded to the appellant in the course of the proceedings may be set off against his liability for these costs.
46. Exercising the Court's discretion, I therefore consider the appropriate order is that the appellant should pay a contribution of £5,000 (inclusive of VAT) towards the

respondent's costs of the appeal, not to be enforced until the conclusion of the claim, save by set-off.

**Lord Justice Moylan :**

47. I agree.

**Lord Justice Bean V-P :**

48. I also agree.