



## Court orders disclosure of Suspicious Activity Reports

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The recent High Court case (David Lonsdale v National Westminster Bank) is particularly important to banks when receiving data subject access requests for personal data relating to Suspicious Activity Reports (SARs). This case is an interaction between tipping off and data protection issues.

The Claimant, being a customer of the Defendant Bank, made a subject access request under Data Protection Act 1998 seeking disclosure of all documents relating to the decision to freeze his accounts on two separate occasions and the decisions made to re-open them. The Bank prevented the Claimant from having access to his bank accounts and did not disclose to him the SARs, nor any information extracted from them, stating that 'personal information exempt from disclosure under the DPA has not been disclosed', failing though to specify on which exemption it relied on.

The Claimant started Court proceedings against the Bank relying on three causes of action, namely, breach of contract, breach of the applicable data protection laws and defamation.

Focusing on the data protection claim, the Court dismissed the Bank's application for this claim to be struck out. The Court considered that the following do constitute personal data: data relating to the Claimant's conversations and his bank accounts, personal bank statements are personal data about the individual operating the account, data used or to be used to inform or influence actions or decisions affecting an identifiable individual is personal data, with SARs falling into this category, a person's whereabouts on a particular date or at a particular time may amount to that person's personal data, data processed by the Bank to determine whether to make a report to the National Crime Agency regarding transactions on the Claimant's accounts or whether to close his accounts.

The Court ruled in favour of the Claimant and allowed him to inspect the SARs. According to this case, SARs are not always going to remain confidential and may be disclosable in some circumstances. In this case, there was no evidence that inspection would trigger tipping off and the Court allowed inspection. Also, if an institution seeks to withhold disclosure of SARs on the basis of not committing a tipping off offence it needs strong evidence to support that. Careful consideration needs to be given to the drafting of SARs as they may form the basis of other claims against the bank.

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