



BTO wins landmark 'oppressive use of CCTV' case

BTO Solicitors has won the first Scottish case where compensation for distress has been awarded under the *Data Protection Act 1998*. The distress was caused by the oppressive use of CCTV cameras and it is believed to be the first case of its kind in the UK. BTO's clients were awarded damages when the court held their right to privacy had been breached by their neighbours.



Paul Motion

The case involved pursuers **Mr and Mrs Woolley**, who reside above a bed and breakfast owned by the defenders. The court heard that their lives had been made a misery since October 2013 when their neighbours, a business premise not a domestic dwelling house, installed CCTV cameras which recorded video and sound 24 hours a day.

The cameras captured images and sound from the Woolley's property in addition to that of the defenders. **Paul Motion**, partner at **BTO Solicitors** argued that this breached the *Data Protection Act*, an argument with which **Sheriff N A Ross** agreed, describing the surveillance as "extravagant, highly intrusive, and not limited in any way".

On Friday, Sheriff Ross issued his opinion, stating that they should be paid £17,000 compensation under the *Data Protection Act* for the distress caused by the cameras.

Mr Motion said: "The use of CCTV grows ever more widespread and this judgement should serve as a wake-up call to businesses that they need to follow due process and heed the ICO guidance. Here the court awarded damages because three data protection principles were breached.

"Firstly, no information was provided before the installation of the cameras about the extent of the recording and the reasons for it, so it was unfair processing, and there was no legal basis for the recording, breaching the first data protection principle of processing data fairly and lawfully.

"Secondly, the use of the cameras which recorded the defenders premises and the property next door, was found to be excessive as it was without justification. This was in breach of the third data protection principle that processing should be adequate, relevant and not excessive.

"Finally, the footage was kept for five days which was longer than was necessary, breaching the fifth data protection principle that personal data should only be retained for as long as is necessary."

He added: "Fitting CCTV isn't as simple as fitting cameras and switching them on. Businesses should consider taking advice to ensure the installation and operation are compliant with the DPA. Householders too are covered by data protection law if their system captures public areas.

"If in any doubt, legal advice should be sought to ensure full compliance and avoid potentially heavy fines."