



Disputes Outlook 2026

Commercial disputes

For what comes next
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Contents

Spot the risks. Plan ahead. Resolve with confidence.

Disputes aren't always avoidable, but being prepared can make all the difference. By identifying potential risks early on, you can take control and shape an effective resolution strategy. Our team is here for what comes next.

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Live issues

Use of AI in litigation

A High Court judgment in **R (Ayinde) v Haringey LBC and Hamad Al-Haroun v Qatar National Bank QPSC and QNB Capital LLC [2025] EWHC 1383 (Admin)** has made it clear that lawyers owe an overriding duty to the court and are under a professional duty to check the accuracy of any AI-generated work. Both cases concerned the actual or suspected use of GenAI tools by lawyers to produce legal arguments and witness statements containing false information, resulting in erroneous material being put before the court.

At the same time, litigants in person are increasingly using GenAI to bring or defend claims, placing additional burden on legal teams to verify the accuracy of the documents from both sides.

Key takeaways

- Legal teams remain professionally accountable for all material submitted

to court. AI-generated content must be verified against authoritative sources.

- You should provide targeted training on GenAI risks and limitations, equip teams to spot AI-generated errors and establish clear protocols for challenging questionable content.
- Also see our Legal Project Management and Employment reports.

AI identifying more improper image use

Our Tech, IP and Data team are seeing a rise in disputes over various types of improper image use. Businesses (unwittingly) using images that they do not have permission to use can trigger cease and desist letters being sent by the owner of the content or an authorised licensor.

This increase is driven by the use of sophisticated AI-powered reverse image search tools that systematically scan websites, social media platforms

and digital marketing materials for unauthorised use of their images.

We are also seeing a significant shift towards these letters being sent directly by the owners of the works rather than through the more traditional route of enforcement by copyright collection agencies.

The efficiency of AI scanning means rights holders can pursue enforcement at scale with minimal cost. Most cases settle pre-litigation, but settlement demands have increased.

Key takeaway

- AI tools make image rights enforcement faster and cheaper, increasing risk for businesses. Review your content for proper licenses and act quickly if contacted. Always verify the legitimacy of any cease and desist letter and seek legal advice before responding.

Misuse of confidential information and increase in theft of IP rights by ex-employees

The Lady Chief Justice's Report 2024 to 2025 (published in November 2025), reported an increase in injunction applications in the King's Bench Division. We are seeing a similar trend and continue to act on a steady flow of injunctions and claims brought by organisations across different sectors against departing former employees and directors.

These claims typically involve misuse of confidential information or breaches of post-termination restrictions in employment contracts or service agreements.

Organisations are increasingly determined to protect their confidential information - particularly their client and customer lists. Our Tech, IP and Data team are also seeing growing concerns from clients about theft of Intellectual Property (IP) rights by departing employees.

Organisations, who are increasingly determined to protect confidential information, are deploying measures such as monitoring tools and access controls to detect and prevent breaches and strengthen enforcement.

In **IDDQD Ltd and Royal Mail Group v Codeberry [2025] EWHC 2561 (Ch)**, the Claimant deployed sophisticated 'sleeper software' that detected when the defendant downloaded data. These measures can help to safeguard intellectual property rights and provide persuasive evidence to leverage settlement. Other steps include adding passwords to secure files or disabling access to personal email accounts and external storage devices.

Key takeaways

- Act quickly if you suspect misuse of confidential information. Determine what information has been taken, when and how, and collate evidence such as access logs, email trails, and document history, and review contractual restrictions.
- Watch our [**CDR in 10 video**](#) on restrictive covenants & misuse of confidential data.

Increase in data breach claims post Farley

In **Farley v Paymaster (1836) Ltd (trading as Equiniti) [2025] EWCA Civ 1117**, the Court of Appeal confirmed that damages for distress and fear of data misuse are recoverable in breach of data claims.

This decision overturns a previous High Court ruling that struck out claims by 432 police officers who alleged breaches of data protection law and misuse of private information after their annual benefit statements were sent to incorrect addresses.

The Court of Appeal held that there is no minimum threshold of seriousness and rejected the idea that lower value cases are trivial or abusive. All claims deserve to be heard and dealt with proportionately. As a result, even minor breaches could lead to litigation, and we may see an increase in data breach claims.

Key takeaway

- Treat all data breaches seriously and proactively. Review data handling practices, procedures and policies, and consider the impact of any data breaches at an early stage to reduce risk and manage exposure.

More arbitration disputes

The Arbitration Act 2025 came into force on 1 August 2025 to ensure that UK arbitration remains an attractive alternative to litigation. We are seeing that businesses are increasingly choosing arbitration - it offers privacy and confidentiality, can shield sensitive information from public scrutiny and is generally perceived to be a quicker and cheaper way to resolve a dispute. However, we have found that there can be delays where parties opt for busy or popular arbitrators and parties can also incur substantial administrative costs on venue hire and arbitrators' fees and expenses.

Key takeaways

- Ensure commercial contracts include an arbitration clause, signalling that in case of future disputes, the parties will pursue arbitration. Be aware that costs vary. Budget early and explore expedited procedures for efficiency.
- For more information about the key changes, read our [Arbitration Act 2025](#) article.

Use of court claims for GSCOP breaches

In **W Clappison Limited v Aldi Stores Limited v The Groceries Code Adjudicator [2025] EWHC 1459 (Ch)**, the Grocery Code Adjudicator (GCA) was granted permission to intervene in a High Court case involving Aldi and two of its former suppliers claiming £3.7 million in damages.

The dispute involved claims that Aldi had assured the suppliers of continued business, only to later remove them from its supply chain. Under the Groceries Supply Code of Practice (GSCOP) retailers should provide 'reasonable notice' before ending supplier relationships, taking into account factors such as contract value, relationship length and product type.

The Court held that the GCA could intervene and make submissions to the Court on the intended construction of the relevant GSCOP provisions. There isn't a body of case law interpreting GSCOP. Had the case progressed to trial as planned, the GCA's views may have established case precedent influencing how other courts interpret and apply GSCOP in future legal disputes.

Key takeaways

- The High Court case could still mark a turning point. It may embolden more businesses to seek relief through the courts rather than via the GSCOP arbitration procedure – especially if the GCA is willing to play an active role.
- Suppliers may decide that a court claim is a more attractive option if they want to avoid the tight 4-month deadline that exists for pursuing a GSCOP arbitration.

Group proceedings in Scotland

In October 2025, the Scottish Civil Justice Council launched its first call for evidence on Scottish group procedure. We anticipate that group proceedings will continue to have implications for businesses across multiple sectors in 2026 and beyond as a result.

The review includes a range of questions relating to opt-out vs opt-in group proceedings, including:

- the introduction of opt-out group proceedings;
- which areas of litigation should be exempted from group proceedings;
- if group procedure should apply to Judicial Reviews (whether opt in or opt out);
- the court's role in distribution of awards or agreed settlements;
- funding issues for group proceedings and their disclosure; and
- changes to the expenses rule for group proceedings.

Key takeaways

- If you operate in a sector at risk of group proceedings, engage with the call for evidence and consultation and provide examples (both good and bad) of opt-out vs opt-in procedure from other jurisdictions.
- Also see our Financial Services report.

Emerging trends

Increase in supply chain disputes

We are seeing a rise in supply chain disputes, often driven by unclear contract terms, unrealistic key performance indicators (**KPIs**) and misaligned expectations. These issues frequently stem from confusion or disagreement about the scope of services or a change in scope. They can also be caused by poor communication about delays or lack of progress.

Increasingly, we are brought in at the first signs of tension, working as an integral part of the client team to manage contractual disputes before formal proceedings are considered. This early engagement helps clients navigate issues proactively, preserve commercial relationships, and achieve early resolution.

Key takeaways

- Ensure your contracts clearly define the scope of services and include realistic KPIs. Maintain open communication with suppliers - especially around

delays or changes of scope - to avoid misunderstandings. At the first sign of tension, form a 'client team' and include your external lawyers so that you can resolve issues before they escalate.

- Visit our [Navigating Supplier Performance hub](#) for more help and support.

Procurement litigation

We expect an increase in procurement related litigation as contracting authorities and suppliers adapt to the Procurement Act 2023 (**the Act**). The Act embeds principles of transparency, flexibility and value-for-money into supplier assessment and management.

Supplier performance is now referenced against KPIs with performance data being made publicly available. This makes it easier to hold underperforming suppliers to account. At the same time, increased scrutiny may also mean that any failures by contracting authorities to meet transparency requirements or manage contracts

effectively will be more visible to the public and potentially subject to challenge.

Key takeaways

- In-house legal teams should keep a close eye on how case law develops. Procurement teams, contract managers, and relevant internal clients must receive comprehensive training on the new rules.
- Stay alert to the shortened timeframes for legal challenges and the revised test for lifting automatic suspensions.
- See our [Navigating Supplier Performance hub](#) for more help and support.

More reputational management issues for businesses

We are seeing a rise in defamation and harassment claims, increasingly driven by social media activity rather than a defamatory comment in a newspaper or other publication. Businesses are facing defamatory comments being disseminated through social media or on online content like Google reviews where a business's practices or products may be criticised by customers, consumer groups, competitors, anonymous trolls and ex-employees.

We are also seeing more representative actions, where an employee brings a claim on behalf of a wider group, adding a new layer of strategic and reputational considerations for employers. A business's reputation can be called into question when its employees, management or senior executives are targeted, or if there is an issue relating to their conduct personally which then impacts on the business.

Key takeaways

- Actively monitor social media and respond quickly and thoughtfully to issues. Involve senior management,

PR advisors, and lawyers early to ensure that any reaction is appropriate and protects reputation. Be mindful that in the case of a disgruntled customer or ex-employee, it could provoke further attention.

- Watch our [CDR in 10 video](#) on reputational management.

Clarification around training of AI models

The legality of using copyright protected works to train AI models without permission remains unresolved. Hopes for clarity from the High Court decision in **Getty Images v Stability AI [2025] EWHC 2863 (Ch)** were not realised, as Getty Images did not progress its primary copyright infringement claim in the context of AI training at trial.

The judgment was narrow and with current IP legislation predating modern AI and the UK Government yet to commit to a position following its consultation in 2024, uncertainty persists.

Getty Images has since been granted permission to appeal certain points of the initial decision. The Court of Appeal will have

the opportunity to revisit key questions on copyright and AI training.

Until the appeal, tension remains between protecting rights holders' interests and fostering AI innovation.

Key takeaways

- Pressure is mounting on the UK Government to respond to the copyright consultation paper feedback in 2026, which will determine whether the UK adopts a permissive (favouring AI development) or restrictive (favouring rights holders and licensing markets) approach.
- Getty Images was partially successful regarding the infringement of its trade marks. Consequently, we expect businesses to seek more trade mark registrations for additional protection.

Greater public access to court documents

From 1 January 2026, a new two-year pilot scheme in the Commercial Court (including the Circuit Commercial Court) and Financial List will allow wider public access to court documents. If successful, it is expected to be extended to other Business and Property Courts.

The pilot (and any extension to other courts) means the press, members of the public and any business competitor will have access to more documents on the court file beyond statements of case without obtaining the court's permission. For example, skeleton arguments, opening and closing submissions, witness statements and expert reports.

- Monitor the pilot to anticipate its extension to other courts and adjust your approach.

Key takeaways

- If confidentiality matters, consider ADR such as arbitration and mediation. Assume witness statements and skeleton arguments may become public and draft accordingly. Consider developing a communications strategy before commencing litigation.

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