



# Global dispute resolution in unstable times

How does an advanced legal system stay relevant, especially when grappling with global crises? John McElroy reports

## IN BRIEF

- ▶ At a recent panel discussion, members of the judiciary led the debate on the Business and Property Courts' ability to innovate in uncertain times.
- ▶ The judges emphasised the importance of proactive and ongoing disclosure reform, AI integration and hybrid hearing models.
- ▶ They offered advice to litigators, as well as setting out possible reforms.

In recent years, the Business and Property Courts have shown a strong commitment to innovation, launching pilot schemes on disclosure and witness statements, and swiftly adopting virtual hearings in response to the Covid-19 pandemic.

During London International Disputes Week (LIDW), held in early June, there was a panel called 'The Business and Property Courts in action: innovating dispute resolution amid global risks.' In this panel, three distinguished judges joined leading practitioners to explore how the English courts are ready for whatever lies ahead. As well as judicial perspectives on emerging trends and procedural reform, the discussion covered innovation, efficiency, and the evolving demands of global dispute resolution.

Mr Justice David Foxton explored the vital role that the courts play in bringing clarity and resolution amid periods of instability and legal uncertainty, as well as the courts' long-standing ability to respond to the legal challenges arising from

geopolitical events, economic disruption, and natural disasters, from the Suez crisis to the Russian invasion of Ukraine. He emphasised how, in these moments, specialist common law courts have been particularly well equipped to deliver authoritative decisions that help stabilise commercial expectations and clarify legal standards.

**“In many cases, the parties have already agreed the scope of disclosure by the time they reach the first case management conference”**

He drew a comparison with the resolution of disputes by way of arbitration, where the make-up of the tribunal panels can differ greatly, there can be significant delay in the production of awards, and a lack of public precedent can obstruct legal clarity.

*Aercap Ireland Ltd v AIG Europe SA and others* [2025] EWHC 1430 (Comm), which had claims exceeding \$4.5bn involving multiple aircraft and engines, was cited as an example of the Commercial Court's



London International Disputes Week

## Innovating global dispute resolution amid global risks: June 2025 Panel discussion

- ▶ The panel was made up of Mr Justice Foxton (representing the Commercial Court), Mr Justice Michael Green (representing the Chancery Division) and Mr Justice Waksman (representing the Technology and Construction Court (TCC)).
- ▶ They were joined by four members of the London Solicitors Litigation Association—the President, Nikki Edwards of Howard Kennedy, the Vice President, John McElroy of Fieldfisher, and Committee Members, Charlotte Hill of Penningtons Manches Cooper and Lois Horne of Macfarlanes.
- ▶ The panellists offered their candid assessments, pragmatic recommendations, and optimistic views on the English court's capacity to lead rather than follow.
- ▶ There was agreement that the Business and Property Courts offer agility, clarity and transparency amid global risks.
- ▶ The judges emphasised the importance of proactive and ongoing disclosure reform, AI integration and hybrid hearing models.
- ▶ There was some encouragement from the panellists to also look at bringing on some shorter, less complex trials more quickly, an improvement of settlement incentives to encourage earlier resolution, and bolder innovation in case management.

capacity to manage complex, high-value disputes efficiently and transparently. In that case, proceedings were expedited, and a judgment was delivered within three weeks.

Mr Justice Michael Green noted that the Chancery Division has seen a growth in cross-border insolvency cases, involving vast sums of money and often concerning international conglomerates. He explained that the influx of global companies wishing to bring their claims here highlights the UK court's strong reputation for handling complex international insolvencies, as well as its willingness to adapt its procedures to new challenges and to embrace new technologies. This strengthens the English court's appeal to international businesses.

Mr Justice David Waksman explained that a substantial part of the Technology and Construction Court's (TCC's) workload relates to procurement disputes, typically involving claims based on principles such as equal treatment, transparency and proportionality, often alleging errors or irrational decisions. Importantly, the TCC handles procurement claims across all sectors, not just those related to construction or technology.

He also identified that the TCC has seen an increase in complex software and IT disputes,

which is attributable to the increasing use and reliance on technology and AI in recent years.

### Tech & AI

For users of the court system, innovation is as much about technology as procedure. During the discussion, Lois Horne spoke about the impact of the courts' electronic filing system on eliminating endless paper and removing the need for last-minute dashes to court. It has improved access to case materials for both parties and non-parties. Ultimately, this means better access to justice.

Virtual and hybrid hearings have also improved access for international clients, as well as enabling an increased uptake of video cross-examination.

As for AI, disclosure is one area in which it is already making an impact. For several years now, tools such as Technology Assisted Review and predictive coding have been allowing legal teams to process and analyse vast quantities of data with significantly greater speed and accuracy.

The use of technology is encouraged under the Civil Procedure Rules and supported by the judiciary as part of broader efforts to modernise litigation. AI is also being explored for tasks such as chronology building and issue identification, with potential in areas such as legal research and judgment drafting,

reflecting the courts' commitment to digital innovation.

The panel, however, agreed that there must nevertheless be caution when it comes to technology and AI, as there will be different levels of adoption across the profession. Given that not all clients have the resources to invest in advanced tools, procedural expectations should remain proportionate.

### Disclosure & witness statement reforms

Disclosure remains one of the most expensive and complex aspects of English litigation, but recent reforms, especially in the Business and Property Courts with Practice Direction 57AD, have had a largely positive impact. These reforms aimed to reduce costs, improve accuracy, ease the burden on courts, and encourage cooperation. While modern communication tools have caused data volumes to grow, early planning and use of technology have improved efficiency.

Since the reforms, there has been a clear shift in practice. There are fewer specific disclosure applications, which has resulted in substantial time savings, with disclosure now being addressed much earlier in proceedings. In many cases, the parties have already agreed the scope of disclosure by the

time they reach the first case management conference.

As for accuracy and efficiency, despite the significant increase in data volumes over the past decade, technological tools now enable more efficient and accurate document review.

### Reform wish list

In closing, the panellists shared some of their ideas for the future, such as: a review of CPR, Pt 36 to provide more incentive for parties to settle earlier; work on shorter lead times to trial, to bring less complex disputes to a conclusion more quickly; and establishing a panel of specialist disclosure judges to deal with disclosure issues, along the lines of the discovery masters in the US system.

With a judiciary committed to innovation, practitioners willing to adapt, and a technology-enabled court infrastructure, the Business and Property Courts are not only surviving unstable times but acting as global leaders.

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