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March 2026 A Look Ahead: UK LITIGATION, ARBITRATION & INVESTIGATIONS



Welcome to our 2026 "look ahead".

Use the circles on the left to read more about how legislation, policy and technology are reshaping litigation, arbitration & investigations.

This year, developments in legislation and policy, together with the growing role of new technologies, are reshaping the UK disputes landscape. In this document we look at:

> **Civil procedure and other legal reforms:** the new access to court documents pilot; the Law Commission's programme of reforms; changes in the judiciary and the use of artificial intelligence in the preparation of court documents.

> **Litigation funding:** the Government's plans to reverse *PACCAR* and its response to proposals to regulate litigation funding.

> **Competition class actions:** upcoming trials; *Evans v Barclays;* benefits to class members and the Department for Business and Trade's review of the opt-out regime.

> **Arbitration Reforms:** the impacts of last year's reforms on case law and forthcoming procedural reforms.

> **Wider Arbitration Developments:** UK state immunity, the ICSID Convention and injunctive relief; pre-emptive challenges to English awards; BIT standing and jurisdiction; assignment of ICSID awards; institutional developments and events.

> **Business Crime:** the corporate offence of failure to prevent fraud; new SFO self-reporting guidance; SFO trials; charges for failures to prevent tax evasion; rewards for whistleblowers and changes to the SFO.

> **Cryptocrime:** Crypto Wallet Freezing Orders; a criminal investigation into cryptocurrency fraud; the OECD's Cryptoasset Reporting Framework and the Crypto Cash Fusion Cell.

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Commercial Litigation and Civil Justice Reform

Civil procedure and other legal reforms

The *Access to Public Domain Documents Pilot* (PD 51ZH) has come into force in the Commercial Court and the Financial List. The pilot provides for in-scope documents to be made publicly accessible when they are used in a public hearing. The pilot will be reviewed halfway through the year and, if successful, extended to further courts.

In September 2025 the Law Commission announced its review of the law of deeds, including whether the concept remains fit for purpose at all. We also await Part 2 of its recommendations for rationalising the law of contempt, which we anticipate will be published this year. This follows its initial recommended introduction of a new framework for the law of contempt.

Changes to the judiciary

There will be changes in judicial personnel following from the recent wave of senior judicial retirement announcements, including: Lord Reed (as President of the Supreme Court), Sir Geoffrey Vos (as Master of the Rolls), Dame Victoria Sharp (as President of the King's Bench Division) and HHJ Pelling KC (as Judge in Charge of the London Circuit Commercial Court).

Artificial intelligence

2025 saw the legal industry grappling with the benefits and risks associated with using generative artificial intelligence in the preparation of court documents, including the risks of GenAI generating fictitious case citations. Of particular note were *R. (on the application of Ayinde) v Haringey LBC*, the AI Guidance for Judicial Office Holders and the Bar Council's Considerations when using ChatGPT and generative artificial intelligence software based on large language models.

Further guidance is expected. The Civil Justice Council issued a consultation paper in February 2026 containing some provisional recommendations about whether amendments to the Civil Procedure Rules are needed to cover the use of GenAI tools by legal representatives in preparing court documents.

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Litigation Funding Reforms

In December 2025, the Ministry of Justice (MOJ) announced plans to introduce legislation "*when parliamentary time allows*" to reverse the Supreme Court's February 2023 decision in *PACCAR*.

PACCAR was a technical decision in which the Supreme Court found that litigation funders were providing "*claims management services*" under the relevant statutory definitions (s.58AA Courts and Legal Services Act 1990 and s.419 Financial Services and Markets Act 2000) because those definitions included "*the provision of financial services or assistance*". The effect of *PACCAR* has been that litigation funders' returns cannot be calculated as a percentage of damages recovered. The result has been that returns are calculated as a multiple of capital invested instead.

In June 2025, the Civil Justice Council had released its Final Report on Litigation Funding which recommended that the Government introduce legislation at the earliest opportunity to reverse the decision with prospective and retrospective effect. The CJC also recommended the introduction of statutory regulation of litigation funding, including capital adequacy requirements, control of conflicts of interests and disclosures of funding to the court and other parties. The CJC also proposed that consumers receive independent legal advice about proposed litigation funding agreements and that the terms of those agreements are approved by the court.

The MOJ's announcement also suggested that it would be enacting at least some of the CJC's recommendations, saying that "*[a] new framework will ensure that agreements are fair and transparent, so that third-party litigation funding actually works for all those involved.*"

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Competition Class Actions

The Competition Appeal Tribunal has another busy year ahead. A 10-week trial in *Neill v Sony Interactive Entertainment* is listed for March, followed by a 14-week trial from September in the *Google Play Store* proceedings. Outside the collective proceedings sphere, the Tribunal will hear a 6-week trial in *Kelkoo v Google* from June, a 12-week *Trucks second wave* trial from September, and the 3-week *Shein v Temu* trial in November.

Last December, the Supreme Court held (in *Evans v Barclays*) that the relative strength or weakness of a case *should* influence the Tribunal's decision about whether it can proceed on an opt-out basis. Where practicable, the court also said that opt-in proceedings are preferable because of the negative effects which opt-out proceedings have on defendants (read more). In the first certification judgment of 2026 (*Shotbolt v Valve*), the Tribunal decided that this did not prevent opt-out certification on the facts of the case. However, the decision in *Evans* is likely to have a more significant impact in future cases, particularly where the class contains businesses rather than consumers.

2026 is also likely to see developments in how the Tribunal seeks to ensure that proceedings primarily benefit class members, rather than funders, insurers and lawyers. In particular, it will have to grapple with the outcomes of the settlements in *Merricks v Mastercard* and *Mclaren v MOL* and the trial judgment in *Kent v Apple*. Its approach may be affected by litigation funder Innsworth's challenge to its decision to award Innsworth £22.5m from an available pot of £154.4m following the *Merricks* settlement.

The Government's Department for Business & Trade is also expected to begin a consultation on its proposed changes to the opt-out collective proceedings regime in the springtime. Our response to DBT's 2025 call for evidence is available here.

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International Arbitration: The Impact of New Arbitration Reforms

Last autumn saw the entry into force of the Arbitration Act 2025 – which made a number of targeted amendments to the Arbitration Act 1996 (the principal arbitration law statute applicable in England & Wales, and N. Ireland). Click here for more on the substance of the reforms.

As they "bed-in" we can expect a number of responses from the courts and more procedural reform.

As to the former, they have already begun to have an impact on case-law with, for example, the court referring to relevant amendments to assist it with questions of interpretation of the AA 1996 (see, for example, *LLC Eurochem NW 2 v Tecnimont SpA & Anor* [2026] EWCA Civ 5, a case on the extent of the court's power to enforce peremptory orders of a tribunal under s.41 AA, in which the Court of Appeal's conclusion was fortified by symmetry with its new powers to enforce peremptory orders of emergency arbitrators under s.41A).

More directly, the new "default" rule on the law applicable to arbitration agreements has also already had an impact: in *FH Holding Moscow Ltd v AO Unicredit and another* [2025] EWHC 3111 the resulting application of the law of the seat led the Commercial Court to conclude it lacked jurisdiction to grant an anti-suit injunction in support of a foreign seated arbitration; a (foreseen) puncturing of the UKSC's 2024 *Unicredit* decision.

As to the latter, we await CPR reform intended to streamline applications to court to challenge a tribunal's award on its jurisdiction under s.67AA. Express powers to make such rules (particularly for cases where a party has already participated in a jurisdiction challenge before the tribunal) were included in the 2025 reforms and they might emerge this year.

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International Arbitration: Wider Developments

The appellate courts will be busy determining important points. From the UKSC, judgment has already emerged this year in the *Infrastructure Services*/*Border Timbers* cases, where it decided that, for the purposes of UK state immunity law, a state's agreement to the ICSID Convention includes (by way of Article 54(1)) consent to the court's adjudicative jurisdiction to register an ICSID award. In the long-running *Spain v London Steamship* dispute, the UKSC is due to hear argument on the degree to which UK state immunity law applies to awards of injunctive relief against a state by an English seated tribunal.

Further important cases before the UKSC and due for hearing include *Star Hydro* where the issue is whether a pre-emptive challenge to an English tribunal's award in Pakistan, brought ostensibly under the provisions of the New York Convention, was a violation of the English courts supervisory jurisdiction. Whilst, in *Diag Human*, the UKSC is due to consider points of standing and jurisdiction under the 1990 Czech/Swiss BIT. In the Court of Appeal, funding eyes will be on the *Operafund/Blasket Renewable* case (due to be heard later this year), in which the issue is whether ICSID awards are assignable.

In the institutional world, the London Court of International Arbitration (LCIA) has opened a consultation on the next iteration of its arbitration rules that will run during the course of 2026. It is also expected that the ICC International Court of Arbitration will complete its rules revision process and unveil a new edition of its arbitration rules this year.

Finally, the arbitration community has two significant opportunities to come together in the UK during 2026, with London International Disputes Week scheduled to take place in June and London Arbitration Week in late November/ early December.

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Business Crime

Enforcement round up

The corporate offence of failure to prevent fraud (FTPF) came into force on 1 September 2025. The offence has been heralded as a major innovation in the UK government's strategy to tackle fraud in the UK with its emphasis on changing corporate culture, tackling fraud offences at source. 2026 is likely to see companies continuing to review their internal procedures to ensure they sufficiently address fraud risks and bolster their compliance practices should they fall short. For further information see: The UK Economic Crime and Corporate Transparency Hub.

New corporate guidance published in April 2025 provides the clearest indication yet as to what a company self-reporting wrongdoing to the SFO can expect. The key message is that, "unless exceptional circumstances apply", if a corporate self-reports promptly to the SFO and co-operates fully, it will be invited to negotiate a deferred prosecution agreement rather than face prosecution. For more on the SFO's guidance on self-reporting, see: Decisions, decisions and how to get a good night's sleep.

2026 promised to be a big enforcement year for the SFO, with a number of high-profile trials expected. However, the trial of four individuals charged with fraud in connection with the collapse of the bakery chain Patisserie Valerie has been postponed till January 2028, and that of three individuals connected with the collapsed London Mining PLC has been abandoned altogether. Continuing difficulties with document disclosure by the SFO has led HM Crown Prosecution Service Inspectorate to bring forward its scheduled review of the agency to May 2026.

Of the trials set to continue, those of two former company directors charged with fraud in relation to the activities of the Raedex Consortium, and of two former executives of oil services company Petrofac, charged with bribery, look the most interesting.

Read more...

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Business Crime

Failing to prevent tax evasion

August 2025 saw the first charge of failing to prevent tax evasion (FTPTE) being brought by the tax authorities (HMRC) against an accounting firm in Stockport. A trial is set for September 2027. As at 30 June 2025 HMRC had an additional 11 live investigations into FTPTE and a further 27 under review across sectors including software providers, labour provision, accountancy and legal services and transport. We therefore expect more charges and prosecutions for this offence in the short term.

Rewarding whistleblowers

In November 2025, the government unveiled the "Strengthened Reward Scheme", which will financially reward whistleblowers who give information to HMRC that aids the recovery of at least £1.5m in unpaid tax, although rewards will be given at HMRC's discretion and are not guaranteed. The scheme is particularly aimed at tackling serious non-compliance in large corporates, wealthy individuals, offshore and avoidance schemes.

The SFO has long been calling for whistleblowers to be paid for information they give to authorities that assists in SFO prosecutions. The government's UK Anti-Corruption Strategy published in December 2025 included assessment of the feasibility of financial incentive schemes and support for whistleblowers reporting economic crime. However, no timetable has been set for such a review.

Changes afoot

Meanwhile the SFO faces internal changes. In November 2025 it confirmed that it will be moving to new premises in Canary Wharf at the end of 2026, closer to other government agencies. Of potentially more importance was the unexpected announcement by Nick Ephgrave that he would be standing down as director of the SFO two and a half years early and leave the agency at the end of March. An interim director will be appointed until a recruitment process has taken place.

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The Rise and Rise of Cryptocrime

The challenge presented by the use of cryptoassets and virtual currencies for money laundering, terrorist financing, tax evasion and other criminal purposes, continues to rise. In July the SFO obtained its first Crypto Wallet Freezing Order to freeze the equivalent of nearly £11m Bitcoin identified as linked to suspected criminality. In November 2025 the agency opened its first criminal investigation into suspected fraud involving cryptocurrency following the collapse of a $28m cryptocurrency scheme. This followed the conviction of a Chinese national for money laundering in connection with a £600m investment fraud in China. Over £20m of the illicit funds had subsequently been turned into Bitcoin and used to obtain property and goods in the UK.

The complexities around cryptocrime are only likely to escalate in the coming years, particularly as cryptoassets can be transferred internationally so easily. The Cryptoasset Reporting Framework developed by the OECD came into effect in the UK on 1 January 2026. 75 countries have so far signed up to these rules, which aim to improve the transparency around cryptocurrency transactions and tackle the perceived high level of tax evasion by cryptoasset users. The UK is among the first 48 jurisdictions to implement the rules, which include all EU countries, the Channel Islands, Brazil, the Cayman Islands and South Africa. From 2027, HMRC will automatically share information received from cryptoasset exchanges with tax authorities in these countries.

At home, a new initiative aimed at tackling cryptocrime has been set up. The Financial Conduct Authority, Office for Financial Sanctions Implementation, National Crime Agency, HMRC, City of London Police and Metropolitan Police Service have come together to form the Crypto Cash Fusion Cell. The agencies will work together to better identify, investigate and disrupt criminal activity, such as the abuse of crypto assets and money laundering.

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