STEVENS&BOLTON

ENGLAND & WALES V THE REST OF THE WORLD

A thought leadership project from Stevens & Bolton.

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FOREWORD

This report presents the findings of a research project conducted to understand the strengths and challenges of England and Wales (E&W) as a jurisdiction for dispute resolution, and how it compares to other jurisdictions.

The project gathered insights from a diverse group of respondents, including in-house counsel at large UK corporates, international law firms, barristers, and corporate senior executives from around the world. The findings of our research reaffirm the enduring reputation of E&W as a leading and trusted jurisdiction for international dispute resolution. Respondents from across the legal and commercial sectors, spanning multiple continents, consistently recognised the jurisdiction's core strengths: a highly experienced judiciary, high quality legal system, a robust legal framework, and clear procedures with strong case management.

However, while the jurisdiction continues to be trusted and widely used, our research also highlighted areas for improvement. For example, the high costs associated with litigation and the need for greater procedural efficiency were common responses. Respondents expressed a clear desire for reforms that would make the system more accessible, particularly for smaller businesses and individuals. Suggestions included fee caps based on the value of the claim, wider adoption of technology, streamlined procedures, and increased use of alternative dispute resolution mechanisms.

Interestingly, but not unsurprisingly, half of respondents would choose arbitration if they had a free choice of forum to resolve an international commercial dispute, with the second most popular choice of forum being the Commercial Court of England and Wales.

The quality of decisions and expertise of judges were consistently ranked as the factors that matter most when considering jurisdiction, followed closely by how quickly cases are handled and resolved, and the cost of litigation. The importance of enforcement was often cited as a key factor in jurisdictional choice.

Most respondents would support the implementation of mandatory mediation for certain types of disputes, with the most common reason for those not in support of mandatory mediation relating to the idea that mediation needs to be a voluntary process for it to be effective.

In summary, this report underscores both the strengths and the challenges of E&W as a jurisdiction. Despite the challenges, though, it is clear E&W remains a trusted and preferred jurisdiction for international dispute resolution, and its strengths, including an experienced judiciary and secure legislative framework, continue to make it an attractive choice for resolving complex commercial disputes.

We are grateful to all participants who took the time to share their views and experiences, helping to shape the findings in this report.

With thoughtful reform and continued investment in its legal infrastructure, E&W is well-positioned to retain its status as a premier forum, and through implementing the recommended improvements set out at the end of the document, we believe E&W can continue to maintain its position as a leading choice for international dispute resolution.

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OVERALL EXPERIENCE OF LITIGATION IN ENGLAND AND WALES

Respondents were asked to specify the nature and extent of their experience of litigation in E&W.

3.84 AVERAGE RATING

★ ★ ★ ★ ☆

Positive experiences included the following:

"**High quality** of judges..."

"...The judiciary in E&W is independent and the overall **trust** in the judiciary is much higher."

"**High quality** system, **reliable** outcomes, diverse court structure, unquestionable enforcement."

"Rolls Royce in **quality**..."

"Clearly defined processes and procedures make litigation more predictable. It feels that litigation is much more robust: judgments are very careful. It's also understandable: judgments are generally **clear and easily accessible** even for non-lawyers."

"High Court litigation is usually positive as the judges are **very experienced**"

"A **high quality** legal market; and **sophisticated** civil procedure rules."

"The courts deliver judgments fast enough, the judges are sophisticated and willing to tackle new matters, set new precedents. **They don't shy away from new challenges**"

"...the quality of analysis in English litigation is excellent..."

"The courts of England and Wales are **well equipped to handle and resolve** complex cross-border issues..."

There were some respondents whose experience was less positive. Common themes of discontent were high costs and apparent complexity of processes:

"Way too **expensive**"

"...slow, expensive, **rigid and inaccessible** for small businesses or individuals."

"...the adversarial litigation and cross examination of witnesses **produces exaggerated findings** on evidence, inferences, etc...."

"...the experience of those who have the financial resources to litigate is usually much better than those who are of limited means.... I have seen a **stark increase in the number of litigants in person** in the last few years, even in High Court litigation and multi-day trials in the County Court..."

"Strong judicial system which suffers from **systemic issues** experienced by other jurisdictions as well. Certain of these issues are cured in arbitration settings."

"...**time taken** to deliver outcomes and overall cost."

"...Litigation is generally **quite cumbersome** compared to arbitration..."

"...County Court is very **overrun and disorganised**."

"...**too expensive** and too many satellite disputes about costs budgeting and now disclosure."

"...it is a system so complex that you need to have an experienced legal team from the very beginning also for cases not so complex...overseas clients (also sophisticated clients) continue **struggling [sic] to fully understand** the barrister/solicitor roles and skills."

"...the client...**felt intimidated** by attending court and giving witness evidence."

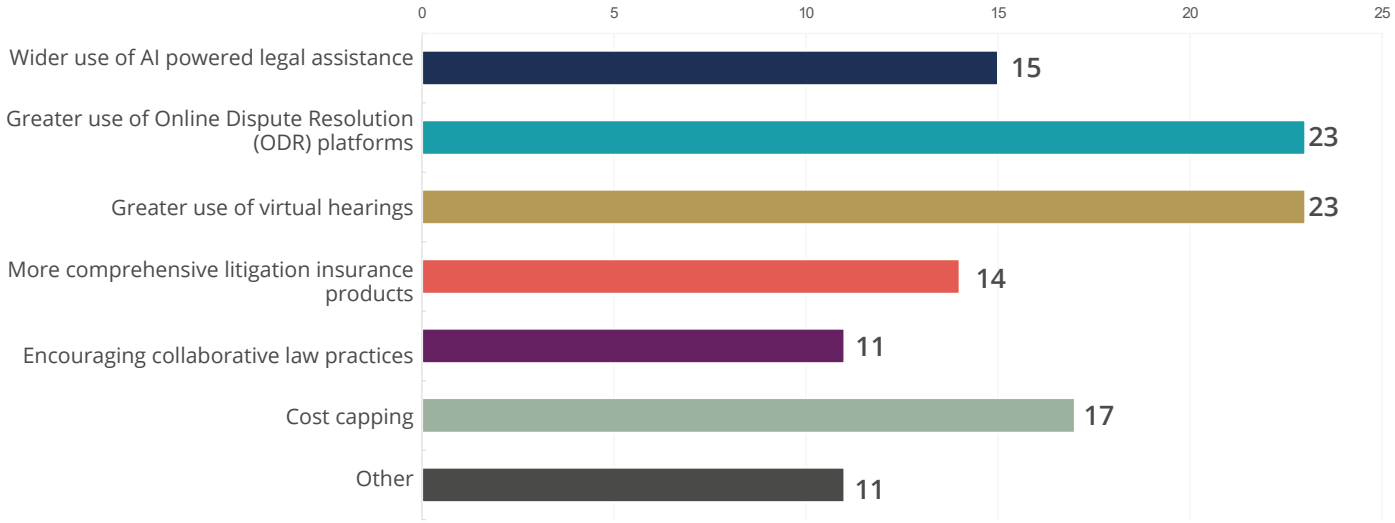
"The **costs are very high** and can distort the tactics of litigation."

"...The reason for not giving my experience 5 stars is the **high cost of legal services** in the jurisdiction and the contrast with the US in things like security for costs and the "loser pays" system."

THE COST OF LITIGATION IN E&W COMPARED TO OTHER JURISDICTIONS

Respondents were asked how they would rate the current cost of litigation in E&W compared with other jurisdictions. E&W was not viewed as "very affordable" by any respondents.

The respondents were asked which three measures (of the six options available) should be implemented to reduce the cost of litigation in E&W:



Respondents were asked to provide any other comments regarding the cost of litigation in E&W.

"Fee caps based on the value of the claim ensuring that costs cannot be higher than the claim and full recovery of costs would be necessary"

"...adverse party costs are growing very rapidly and very often in cases where quantum is lower than tens of millions will outstrip the costs in dispute."

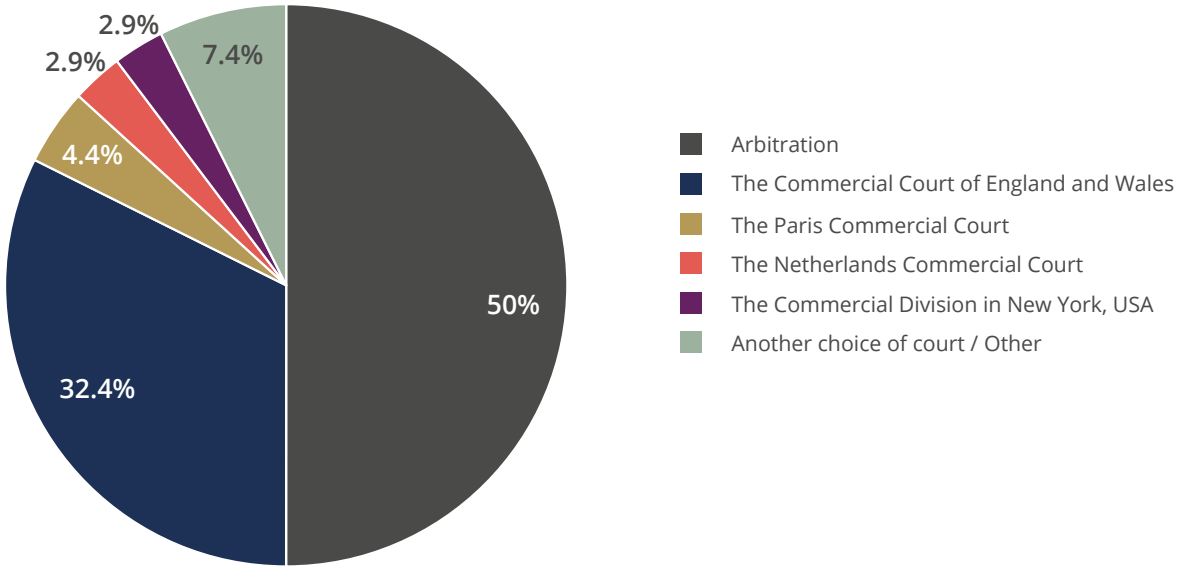
"Technology needs to be used to speed up and reduce man-hours in the process of dispute resolution."

"Litigation insurance should be available to both claimants and defendants and the cost should be recoverable from the losing party."

"[High legal fees] often prevent parties [seeking] remedies in [the] UK and/or even promote subordinate proceedings."

CHOICE OF FORUM

Respondents were asked what forum they would choose if they had a free choice to resolve an international commercial dispute. Arbitration was the clear front runner.



Respondents were asked for any other thoughts on the choice of jurisdiction.

"Enforcement is the key. I would only choose a forum that I know its decision will be enforced wherever I intend to enforce."

"I think [arbitration] is a good choice in international cases because it is difficult for the parties to understand a different environment and a different way of thinking..."

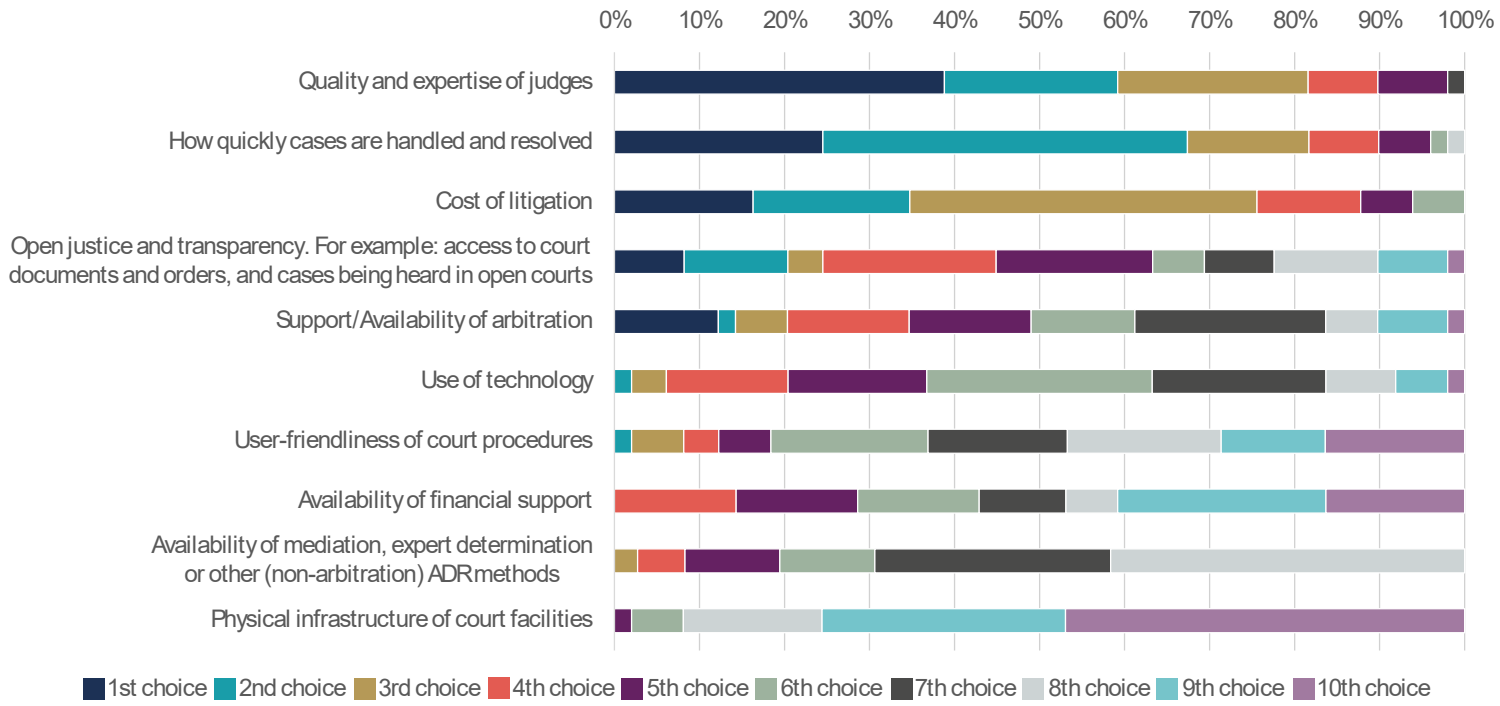
"Our primary consideration in selecting a forum is whether there is certainty of obtaining meaningful relief."

"Specialisation of judges is key for disputes having a sharp financial aspect, or another technicality, like construction."

"Enforcement of the judgment is an important factor to consider."

CHOICE OF FORUM

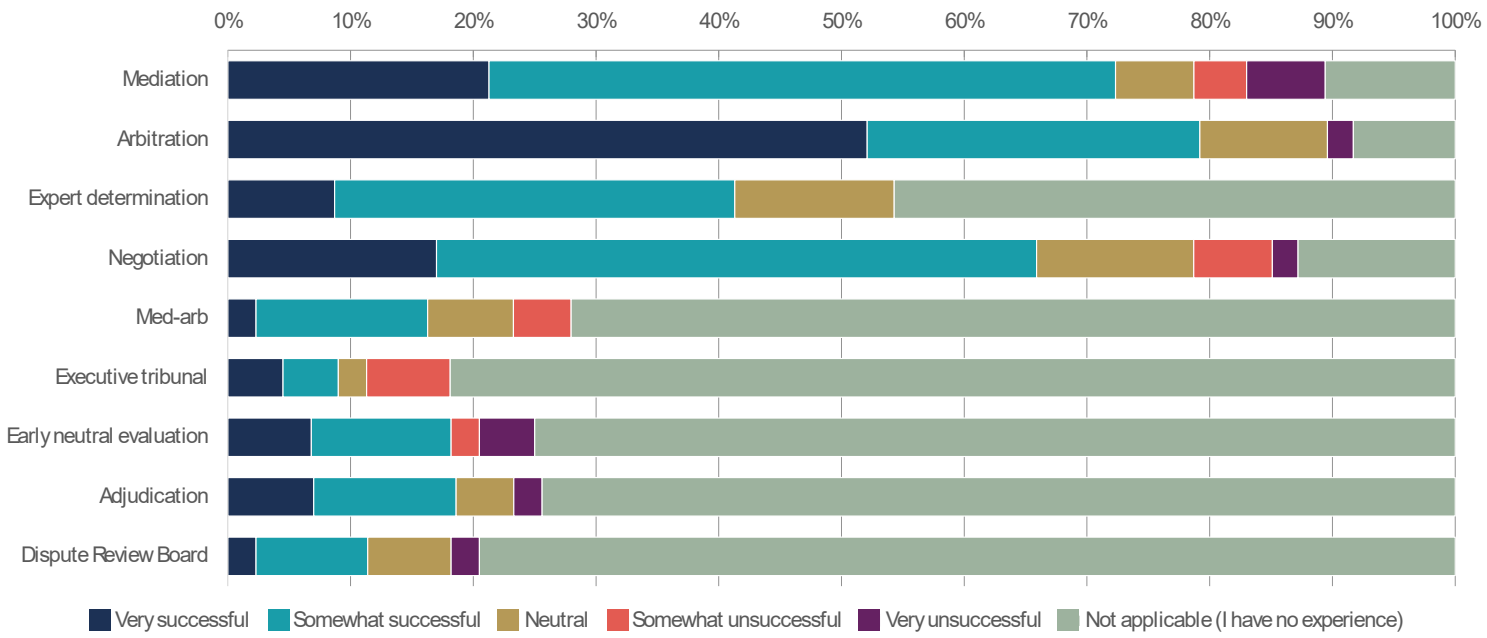
Respondents were asked to rank factors that matter most when considering jurisdiction:



The quality and expertise of judges was most consistently ranked as the most important factor that matters the most when considering jurisdiction. The speed at which cases are handled and resolved was also ranked highly as was the cost of litigation, followed by the availability of arbitration.

ALTERNATIVE DISPUTE RESOLUTION

Respondents were asked, if they have used or been involved in ADR, how successful they found it to be in resolving disputes.



Arbitration had the highest success rates, followed by mediation and negotiation.

ALTERNATIVE DISPUTE RESOLUTION - EXPERIENCES SHARED

A selection of comments received:

"ADR is booming in France but not for good reasons. The courts are overcrowded with cases and therefore they try to bring you to an agreement which is not always favourable for the client."

"90% of claims are resolved by way of arbitration"

"Mediation can be... lengthy and costly in circumstances where the parties are very far apart in their thinking. In my experience, if mediation had been attempted in every dispute I have been involved in thus far, at least 40% of those disputes would have been resolved, or at least some of the issues between the parties would have been resolved, saving valuable court time and resources."

"Arbitration allows parties to choose their arbitrators and their procedure, giving sophisticated parties an opportunity to carve the dispute process which their case requires."

"Mediation...has no 'teeth' so there is no incentive other than contractual obligation to engage with it properly."

"International arbitration... is expensive but limited in time, so overall I think the price is counter-balanced by the certainty of knowing that the process will not extend indefinitely."

"Mediation can sometimes be used as a way to flush out positions rather than drive at settlement. Often it seems you need several goes at mediation to get any success, and parties are just doing it because they have to."

"[With] Expert Determination I've seen parties being obstructive in agreeing experts or expert terms, and this can undermine the process enormously."

"Arbitration in commercial disputes is effective at neutral venues and more flexible than local court processes."

"For most cross-border cases, arbitration is the best option."

"Mediation is cost-effective and fast; arbitration is slow and can be excessively expensive. However, an arbitral award is easy to enforce elsewhere."

"My experience of arbitration was that it was no different to litigation in terms of cost-effectiveness, speed and efficiency, but there was definitely a bit more flexibility. My experience of mediation was that it was cost-effective, fairly quick and efficient and flexible - and if it works then great but if not then it risks entrenching the parties' positions and delaying the litigation."

"ADR...can be difficult where there is no clear route to challenge decisions..."

"The quality of expert determination highly depends on the expert..."

ALTERNATIVE DISPUTE RESOLUTION - MANDATORY MEDIATION

Respondents were asked if they would support the implementation of mandatory mediation for certain types of disputes:

"It would save a lot of time and cost for all."

"To declutter courts."

"It is already existing in France for cases under 5.000 €"

"Brings parties together and identifies real issues."

"Yes, but only 'yes' if it was deployed properly. There need to be cost incentives / disincentives to ensure proper engagement and that parties don't just waste time and money doing it to 'tick the box'."

"Forcing parties to at least meet and try mediation is no bad thing."

"To reduce the strain on the courts and attempt to avoid entrenchment and those wanting "their day in court"."

"We have this in Florida, and it is generally helpful in driving settlements."

"Commercial disputes must have a mandatory pre-mediation process"

"Subject to proportionality concerns and a prompt timetable so as not to be a tool of disruption"

"A skilled mediator may narrow issues between parties even where views may be entrenched."

"Mandatory mediation can work in simpler creditor-debtor disputes."

The following are quotes from those respondents who did not support mandatory mediation for certain types of disputes:

"The parties are usually adults who do not need mandatory mediation. Access to justice is a fundamental right."

"Mandatory mediation in most of the situations for commercial matters of value is just considered delay in the process..."

"Mediation is, by definition, consensual. The parties cannot be forced to find an acceptable compromise, and it seems wasteful to make them go through the motions just to tick the box of having attempted mediation."

"Mediation should be a tool in the toolbox for the right cases not a panacea"

"I worry that the imposition of mandatory mediation would result in mediation [being] forced at a set time in the process, which may not be optimal."

"the voluntary nature of mediation is what drives real engagement and a wish to at least see if it can work"

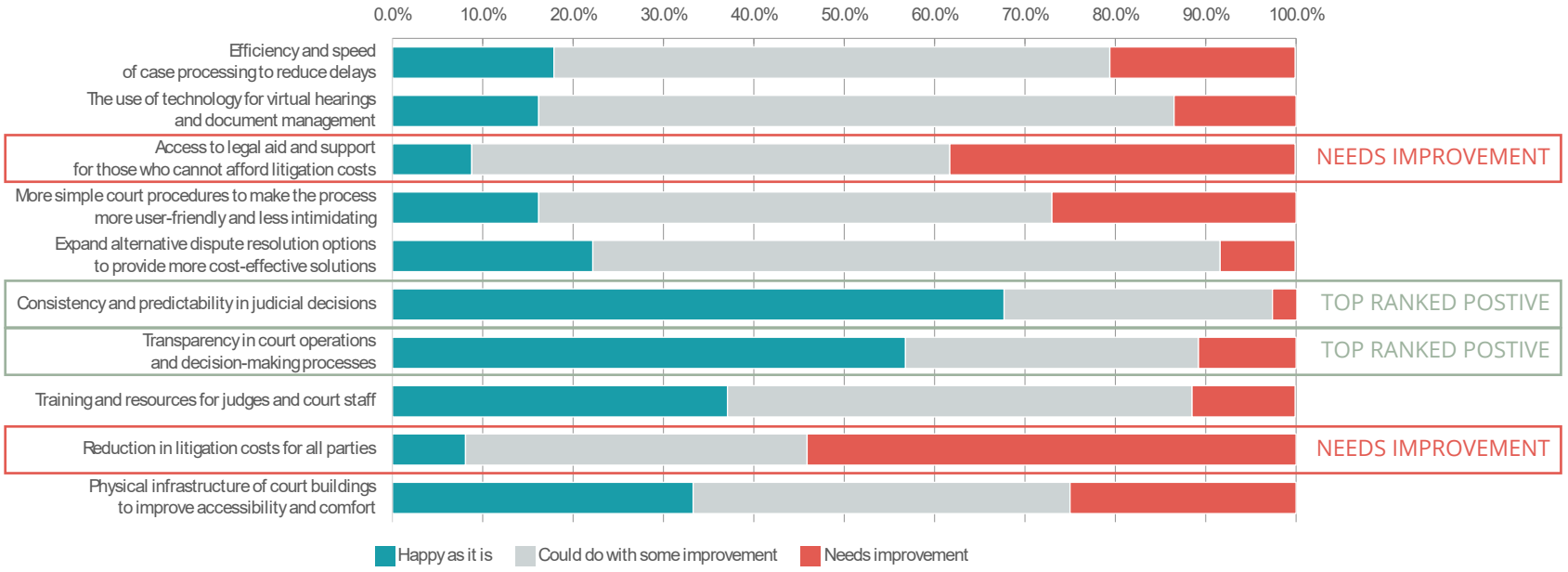
"My experience in Italy with mandatory mediation is disappointing. A mandatory mediation is an oxymoron."

"..there will be many situations where reluctant participation in mediation is just extending the process and aggravating cost."

"Parties tend to be less invested in the mediation process when it is mandatory. Voluntary mediation appears to have better engagement."

RESPONDENTS' RECOMMENDED IMPROVEMENTS

Respondents were asked what improvements they would recommend to the High Court in E&W when using it as a jurisdiction of choice for litigation. The responses highlighted the areas of strength in the jurisdiction:



KEY THEMES

The research highlighted several key themes regarding the jurisdiction of E&W. Respondents generally praised the jurisdiction for its well-established legal framework, experienced judiciary, and predictable outcomes, and it was the most popular international Commercial Court of choice.

Nonetheless, recurring concerns emerged, particularly around the **high cost of litigation**, the need for greater efficiency within the court system, and improved access to support for individuals unable to afford legal proceedings. These concerns are especially pronounced in lower-value claims, where the cost of pursuing a case can quickly approach, or even exceed, the value of the claim itself. This issue is further compounded by the fact that such claims are typically handled by the County Courts in E&W, which, as noted, lack consistent reputations in terms of judicial quality and procedural reliability. These observations align with the findings of the recent cross-party committee report, **Work of the County Court**, published by the House of Commons on 21 July 2025.

Respondents also highlighted opportunities for improvement through **technology and digitisation**, such as expanding the use of online dispute resolution (ODR) platforms and virtual hearings.

Perhaps unsurprisingly, enforceability of judgments and decisions featured prominently among the issues raised by respondents, underscoring the enduring importance of being able to translate a judgment into a tangible and effective recovery. **Enforceability** needs to be considered at a domestic level, but also on an international level.

Since the research period concluded, E&W has acceded to the "Hague 2019" (effective from 1 July 2025), which represents a meaningful step forward in facilitating the cross-border recognition and enforcement of civil and commercial judgments. While this development enhances E&W's international enforcement framework, it still falls short of the broader and more integrated regime offered by the Lugano Convention. Nevertheless, E&W continues to hold a competitive advantage over many other international commercial courts, thanks to the jurisdiction's reputation for integrity, respected judiciary, procedural fairness and predictability.

Many respondents had positive experiences with arbitration and mediation, as well as with negotiation and expert determination. Indeed, it is notable that the support or approach to arbitration taken by the relevant courts was a factor that matters when considering jurisdiction (see page 8).

Respondents had more limited experience with other forms of ADR, such as med-arb, executive tribunal, early neutral evaluation, adjudication and Dispute Review Board. It remains unclear, however, whether broader use or greater familiarity with these alternative models would have materially influenced respondents' overall perceptions of the effectiveness of E&W as a jurisdiction for resolving international, cross-border disputes.

RECOMMENDATIONS

In light of the key themes, our recommendations are telescopic by structure- i.e. they are aimed at various levels of responsibility, from high-level changes which would need to be implemented at a governmental level, to those for practitioners (both international and domestic E&W lawyers) and clients themselves.

RECOMMENDED GOVERNMENTAL REFORMS:

1 Continue investing in the judiciary and legal infrastructure to maintain the jurisdiction's reputation.

As stressed by the Lady Chief Justice, Baroness Carr of Walton-on-the-Hill in her address to the House of Lords Constitution Committee on 26 February 2025, E&W is the second largest legal sector in the world. As such, we agree that the justice system needs significant investment.

2 Enhance case management processes to improve efficiency and reduce delays.

Greater judicial and administrative resources are needed to alleviate backlogs and ensure cases are actively managed from an early stage.

We have been pleased to see the latest civil justice statistics published on 4 September 2025 indicating some improvement to the county court system (e.g. the mean time taken for small claims was 1.3 weeks faster compared to the same quarter in 2024, and for fast, intermediate and multi track claims it was 6.6 weeks faster than April to June 2024). The government attributes this progress to targeted investment, digital reforms, and increased use of mediation (see the Justice Committee's report published on 17 October 2025 regarding the work of the County Court). However, there is a long way to go and there needs to be continued improvement to the operational efficiency of the courts, especially at the county level, not only to enhance user confidence but also reinforce the reputation of E&W as a jurisdiction that is both fair and commercially responsive.

3 Increase procedural efficiencies, through greater use of digital tools.

Significant steps have already been taken by the judiciary in E&W to digitise multiple services. For example, between 2016 and March 2025, HM Courts and Tribunal Services ("HMCTS") embarked on a reform programme which has successfully implemented many new digital systems and tools within the judiciary, providing positive benefits.

We recommend that future reforms prioritise usability, reliability and accessibility of the digital tools.

RECOMMENDATIONS

RECOMMENDED GOVERNMENTAL REFORMS (CONTINUED):

4 Given the importance of enforcement, we recommend streamling domestic enforcement procedures:

On 9 April 2025, the Civil Justice Council (CJC) published its final report on Enforcement, stressing that effective and fair enforcement is essential to economic growth and the rule of law. We recommend implementing CJC's recommendations to reduce delays in County Court enforcement in particular, including better funding, digitisation and clearer procedural guidance across all courts. This includes taking steps to implement the CJC's principal recommendation of the creation of a single unified digital court for enforcement of judgments.

5 Support cross-border enforcement:

E&W benefits from several international regimes that support the enforcement of judgments and arbitral awards across borders:

- The 1958 Convention on the Recognition and Enforcement of Foreign Arbitration Awards (the "New York Convention") enables the enforcement of arbitral awards in over 170 jurisdictions, making arbitration seated in E&W highly attractive for international parties.
- The Hague Convention on Choice of Court Agreements (Hague 2005) provides a framework for the recognition and enforcement of judgments based on exclusive jurisdiction clauses, primarily among EU member states and other signatories.
- On 1 July 2025, the UK joined Hague 2019. Hague 2019 complements Hague 2005 but is broader in scope and applies to judgments arising out of contracts with asymmetric or non-exclusive jurisdiction clauses.

6 Implementation of an international framework for the enforcement of mediated settlements:

Consider how best to implement the Singapore Convention on Mediation, which was approved in June 2018 by the United Nations Commission on International Trade Law. The aim of the Convention is to provide a uniform and efficient framework for the enforcement of international settlement agreements resulting from mediation.

7 Greater integration of ADR institutions:

Consider whether a formal mediation council should be established, similar to the International Mediation Institute in Singapore, to work with the judiciary and arbitral bodies in E&W for a more holistic and combined approach to different forms of international dispute resolution.

RECOMMENDATIONS

FOR PROSPECTIVE PARTIES:

1 **Prioritise clear jurisdiction clauses:**

We would encourage parties to have clear jurisdiction clauses in contracts, feeling confident in specifying E&W as the jurisdiction of choice or arbitration seated in E&W.

2 **Assess the appropriate court:**

Where possible, issue proceedings in the High Court rather than the County Court, especially for complex or high-value claims, to benefit from more consistent judicial quality and procedural efficiency.

3 **Consider ADR early:**

Evaluate the suitability of mediation or arbitration at the contract drafting stage. Include well-drafted ADR clauses to avoid unnecessary litigation.

For cross-border disputes, arbitration will offer greater procedural flexibility, confidentiality and enforceability.

4 **Budget for litigation strategically:**

Understand the potential cost implications of litigation in E&W. Consider litigation insurance or third-party funding where appropriate.

Explore fixed-fee arrangements or fee caps with your lawyers, particularly for lower-value claims.

5 **Use technology to your advantage:**

Engage with service providers that offer digital litigation support, including virtual hearings, online case management, and AI-assisted disclosure.

RECOMMENDATIONS

FOR PRACTITIONERS:

1

Educate clients on the E&W system:

For international clients unfamiliar with the solicitor-barrister distinction or procedural norms, provide clear guidance and onboarding materials.

Explain the implications of the "loser pays" rule and the availability of cost management tools.

Ensure witnesses are familiar with the court process and adversarial nature of the E&W system.

2

Consider enforcement strategy at the outset of a dispute:

This is particularly important in cross-border matters. This may influence the dispute resolution mechanism to use.

3

Encourage early ADR engagement:

Advise clients on the strategic use of mediation and arbitration, including when and how to deploy them effectively.

Where mandatory mediation is introduced, ensure clients are prepared to engage meaningfully to avoid wasted costs.

Ensure mediation safeguards are put in place to ensure that parties are not pressured into settlements that are not in their best interests (e.g. choice of mediator).

4

Promote cost-efficiency:

Identify key issues early in order to narrow the scope of the dispute.

Implement measures to reduce litigation costs for clients, by expanding the use of digital tools such as virtual hearings, and ODR platforms to cut down on administrative overhead and travel costs. Using AI or machine learning tools to assist with disclosure can also reduce the time and cost of manual document review.

Encourage clients to consider proportionality in litigation strategy.

Avoid unnecessary correspondence, and use clear and comprehensive language to reduce the potential for misunderstandings. Ensure the focus remains on resolving issues, rather than escalating the dispute.

METHODOLOGY

This report is based on a research project conducted to gather insights into the strengths and challenges of the jurisdiction of E&W in the context of international dispute resolution. The survey was distributed to a targeted group of legal professionals and corporate stakeholders with experience in litigation and dispute resolution across multiple jurisdictions.

A total of 49 respondents participated in the survey, including: partners and senior lawyers at international law firms, in-house counsel at major UK and multinational corporations, barristers practising in E&W, and senior executives and non-legal professionals involved in commercial disputes.

Respondents were based in a wide range of jurisdictions, including the United Kingdom, United States, Germany, France, Spain, the United Arab Emirates, India, Japan, and Australia.
Many had experience practising in multiple jurisdictions, offering a comparative perspective on the performance of the courts of E&W.

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