

ENGLAND AND WALES

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1. What is the structure and organisation of local courts dealing with commercial claims?

The court system for civil claims is divided into the County Court and the High Court, with the County Court handling low-value claims (typically less than GBP 100,000) and the High Court handling higher-value claims, claims that are more complex by reason of the facts, legal issues, remedies or procedures involved, and claims considered to be of significant public interest.

The High Court is made up of three divisions: the King's Bench Division; the Chancery Division; and the Family Division. The King's Bench Division deals with a wide range of civil disputes, including contract, tort, and commercial matters. It includes various specialised courts, notably the Commercial Court where complex business disputes are heard, and the Financial List which focuses on cases that are worth more than GBP 50 million, need expert judicial knowledge of financial markets, and raise important issues for the sector. The Technology and Construction Court focuses on technology and construction disputes alongside cases involving technically complex issues. The Chancery Division specialises in matters such as company law, insolvency, trusts, property and intellectual property, as well as dealing with general business disputes.

Class actions can be brought in the High Court on an opt-in basis through a group litigation order, or on an opt-out basis by way of a representative action subject to meeting a relatively strict "same interest" test. Class actions can also be brought on an opt-in or opt-out basis before the Competition Appeal Tribunal (CAT) using the CAT's collective proceedings procedure.

Appeals are available with permission, generally to the Court of Appeal and from there to the UK's Supreme Court, which is the final court of appeal. Occasionally, an appeal directly from the High Court to the Supreme Court may be possible.

2. What are the main procedural rules governing commercial litigation?

The main procedural rules are the Civil Procedure Rules (CPR). The CPR provide an overarching framework for civil litigation including commercial disputes. They are accompanied by Practice Directions and Pre-Action Protocols, which provide further guidance.

Some court divisions or specialised courts have their own guides which apply in addition to the CPR. These include the Admiralty and Commercial Courts Guide, the Chancery Guide and the King's Bench Guide. The CAT also has its own rules and guide.

3. What pre-action considerations apply?

A set of Pre-Action Protocols to guide parties on the steps to be taken before commencing court proceedings is annexed to the CPR. Where there is no specific protocol for the type of claim in question, the Practice Direction on Pre-action Conduct and Protocols sets out general requirements.

Parties are required to exchange sufficient information to understand each other's case, make decisions about how to proceed, attempt settlement, consider alternative dispute resolution (ADR), manage proceedings efficiently and reduce costs. A

claimant is typically required to begin by writing to the defendant setting out the basis of the claim, a summary of the facts and what they want from the defendant. The defendant then has the opportunity to respond stating their own position.

Failure to comply can be taken into account in case management directions and when making orders as to costs.

The court has the power to order pre-action disclosure where certain conditions are met and such disclosure is desirable to dispose fairly of the anticipated proceedings, assist the dispute to be resolved without proceedings, or save costs.

4. What are the main alternative dispute resolution (ADR) methods used to settle large commercial disputes?

The main ADR processes are mediation, early neutral evaluation, expert determination and adjudication, with mediation the most frequently used.

The CPR were amended in 2024 to give courts an express power to order disputing parties to engage in ADR, giving effect to the landmark decision on this issue in *Churchill v. Merthyr Tydfil Borough Council* [2023] EWCA Civ 1416. An unreasonable failure to engage in ADR can also result in a party being penalised in costs, regardless of its ultimate success in the litigation.

5. How long, on average, do court proceedings take to reach trial?

The time taken for court proceedings to reach trial varies considerably depending on the factual and procedural complexity of the case. A straightforward commercial case might take 18 months to two years.

The Shorter Trials Scheme offers a streamlined procedure which aims to progress a case through to judgment within about a year of issuing proceedings. It may be suitable for cases in which disclosure, expert evidence and witness evidence are not likely to be extensive and a trial will not require more than four days. The Shorter Trials Scheme is available to cases listed in the Business and Property Courts, which include the Chancery Division and the Commercial Court.

Early determination of a claim may also be possible in certain circumstances by way of default or summary judgment.

6. What disclosure obligations apply? Are parties required to disclose unhelpful documents as well as those on which they rely?

The court can make a range of orders relating to disclosure. In commercial cases, parties are typically required to disclose the documents on which they rely and any documents which either support or adversely affect any party's case on a list of issues identified for that purpose, as well as any known adverse documents (whether or not they relate to the issues identified in that list).

A party's disclosure obligations are strict and failure to comply can result in sanctions from the court, including costs penalties and (in an extreme case) adverse inferences being drawn.

A party's duty to disclose documents is limited to documents which are or have been in their control. This includes physical possession, a right to possession

and a right to inspect or take copies, as well as where there is an arrangement or understanding which provides access to the documents in practice.

A party is typically required to make a “reasonable search” for the documents they are required to disclose. The extent of the search will depend on the circumstances of the case, the value of the dispute and the overriding requirement to deal with cases justly. Certain documents can be withheld from production, including those covered by legal professional privilege.

7. Can witnesses be required to attend trial and face cross-examination?

Witnesses who have provided a witness statement will ordinarily be expected to attend trial to be cross-examined on their evidence. Where a witness within the jurisdiction is unwilling to attend court voluntarily, they can be required to attend by way of a witness summons. If an individual fails to comply with a witness summons, they may be liable for contempt of court or for any wasted costs that arise.

A witness summons will not be issued in respect of a witness who is outside the jurisdiction. In such cases, there may be other routes to obtaining evidence, such as by way of a letter of request procedure. This is a request by a court in one jurisdiction to a court in another jurisdiction to take evidence effectively by way of deposition and transmit that evidence to the requesting court for use in the proceedings.

8. What discretion do the courts have in making costs orders?

As a general rule, the unsuccessful party will be ordered to pay the reasonable costs of the successful party. However, this is subject to a high degree of discretion on the part of the court. In deciding what costs order to make, the court will have regard to all the circumstances of the case including the conduct of the parties, whether a party has succeeded on part of its case and any admissible offer to settle that has been drawn to the court’s attention. Particular rules apply in respect of settlement offers made under Part 36 of the CPR where, amongst other things, the usual costs may be displaced or reversed if the successful party at trial fails to better an offer that it has earlier refused.

The court will not allow the recovery of costs which have been unreasonably incurred or are unreasonable in amount. In commercial cases, even a party which succeeds in the entirety of its claim is unlikely to recover all of its costs.

The court also has the power to order security for costs. Such an order typically requires the claimant to provide security for the defendant’s legal costs to protect against the risk that the claimant might not be able to pay an adverse costs order. Costs orders (and orders for security for costs) can also be made against non-parties in certain circumstances, for example, where a third party funded a claim and stood to benefit from it.

9. What are the main types of interim remedies available?

Various interim remedies are available under the CPR to help preserve the parties’ positions, prevent harm or ensure effective enforcement of a future judgment.

These remedies include:

- Interim injunctions prohibiting a party from doing something or requiring a party to do something. Anti-suit injunctions, which restrain the respondent from bringing or continuing proceedings in a foreign court or arbitration — usually where those proceedings are in breach of a jurisdiction or arbitration agreement — are a particular form of interim injunction.
- Freezing injunctions, which restrain a party from removing assets from the jurisdiction or disposing of or dealing with assets (with worldwide freezing orders also available).
- Search orders requiring a party to allow the opponent's representatives to enter relevant premises to search for and preserve evidence.
- Imaging orders, which allow an independent IT expert to be given access to electronic data storage devices or online accounts for the purposes of copying and preserving the data.

Furthermore, the court can make orders for specific disclosure where, for example, a party's disclosure is considered inadequate. It can also make orders to restrict the disclosure of particular information or documents for reasons of confidentiality.

10. What approach do the local courts adopt with respect to arbitration? What arbitration law applies and is it based on the UNCITRAL Model Law?

England and Wales is widely regarded as a neutral and arbitration-friendly jurisdiction, both in terms of its arbitration law and its courts.

The law governing arbitration proceedings within England and Wales is the Arbitration Act 1996, as amended by the Arbitration Act 2025, which came into force on 1 August 2025 (together, the Arbitration Act).

The Arbitration Act is heavily influenced by the UNCITRAL Model Law (Model Law). However, it envisions a wider range of circumstances where judicial intervention is permitted. By way of an example, the courts have the power to: stay court proceedings brought in breach of an arbitration agreement; extend agreed time limits; remove an arbitrator under specified conditions; enforce an award; and hear applications to challenge an award. There are also non-mandatory provisions in the Arbitration Act which apply in the absence of any agreement to the contrary. One such provision permits parties to appeal an arbitral award to the courts on questions of law.

Certain provisions in the Model Law are not included in the Arbitration Act. For instance, unlike the Model Law, the Arbitration Act does not contain a power for the parties to request the arbitral tribunal to give an interpretation of a specific point or part of the award — it only permits the correction of clerical errors. Another example of divergence from the Model Law is that the Arbitration Act confers immunity from civil liability on arbitrators.

11. Can arbitrators grant interim relief?

Subject to the agreement of the parties and the limits of any applicable institutional rules, arbitrators are able to grant interim relief. This generally includes making

orders for security for costs, orders relating to the property which comprises the subject matter of the proceedings, and orders for the preservation of evidence. The tribunal may also provisionally order any relief which it may grant in a final award. The Arbitration Act 2025 also introduced a (non-mandatory) statutory power for arbitrators to summarily dispose of claims or counterclaims.

The English court also has broad powers to grant interim relief in support of arbitration, but only when the tribunal is not itself able to act effectively.

12. On what grounds can an arbitration award be appealed?

There are three principal grounds on which an arbitral award can be challenged in the English courts:

- a challenge based on the tribunal's jurisdiction (section 67, Arbitration Act);
- a challenge on the grounds of a serious irregularity affecting the tribunal, proceedings or award (section 68, Arbitration Act); or
- an appeal on a point of law (section 69, Arbitration Act).

Parties cannot contract out of sections 67 and 68 of the Arbitration Act. However, an appeal on a point of law can be excluded by the parties, either in their arbitration agreement or through their choice of institutional rules governing the arbitration.

Challenges must be brought within 28 days of the date of the award, or within 28 days of being notified of the outcome of any arbitral appeal, review, correction to the award or additional award.

The finality of arbitral awards is one of the main advantages of arbitration and the threshold for a successful challenge in the English courts is high.

13. What international conventions and agreements on enforcement of judgments or arbitral awards is England and Wales a party to?

Enforcement of judgments

The UK is a party to the Hague Choice of Court Convention 2005 ("Hague 2005") and the Hague Judgments Convention 2019 ("Hague 2019"). In the case of proceedings commenced before the end of 2020 in an EU Member State or certain European Free Trade Association (EFTA) states, the rules on the enforcement of judgments under the recast Brussels Regulation (Regulation 1215/2012) or the Lugano Convention 2007 continue to apply to the UK.

The UK also has reciprocal arrangements in place for the enforcement of money judgments with various current and former Commonwealth countries and a number of overseas territories. It also has bilateral enforcement treaties in place with a number of other jurisdictions. These arrangements are given effect in the UK for incoming judgments by the Administration of Justice Act 1920 ("1920 Act") and the Foreign Judgments (Reciprocal Enforcement) Act 1933 ("1933 Act"). The countries to which the 1920 and 1933 Acts apply include Australia, Canada, India, New Zealand, Norway and Pakistan, as well as certain EU Member States.

If there is no applicable agreement or convention on the enforcement of a judgment from a particular jurisdiction, then England and Wales will apply its own domestic rules to questions of enforcement. In general terms, a foreign money judgment can be enforced by suing on the judgment as a debt.

Enforcement of arbitral awards

The UK has ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (“New York Convention”), the Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States (also known as the “ICSID Convention”), and the Geneva Convention on the Execution of Foreign Arbitral Awards 1927.

14. What types of judgments in commercial matters are enforceable and what types are excluded?

The enforcement of a foreign judgment will depend on the terms of any applicable convention, agreement or treaty or, where no statutory scheme applies, on the common law. Exceptions and defences to enforcement vary depending on which regime applies.

Hague 2005 applies to the enforcement of judgments emanating from a Hague 2005 contracting state where such state was designated in an exclusive choice of court agreement. The English court is not permitted to review the merits of a judgment that falls within Hague 2005 and refusal of recognition is only possible on limited grounds. These grounds include fraud, matters of public policy and where insufficient notice of the proceedings was given to the defendant. Recognition can also be refused to the extent that the judgment awards exemplary or punitive damages.

Hague 2019 applies to the enforcement of judgments given in proceedings commenced after the Convention entered into force for both the state of origin and the state of enforcement (1 July 2025 for the UK). Where Hague 2019 applies, the English court is not permitted to review the merits of the judgment, with refusal of recognition possible on grounds which are broadly similar to those set out in Hague 2005.

Both Hague 2005 and Hague 2019 apply only to civil and commercial matters, and various matters are excluded from their scope.

Where the 1920 and 1933 Acts apply, only final and conclusive judgments for the payment of a sum of money can be registered. Grounds for refusal of registration include insufficient notice of the proceedings, fraud and matters of public policy.

Where the common law applies, a foreign judgment will not be entitled to recognition or enforcement where, among other things, it was obtained by fraud or from a court which lacked jurisdiction or where enforcement is contrary to public policy or natural justice.

15. What is the process for registration of foreign judgments and arbitral awards?

Foreign judgments

The process for registering foreign judgments in England and Wales under Hague 2005, Hague 2019 or the 1920 or 1933 Acts is set out in CPR 74 and the associated Practice Direction. A certified copy and (where relevant) a translation of the foreign judgment will be required. Other requirements vary and it is therefore

important to refer to Part 74 and the relevant enforcement regime for the matters that must be dealt with in the evidence filed in support.

The European regime continues to apply to judgments from EU and certain EFTA countries given in proceedings instituted before 31 December 2020, with recognition and enforcement in accordance with the transitional English procedural rules and the Recast Brussels Regulation or the Lugano Convention, as applicable.

Where Hague 2005 applies, Article 13 sets out the documents to be produced by the party seeking recognition and enforcement. These include the exclusive choice of court agreement and documents establishing that the foreign judgment has effect in its state of origin.

In order to register a judgment under Hague 2019, an applicant must confirm that the judgment meets the requirements for recognition or enforcement under Hague 2019. The applicant must also include any other evidence required by Hague 2019, with Article 12 setting out documents to be produced in support.

Where no other regime applies, the common law applies. A judgment creates an obligation which can be enforced as a debt in fresh legal proceedings, by way of a claim or counterclaim for the amount due. It may be possible for the claimant to obtain summary judgment on the basis that, by reason of the foreign judgment in the claimant's favour, the defendant has no real prospect of success in defending the claim.

Arbitral awards

Two alternative procedures can be followed to enforce an award. First, the enforcing party can apply to court for an order for permission to enforce. Alternatively, the enforcing party may begin an action on the award, seeking the same relief from the court as set out in the tribunal's award.

A party seeking enforcement of a foreign arbitral award under the New York Convention needs to supply the court with evidence including: a duly authenticated original arbitral award or a certified copy of it; the original arbitration agreement or a certified copy of it; and if either the award or the agreement is not in an official language of the court, a certified translation of that document.

16. Once the judgment or award is registered, what are the available methods of execution?

Once a foreign judgment has been registered, or an English judgment is obtained in relation to it, the successful party can seek to execute it by the usual methods for enforcement of an English judgment. These include the successful party applying to court for an order to seize the counterparty's goods or to freeze money held by a third party which would otherwise be paid to the judgment debtor, and require it to be paid to the successful party. The successful party can also apply to the court for a receiver to be appointed to collect the money or initiate some other insolvency procedure.

A recognised foreign arbitral award can be enforced in the same way as a judgment or order of the courts.

17. What interim measures are available pending enforcement?

The interim remedies referred to in Question 9, above, continue to be available pending enforcement of a court judgment. Appropriate remedies are likely to be aimed at preventing dissipation of assets or other actions that might frustrate execution of the judgment. These include freezing orders, search orders and orders directing a party to provide information about the location of property or assets, with cross-examination of the respondent on their disclosure affidavit possible in certain circumstances.

Once an arbitral tribunal has issued its final award, it becomes *functus officio* and can no longer grant interim relief. However, such measures are still available from the court.

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