



Litigation risk *in uncertain times*

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Foreword

In 2026, in-house legal teams are going through a period of profound change. From fast-moving regulatory shifts to the rapid rise of AI, and ongoing geopolitical instability, the pressures shaping litigation risk are ever evolving. The pace of change demands that in-house teams are reactive to these pressures, and able to anticipate changes coming down the line.

At Irwin Mitchell, we work closely with businesses, their senior leaders and in-house teams across sectors, giving us an in-depth insight into the issues coming over the horizon. What we're seeing is a landscape where risks are increasingly interconnected: operational decisions carry legal consequence, new technology brings opportunity and threat, and external forces constantly shape business strategy.

We've partnered with The Lawyer to bring this to life through the pages of this report. We've combined industry data from our survey responses with expert commentary and real-world insight to highlight the trends most likely to influence litigation over the coming months and years.

I'd like to thank everyone who contributed their time to helping us shape this report. I hope you find it useful in cutting through the noise so that you can continue to guide and protect your business through an environment that continues to evolve at pace.



KATIE BYRNE
Head of Commercial Dispute Resolution
Irwin Mitchell

Introduction & methodology

The current global landscape presents an increasingly volatile and unpredictable environment for organisations to navigate. Regulatory change, technological innovation, tariffs and sanctions alongside the rollback of ESG and DEI initiatives led by the US administration are just some of the aspects of uncertainty organisations and their in-house teams are navigating. While still managing traditional risks to their businesses, in-house teams must also now ready themselves for unpredictability and its potential damage including litigation. The extent to which organisations can limit their litigation exposure is varied not just by size and sector but by the extent of change and multitude of risks they must navigate.

The appetite, approach and financial preparedness for litigation varies considerably across organisation, influenced by a variety of factors: regulatory, geographic and sector specific in nature. For many in-house teams, mitigating risk means having a clear strategy and approach to litigation, be it defensive or offensive. Having the right protection in place, the necessary financial resources and the relevant support of external counsel are just some of the ways organisations are strengthening against litigation in an increasingly volatile world. Litigation risk is no longer episodic but structurally embedded within the risk management in-house teams are undertaking.

In today's landscape a range of factors influence litigation exposure. Both direct and indirect risks such as geopolitical volatility are having knock-on implications for organisations. The rise of AI in its usage in particular by litigants in person, in legal proceedings and more broadly remains a key discussion point both in terms of risks and

opportunities. For many organisations, AI deployment is in its early stages. While noting the opportunities AI is expected to provide in efficiency gains, especially in aspects of legal proceedings, in-house leaders note concern as to the potential risks of this technology and subsequent impact on litigation exposure.

As organisations face greater uncertainty, they are considering the transfer of risk, especially that of financial burden. Where facing potential increase in risk of litigation, alternative financing routes and insurance strategies are being viewed as strategic tools for managing volatility.

Methodology

Produced in collaboration with The Lawyer, this research utilised a mixed-method approach of quantitative

Total Responses

81 | In-house survey responses

18 | Interviews

survey and qualitative interviews. Made up of an audience of in-house General Counsel, C-Suite, Chief Legal Officers and other equivalent litigation legal leaders, a total of 81 respondents took part in the survey, helping size the key areas of concern and opportunity in litigation. A further 17 interviews with legal leaders of varying sectors were completed to compliment the survey findings and provide in-depth context on what factors in-house teams consider in their approach to litigation, their insurance strategy and concern for risk, be it geopolitical or AI-related. Owing to the sensitive nature of litigation risk in many cases, interviews were varied between off and on-the-record conversations, with anonymous conversations feeding into the broader analysis. For greater understanding of the geopolitical landscape and its implications on risk of litigation, The Commonwealth Enterprise and Investment Council (CWEIC) were also interviewed. The CWEIC provided a clarity on the implications of changing geopolitical and regulatory positions and the impact of such at national and organisational level.

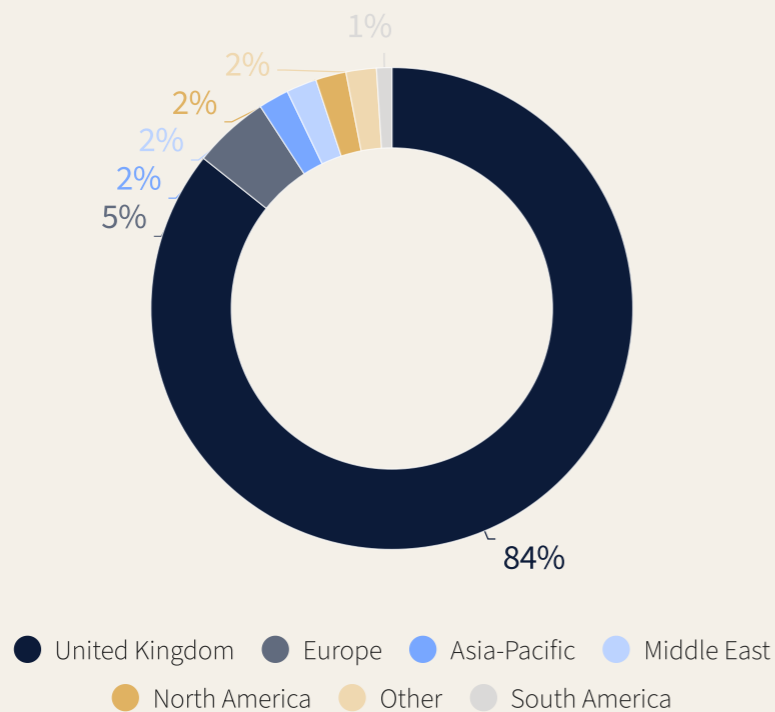
Survey respondent organisations were predominantly UK headquartered, making up 84% of the total. The remaining 16% of non-UK headquartered organisations were led

by Europe (5%) and an even split across the remaining regions.

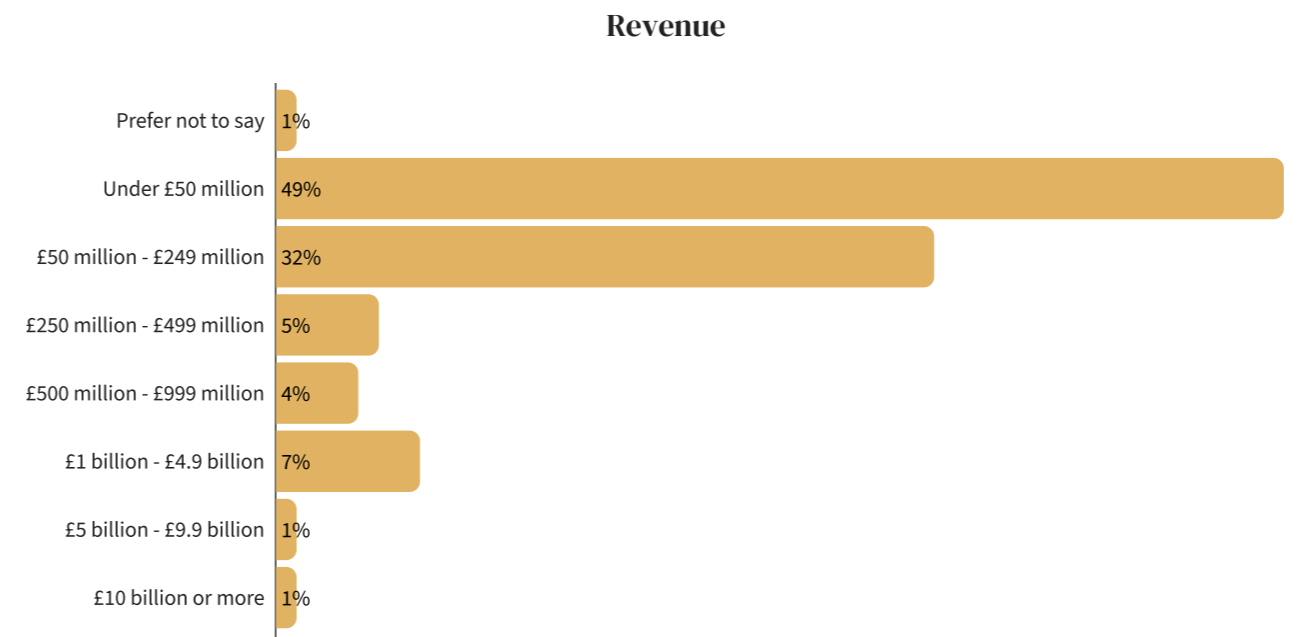
Interview respondents included a range of UK and non-UK headquartered organisations with UK operations providing both domestic and international perspective on litigation risk. Respondent industries were broadly distributed with financial, technology, energy and utilities leading as individual sectors while a large minority of sectors listed under 'other' took part. These included responses from sectors such as automotive, professional services, construction and life sciences. Interview conversations were also varied by sector with financial services, consumer goods, energy and technology leading.

By revenue, respondents were predominantly from organisations with under £50 million (49%) and £50 million to £249 million (32%). 9% listed revenues of between £250 million and £999 million, 8% between £1 billion and £9.9 billion and the final 1% who provided detail listed revenues of more than £10 billion. Interview organisations ranged from £100 million to £10 billion+ providing a broad range of perspectives on appetite and exposure to litigation risk.

Organisation headquarters



Responses by organisation and revenue size



Industry



Other (includes, Automotive, Business process services, Construction, Education, Franchise, Life Sciences, Logistics, Manufacturing, Professional services)

Appetite for litigation

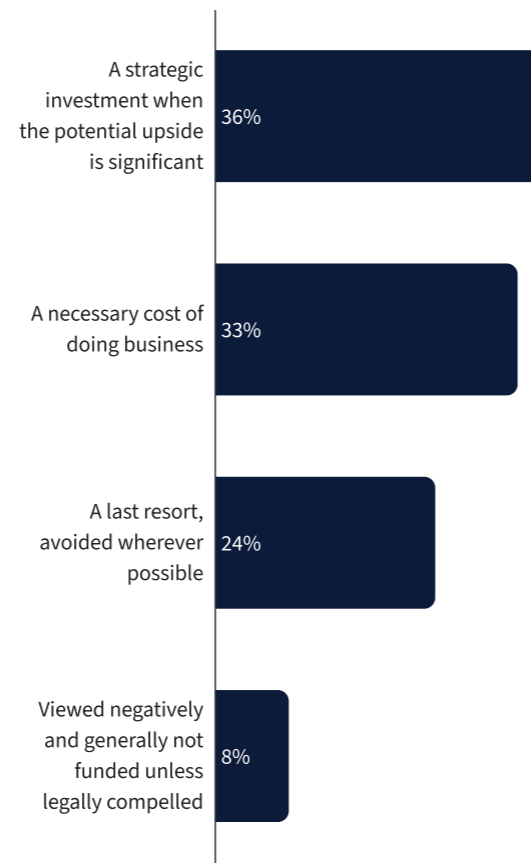
The profile of organisations and their appetite for litigation varies considerably. Some note the pursuit of litigation as part of the DNA of their organisation, while others, particularly large corporate note a more defensive, risk mitigating litigation stance.

Perceptions were mixed when asked how their organisation viewed litigation in terms of capital deployment. 36% stated litigation as a strategic investment while a further 33% noted it as a necessary cost of doing business. Comparatively 24% noted as a last resort, avoiding where possible. With 69% of respondents seeing the pursuit of litigation as either strategic or an operational necessity there is a clear normalisation of litigation for these organisations.

In conversation, general counsel listed a range of dispute areas with common themes including supply chain and vendor disputes, consumer complaints, employment disputes and class actions. Though approaching litigation differently in-house teams were consistent in noting the case-by-case nature of decision making with an overall cost-benefit analysis undertaken. Factors of reputation, jurisdiction and precedent were all considerations beyond the central question of financial risk or reward.

Many general counsels noted the high cost of litigation and often, its unpredictability of time and outcome as key financial factors. When asked what barriers prevent their organisation from moving forward with litigation, 51% noted outcome uncertainty as the largest consideration. For teams with limited resources or allocation of budget for litigation, the unpredictability of some cases was a key deciding factor in whether it was pursued. Concerns of resource and time spent on litigation were also key barriers (47% and 39% respectively), reiterating the often-

How does your organisation typically view litigation in terms of capital deployment?



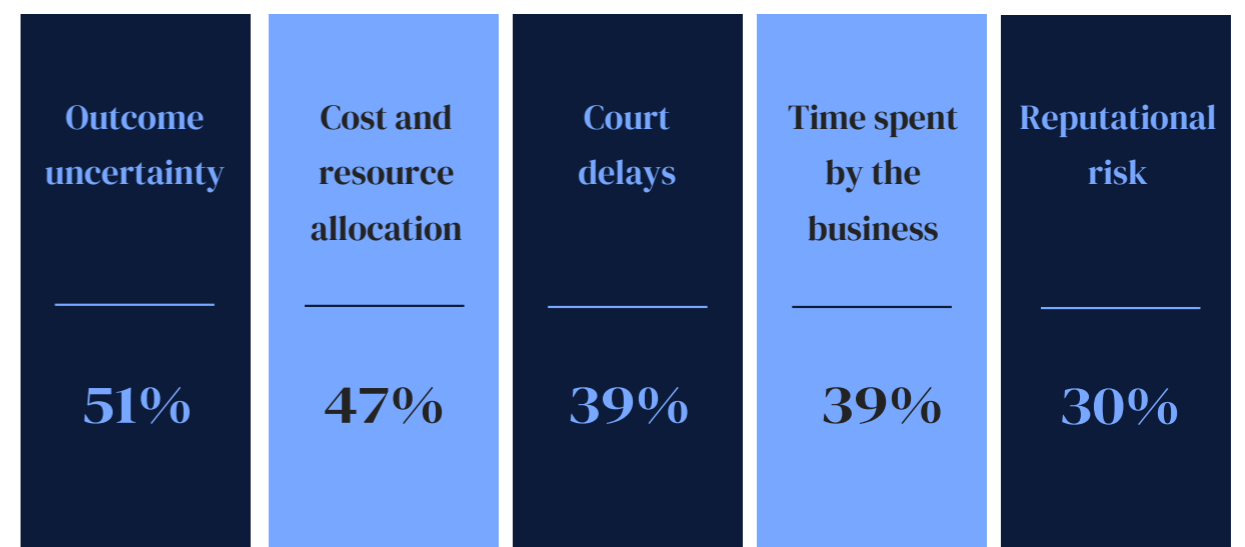
Georgie Collins
Head of Intellectual Property
Irwin Mitchell

“For organisations that protect and value their IP, whether consumer-facing IP rights owners or innovation-driven organisations, a litigation strategy is an essential component of an IP strategy and the lifecycle management of IP. Where core or flagship assets are infringed, failure to litigate may not only weaken the organisation’s enforcement position but also set an adverse precedent, diluting legal rights, eroding competitive edge and market credibility.

At the same time, General Counsel must weigh the nuanced risks: high profile, consumer-facing disputes may trigger a ‘David-v-Goliath’ negative press, capable of causing reputational harm and polarising a consumer base. Actions involving sensitive proprietary information may risk the disclosure of information or business practices that are more damaging than the infringement itself.

However strong you perceive your claim, the reputation risk should always be considered.”

Key barriers preventing organisations from moving forward with litigation



limited resources at the disposal of in-house teams in pursuing litigation. While conversations, especially with large financial institutions noted dedicated resource in the pursuit of litigation, the capacity of smaller revenue organisations with low margins to manage potentially long-term litigation were understood as more limited. The financial and resource considerations are, however, only one part of the assessment in-house teams are undertaking. As Nicola Graham-Shand, a Chief Legal Officer in the energy sector made clear, litigation cost is not just limited to the legal cost, but goes much wider, hitting management, operational momentum, employee trust and sentiment.

Where precedent or reputation is at stake, general counsels were clear that litigation would be pursued. For example, the ramifications of not pursuing IP infringement of a flagship product, as one consumer product general counsel explained, can be significant both on the reputation of the brand and of potential financial loss. The impact of the infringement on the brand in this case justifies any necessary cost to pursue.

Organisations similarly note pursuing litigation where there is a need to set precedent. Philip Price, Group General Counsel of TP ICAP explained such in the example scenario of losing a high-quality broker team to a competitor. Pursuing litigation to enforce contractual

rights is, in this example, key both in not emboldening the competition and setting a clear, consistent precedent to the market about how the organisation deals with such cases. Brand reputation is also a key consideration; one noted especially in discussion with publicly listed organisations. Minimising the damage of litigation from a reputational perspective is understood as a key concern for some general counsel and one that can dictate the strategy and approach the organisation might take. Commercial relationships and the pursuit of alternative dispute resolution (28 and 24% respectively) were also of consideration and resonated in conversations. Supply chain and other vendor-related disputes were a common area referenced in where alternative dispute resolution would be pursued to limit the potential impact on the relationship.

Jurisdictional factors were also noted in in-house appetite to litigate. As one general counsel of a consumer goods organisation explained, while some jurisdictions will have clear processes for pursuing litigation, others will have widely deviating laws and practices as well as a lack of transparency of legal system, making it more difficult to successfully pursue litigation in. In such cases, organisations noted reliance on effective networks of both local external counsel alongside large influential global counsel to help drive litigation.



Katie Byrne
Head of Commercial Dispute Resolution
Irwin Mitchell

“For businesses facing the uncertainty of litigation, with often drawn-out timeframes, significant costs and the potential publicity and limited nature of a court judgments, alternative dispute resolution (ADR) provides a strategic, efficient and confidential route to resolution.

Engaging expert external counsel can be invaluable in this process, offering objective insight, specialist negotiation skills and guidance on the most effective route forward. Considering ADR early helps leaders manage risk, retain control and protect both commercial relationships and reputation.”

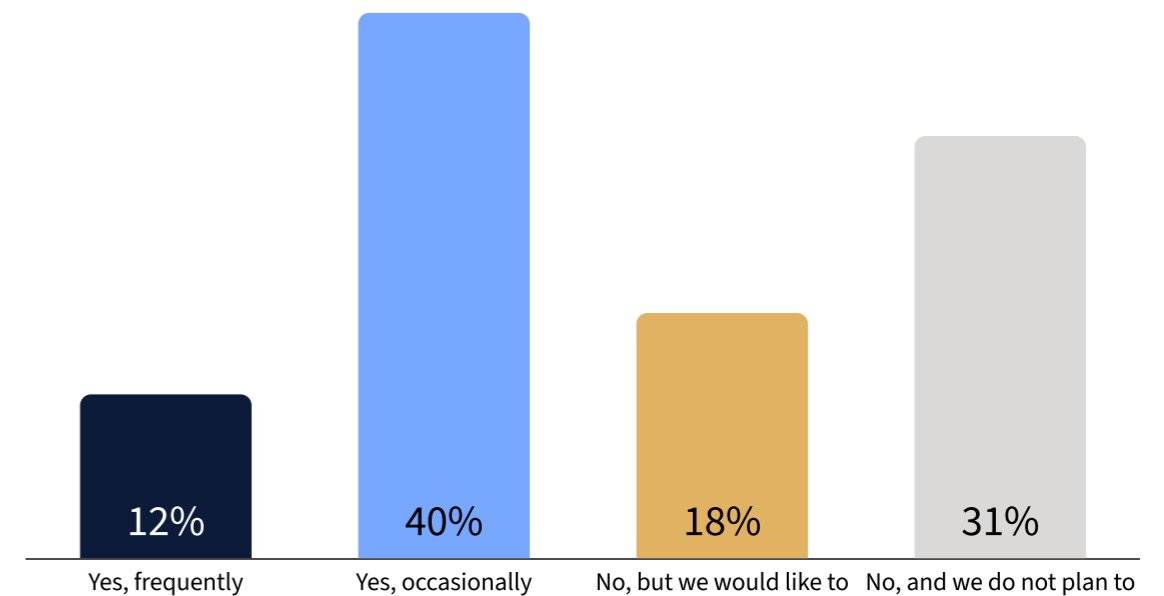
Alternative litigation funding

Perceptions of alternative funding

Third-party litigation funding as a mechanism for supporting litigation has seen increased publicity in recent years. Most notably as part of class action cases such as *Bates & Others v Post Office Ltd* (the Post Office scandal), have demonstrated where third-party litigation funding can be an effective access to justice. Other flagship cases such as *Merricks v Mastercard* have comparatively been damaging to the perception of funding.

While attention is often drawn to these large class actions and the use of third-party litigation funders, utilising alternative litigation funding (such as risk sharing agreements with external counsel and insurance products) has an equally important place in supporting businesses to navigate the financial uncertainty of litigation. A now generally accepted component of the litigation landscape, alternative litigation funding is seen as valued in supporting businesses where businesses are keen to explore opportunities to limit financial exposure

Have you or your organisation ever utilised alternative litigation funding for any legal proceedings?



and uncertainty or where internal resources are limited or where appetite for litigation limits access to the required capital. When asked about their engagement with funding, 52% of respondents noted occasional or frequent utilisation. A further 18% noted they do not currently but would like to, followed by a large minority of 31% stating no plans to utilise. This was reflected in conversations with general counsel where the views on using funding were mixed, predominantly driven by financial resources available or the lack of relevant cases where funding would be necessary (as alternative funding is typically only available for claimant led litigation and where damages are at stake). For those who have utilised alternative

funding, as one general counsel whose organisation was involved in a cartel case noted, alternative funding was effective and would be considered again.

For many large organisations, interaction with funding was predominantly when defending a funded claimant, seen through funder-backed class actions. What this suggests is the current selective nature of funding, used especially in large scale claims and those with clear quantification of damages. The range of interaction therefore highlights how litigation funding could be considered more by in house teams as another tool to limit the uncertainty of litigation where commercially relevant.

Benefits of alternative funding and when organisations are considering it

As respondents have noted, cost, resource and outcome uncertainty are key barriers to pursuing litigation. Organisations that are looking to pursue litigation but lack the necessary financial resources or who want to ensure a fixed or limited financial exposure, can benefit greatly from alternative funding arrangements. When asked what the perceived primary benefits of funding were, access to funds and financial flexibility were key areas noted (51 and 50% respectively). This limits the need to divert investment from other parts of the organisation and avoid being constrained by annual litigation budgets. Alternative funding therefore allows teams to pursue litigation on strategic merit, rather than on available resources.

With risk mitigation ranking third at 43%, it also highlights the value of alternative funding in changing organisational risk appetite. For those organisations with already limited resources at their disposal, be it through low revenue margins or limited legal budget, or for those organisations who simply want to deploy their capital on more profitable endeavours, alternative funding can materially redefine the cost-benefit analysis of pursuing litigation. It may also support in limiting the need to compromise early where the best strategic choice for the organisation would be to continue. Transferring the risk and retaining the benefits, alternative funding can shift the internal risk calculus and improve appetite for pursuing claims of merit. With 36% of organisations stating the pursuit of litigation as a strategic investment, use of alternative funding can act as a long-term asset rather than a short-term solution.



Katie Byrne
Head of Commercial Dispute Resolution
Irwin Mitchell

“In the face of inherent uncertainty which surrounds litigation including financial exposure, lengthy timeframes and the impact on cash flow, businesses may choose to explore the full range of alternative funding solutions available to them outside of the traditional hourly rate model.

Early conversations with experienced external counsel can be critical in assessing the strategic advantages of alternative funding such as agreeing fixed fees, risk-sharing arrangements such as conditional fee agreements, discounted conditional fee agreements and damages-based agreements, as well as considering insurance products designed to mitigate adverse cost risk.

While third-party funding can serve as a viable, albeit often more expensive option, understanding the full landscape allows organisations to protect their balance sheet, preserve capital and maintain strategic flexibility when engaging in litigation. By taking a proactive approach to alternative funding discussions and considering options available, senior leaders can ensure that their dispute strategy supports the long-term financial health and resilience of their business.”

Perceived benefits and barriers of alternative litigation funding

+ Benefits			- Barriers		
1.	Access to necessary funds for litigation	51%	1.	Complexity of agreements	42%
2.	Financial flexibility	50%	2.	Cost of funding	35%
3.	Risk mitigation	43%	3.	Potential loss of control over litigation strategy	35%
4.	Improved cash-flow management	30%	4.	Reputational concerns	35%

Perceived barriers to alternative funding

While supporting organisations in the financial weight of litigation, respondents equally highlighted the barriers attached to alternative funding. When asked what barriers they saw to the usage of funding, 42% of respondents listed the perceived complexity of agreements as a key concern. As seen in *Merricks v Mastercard*, the complexity of third-party funding agreements, and the conflicts of interest that can occur between claimant and funder can expose the complexity of funding agreements. This complication has the potential to create greater complexity for in-house teams and subsequent resource costs rather than simplifying litigation. While featuring strongly in survey responses, these barriers were often understood in discussion as more perceptual than practical. Broader market discussions noted that much of the structural and administrative complexity of funding arrangements is typically managed by external counsel, with funders having no control over the litigation proceedings. This suggests a need for clearer education on how third-party funding operates and where responsibilities lie. However, cases such as *Merricks v Mastercard* show that the cost of third-party funding can complicate settlement and create tension between funder and claimant. While funding can support the pursuit of litigation which may be otherwise unattainable, 35% noted the cost of third-party funding as a barrier to its usage. This suggests a trade-off between upfront financial

support and the potential cost to the organisation seen in the funders' return and whether such can be justified.

A further 35% equally listed concern around the perceived loss of control of litigation strategy. As seen with the highly publicised case of *Innsworth Capital* intervening in the £200 million settlement of *Merricks v Mastercard*, there is concern about third-party funder conflicts of interest. While arising as a tension in claimant-led class actions, the high-profile nature of this disagreement is likely to have created some hesitancy among organisations and their appetite for third-party funding arrangements.

When exploring the answers of respondents with no intention to use alternative funding, the relevance of cases is a clear determinant, with 46% stating such as the key barrier to usage.

Interviews of large revenue organisations, particularly those with revenues of £1billion+ noted their experience of alternative litigation funding predominantly from the defendant side. For these organisations, funding is clearly stated as a driver of litigation risk, especially in driving class actions. These organisations noted concern around the overinflation of claim values, overreach of third-party funders and the appetite of third-party funders to help drive more aggressive class action activity against organisations.

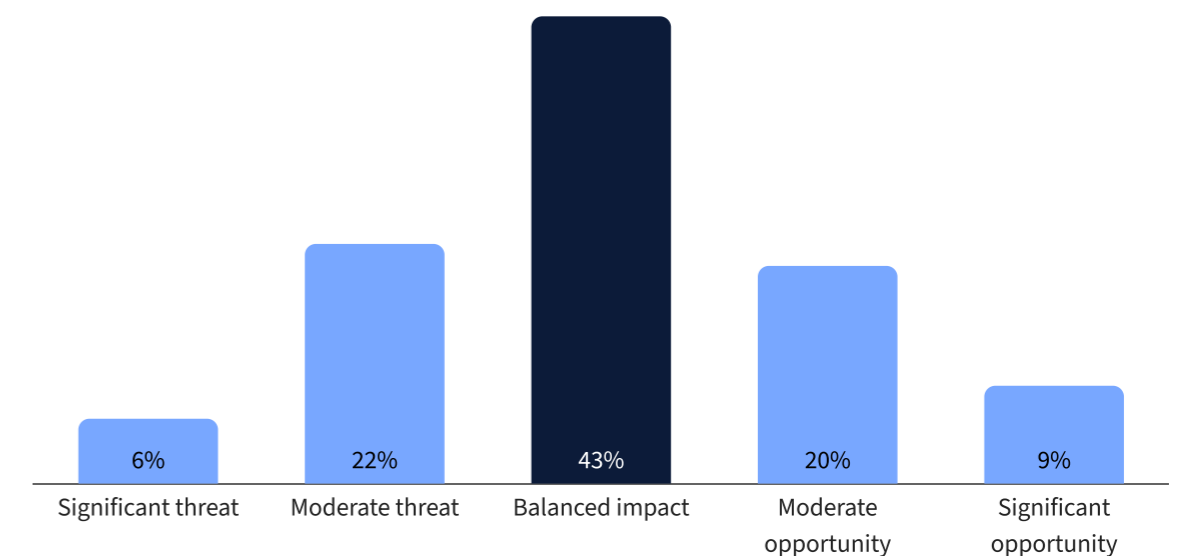


AI driven *litigation risks*

AI's role and opportunities to organisations is a key topic of discussion across the legal industry. While there are many benefits to the adoption and deployment of AI, there are equally many risks. How organisations adopt and leverage AI is important, especially as to not do so is increasingly seen as strategic risk. The risks to organisations, from improper use including a lack of clear governance and guardrails to employees, are just some of the concerns in-house teams are navigating.

When asked how their legal teams perceive AI's impact on litigation exposure, respondents were clearly split. 43% noted balanced impact, while the remaining 28 and 29% noted threat or opportunity. As the level of AI implementation across organisations varies, so too does the level of concern or perceived opportunity. Effective AI deployment requires clear governance, structure, education and architecture in place. As conversations highlighted, some organisations are putting AI at the heart of their operations while others cautiously approach its usage.

How does your legal team perceive AI's overall impact on litigation exposure?



AI risks and litigation exposure

When asked about the areas of greatest litigation risks in-house teams saw emerging from AI, the largest group (55%) noted data protection and privacy violation concerns. The widespread accessibility of tools, combined with insufficient education and governance, heightens the risk of improper use and the disclosure of confidential data beyond organisational boundaries - creating clear litigation exposure for organisations.

Azmina Keshani, Chief Legal Officer of Zodia Custody explained AI to be at the forefront of risk considerations and highlighted a clear process for managing this risk. This included a clear AI policy built closely with the risk team, consistent messaging to the business on safe usage and close monitoring and management of the tools available to employees.

The concerns related to data breaches and share of confidential data are also reflected in how organisations are adapting their insurance strategy. Alongside seeing increased insurance premiums (69%), 67% of respondents listed expanding their cyber insurance coverage and revisiting liability limits. While organisations are taking

proactive steps through internal training and policy, they are therefore equally seeking greater protection. These risks do not exist in isolation and the subsequent impact for large or regulated organisations can be significant including financial, reputational and regulatory penalties.

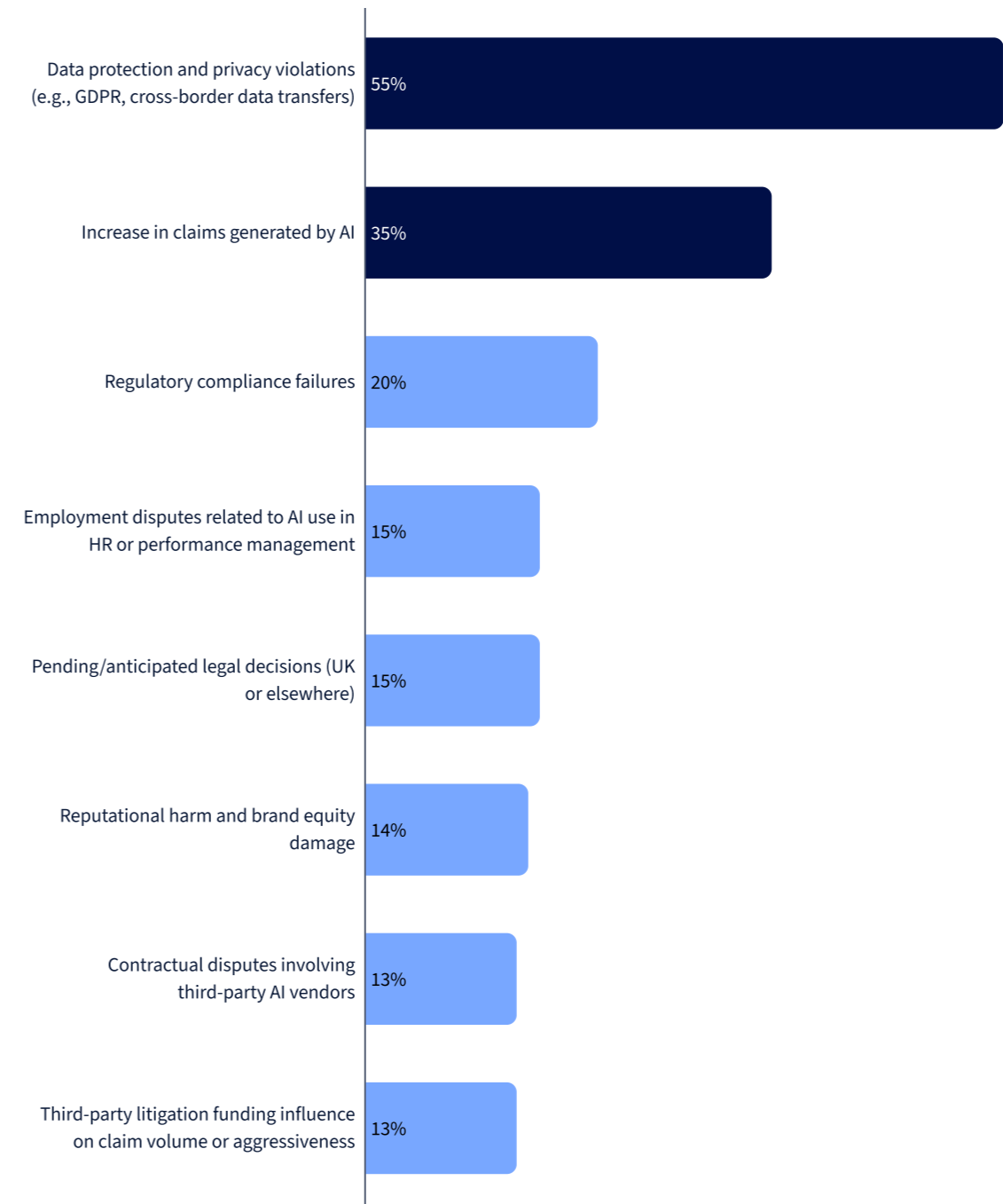
35% of respondents were also concerned at the increase in AI-generated claims, particularly those from customers and employees as an emerging litigation risk. This was echoed extensively in interviews where general counsel from across industries noted a clear increase both in the sophistication and often volume of claims.

While employee disputes were also cited as areas of increased AI-generation - with one general counsel seeing a 75% increase in such - litigants-in-person were commonly mentioned as key drivers of this activity. With the widespread use of AI in claims, the length, usage of legal terminology and volume is of increasing concern for consumer-facing legal teams. Increasingly administratively heavy to deal with, these claims are noted as considerable in time and cost drain with data requests a similarly increasing level of demand. While at surface level these claims are using more sophisticated language, they often lack required legal foundation and as a result, their

How is your organisation's in-house legal team adapting its insurance strategy in response to AI litigation risk?



Which of the following emerging litigation risks related to AI are of greatest concern to your in-house legal team?



authors may feel more strongly that they are in the right, which can make early settlement more difficult to achieve. This does not impact the time taken to review, however, and is noted by several general counsel as an increasing cost concern. One general counsel of a consumer products organisation noted adding considerable budget to their legal costs as a direct result of increased claims.

AI opportunities in litigation strategy

Just as claimants are utilising AI in their arguments, so too are organisations leveraging AI for operational efficiency and adapting their litigation strategies accordingly. 64% of respondents when asked on their litigation strategy response to AI developments stated using tools for streamlining internal processes such as document review and disclosure management. This was

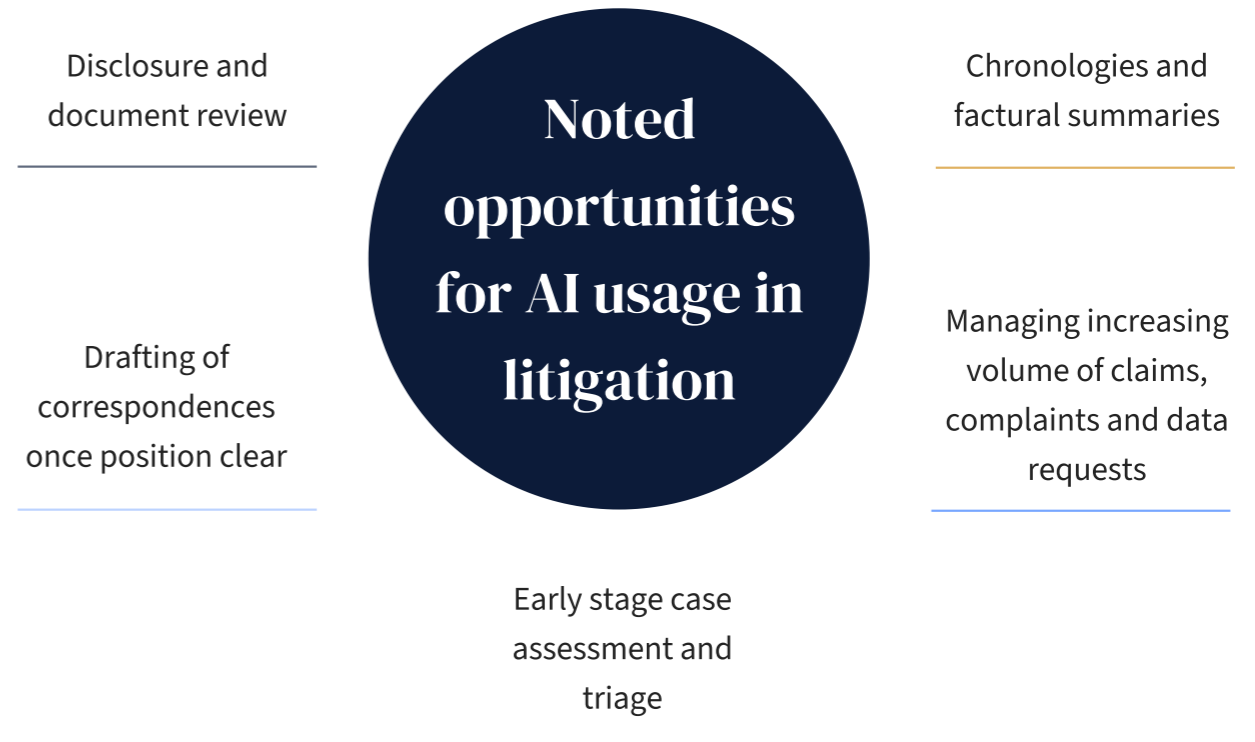
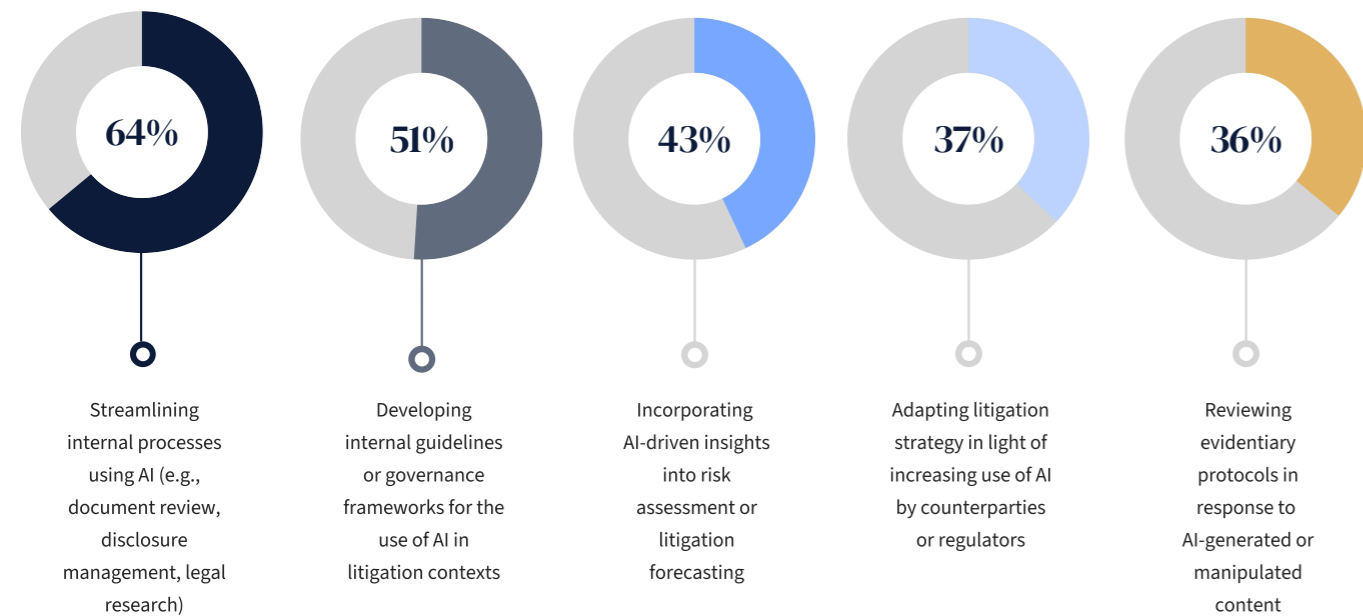
echoed in conversations where the use of AI in litigation included disclosure, discovery, creating chronologies as well as early-stage case assessment and triage. One telecom general counsel noted the value of AI in “changing the litigation risk calculus” working through millions of documents, creating chronologies at a speed and thoroughness that would take a human considerable time. Organisations are exploring how to leverage AI and as a result improve their agility in dealing with litigation. 51% of respondents listed developing internal guidelines for use of AI in litigation contexts as one such way they were laying groundworks for its usage. Incorporating AI driven insight into litigation forecasting (43%) alongside adapting to counterparty usage of AI (37%) highlight how in-house teams are adapting to AI’s increasing presence in the legal world.

Future impacts of AI on litigation strategy

When asked on how AI might impact litigation strategy in the next three years, in-house leaders were clear on the opportunities for efficiency in areas such as disclosure, document review and other aspects of currently resource-heavy litigation work. Focus was on low-value high volume components of disputes work with many noting aspects of litigation and court proceedings that were unlikely to be materially impacted by AI. From all interviews AI usage is developing though at different levels of speed. Organisations varied between those leveraging enterprise tools such as CoPilot to those building or testing litigation-specific tools. As with the broader development themes of AI in law, litigation exists as another area where efficiencies are being made. However, organisations are taking a measured risk-based approach to testing and deployment.

Navigating the usage and potential risks associated with AI, in-house teams noted the role external counsel are playing in this journey. With many firms developing their own capabilities and expanding their usage of AI tools, in-house teams are increasingly looking to understand how and when they are using AI and importantly what additional value it will provide to them. As highlighted in conversations, panel tenders from in-house teams are increasingly focusing on firms AI capabilities both to assess risk and identify where greater efficiencies can be made. For those organisations already on a clear journey of AI usage in their litigation proceedings and more broadly, their General Counsel noted a clear expectation of their external counsel to be effectively leveraging these tools to their benefit.

How is your legal team adapting its litigation strategy against claims in response to AI developments over the next three years?



Geopolitical *volatility*

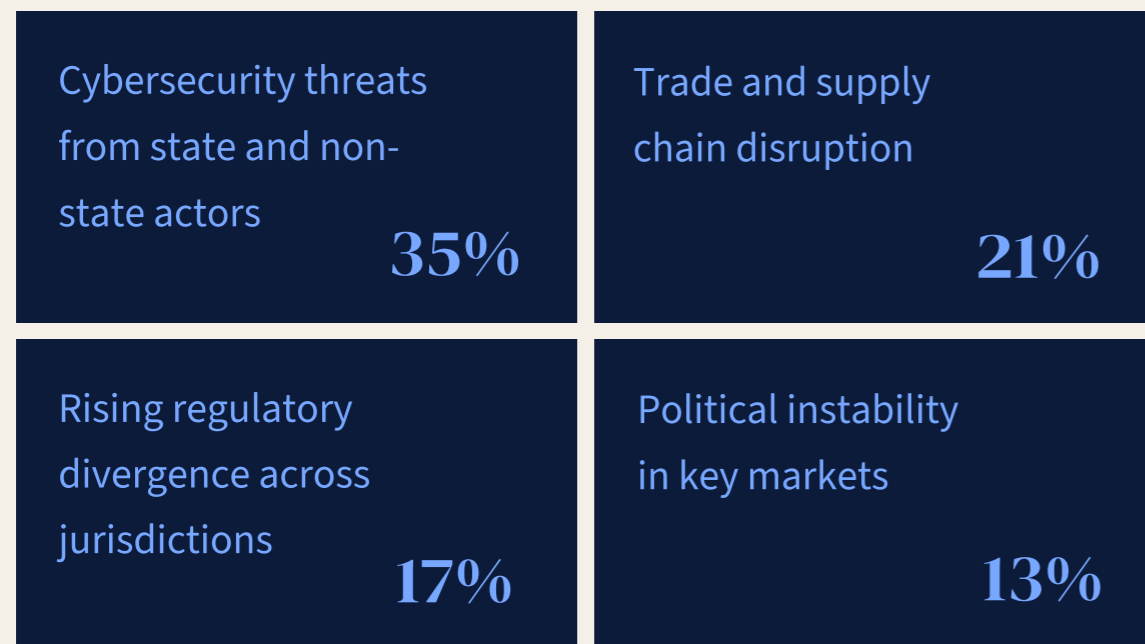
A volatile landscape

Geopolitical volatility and macroeconomic instability are commonplace in today's global landscape. Businesses are facing both traditional risks and a plethora of emerging uncertainties. With these risks comes potential increased exposure to litigation, something organisations are in many cases actively mitigating. As conversations have highlighted, in-house teams from organisations across revenue size are acutely aware and monitoring global

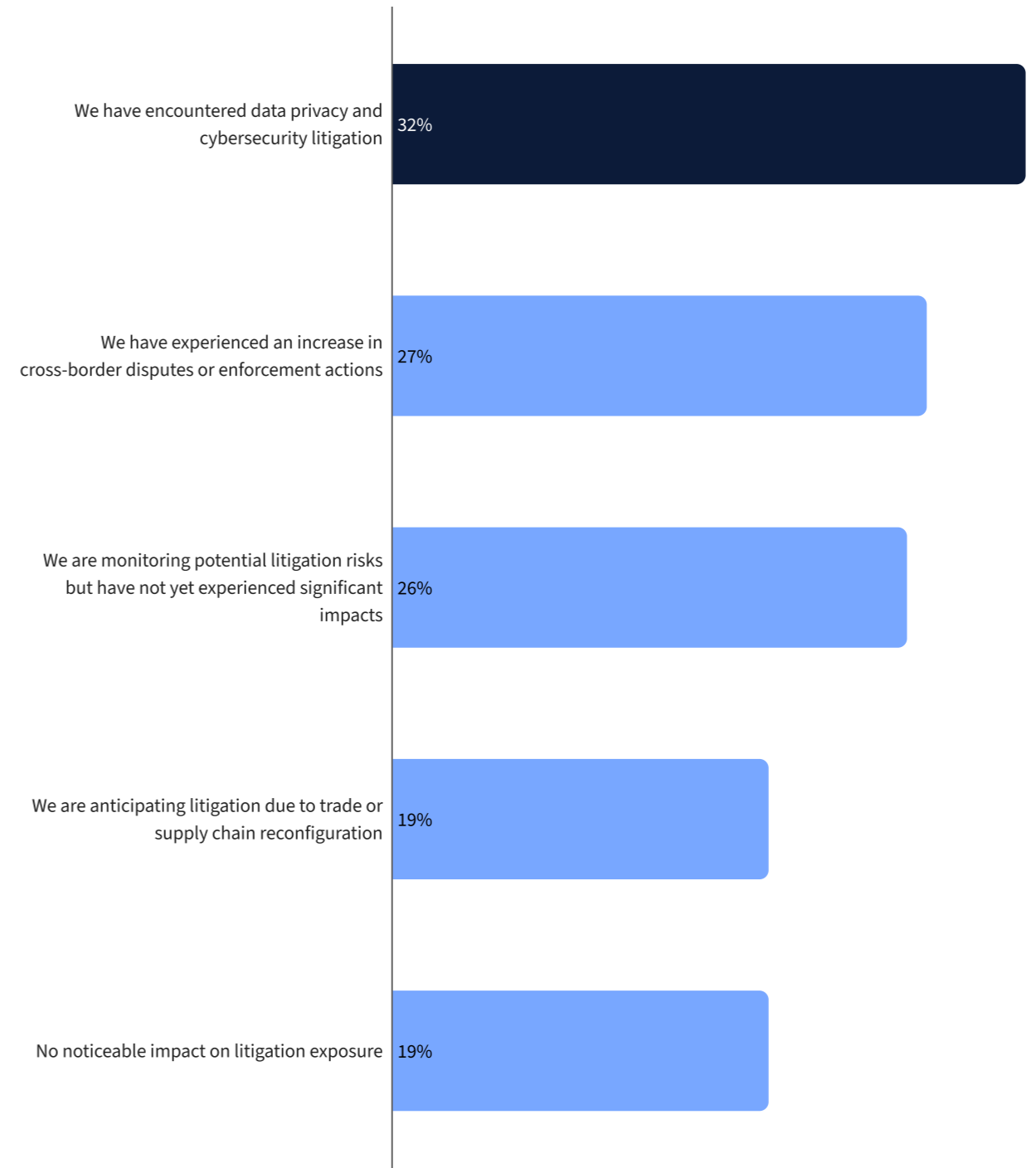
developments, many with the capability to directly or indirectly fuel litigation.

When asked what geopolitical developments posed the greatest legal risk to their organisation, cybersecurity threats from state and non-state actors ranked first at 35%. Supply chain disruption and regulatory divergence across jurisdictions followed at 21 and 17% respectively, underscoring the truly global risks organisations must mitigate and ready themselves against. The level of

Which geopolitical development currently presents the greatest legal risk to your organisation?



Top five geopolitical developments influencing litigation exposure for organisations in the past 12-24 months





Asim Arshad
Partner, Regulatory & Compliance Group
Irwin Mitchell

“As organisations look beyond current geopolitical and macroeconomic headwinds, digital risks are expected to play an even more significant role in future litigation exposure and response.

The high profile cyberattacks on major UK businesses in 2025, including the disruption of Jaguar Land Rover’s operations following a cyber incident, and attacks on Marks & Spencer, led by organised hacking groups, demonstrate how cybercrime presents very real operational and national-economic consequences. With the JLR incident estimated to have cost the UK economy £1.9bn, its impact highlights how cyber events increasingly trigger complex legal, regulatory and insurance-related disputes across supply chains”

instability is echoed in concerns of political instability in key markets (13%) and legal uncertainty in emerging markets (7%).

In conversation with Charlotte Bailey, Director of Programmes of the Commonwealth Enterprise and Investment Council, Bailey noted key shifts in the global landscape driven by key geopolitical players. For the member states and organisations of the CWEIC, tariffs, sanctions and global conflicts of recent years have created a volatile landscape with many having to reassess their approaches to global relationships, reducing reliance on other markets. With such levels of turbulence, Bailey notes an increased focus particularly among member states towards new forms of financing, where traditional sources such as aid or grants are diminishing. Member states and organisations are therefore working to actively mitigate their exposure where possible to global volatility. This can be reflected in the activity of organisations, equally managing how geopolitical changes are impacting their litigation exposure.

When asked what geopolitical developments presented the greatest litigation exposure to their organisations,

data privacy and cybersecurity litigation led at 32%, emphasising the extent to which this is a concern to businesses. Echoed in conversations with general counsel, increase in cross-border disputes (27%) and anticipation of litigation due to trade or supply chain reconfiguration (19%) present both direct and indirect ways in which global volatility is influencing litigation.

As one general counsel explained in conversation, tariffs are one such driver of exposure, creating a “domino effect” on contracts, with aspects such as pricing having to be adjusted alongside review of whether contracts are still commercially viable. They go on to describe the “long tail end” of litigation within the chain of delivery, with impacts seen across the supply chain. Concerns on supply chain and resultant litigation are also discussed in terms of locations of operations. For those with international scale, operating in markets of increased volatility either in distribution or manufacturing is understood as a concern. General counsel discussed where needed reviewing their supply chains and the markets they are operating to build greater rigidity against macroeconomic and geopolitical headwinds.

ESG & DEI

The rollback of ESG and DEI initiatives led by the US administration, has led to many organisations reassessing policies and commercial relationships. Despite this, many organisations note continued managing of DEI and ESG related risks in efforts to limit litigation.

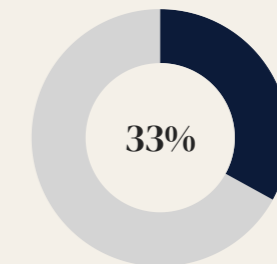
When asked what ESG-related area was most significantly influencing their litigation strategy, in-house teams noted environmental claims such as greenwashing as a key area of focus (33% of respondents). Similarly, from a DEI perspective, concern focused on exposure to regulatory headwinds with concern on regulatory or compliance challenges related to DEI disclosures as a key concern.

The high level of concern and monitoring from respondent organisations underscore the continued influence of ESG and DEI on litigation strategy. 48% of respondents when asked how they were navigating risks of greenwashing, environmental claims, reporting and other relevant scrutiny noted clear process for managing these risks internally.

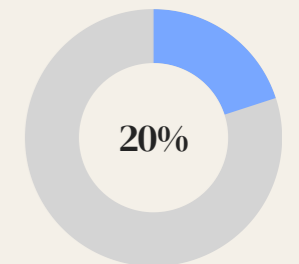
In conversation with one general counsel of a financial organisation, they explained their organisation’s structured approach to managing ESG related risks and regulatory scrutiny. They explained sophisticated internal processes with an internal sustainability team and regular ESG reporting. Through a clear process of greenwashing mitigation with multiple levels of legal review, this general counsel underscored how the organisation limits its litigation exposure. General counsel conversations similarly noted consistent monitoring of DEI related litigation risks, ensuring DEI policies are fit for purpose and in line with regulation. While for most an indirect risk, adherence to ESG and DEI policies is now also perceived as a potential exposure, especially for those in the financial sector and members of ESG-related investment initiatives fearful of headwinds from anti-ESG administration.

For those not only retaining their DEI positioning but reinforcing it, general counsels discussed reviewing their commercial relationships and assessing future risks. As one general counsel described, one can see clear rollback from organisations on DEI and ESG due to pressure from the US administration. As part of horizon scanning activity, organisations are equally reviewing how changes are and could occur in the European market and what necessary protective measures might be needed in future.

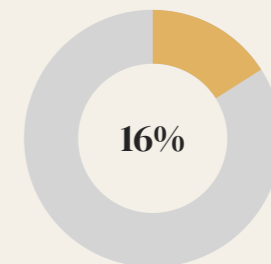
Which ESG-related area is most significantly influencing your organisation's litigation strategy to minimise claims?



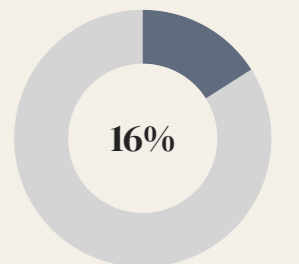
Environmental claims - greenwashing, pollution liability, climate change attribution, emissions disclosure obligations (Scope 1, 2, & 3), or sustainability performance disputes



No significant ESG-related impact on litigation strategy or claims at this time



Governance failures - including whistleblower claims, executive misconduct, or board accountability for ESG performance gaps.



Human rights and supply chain litigation - including modern slavery, forced labour, or non-compliance with due diligence frameworks

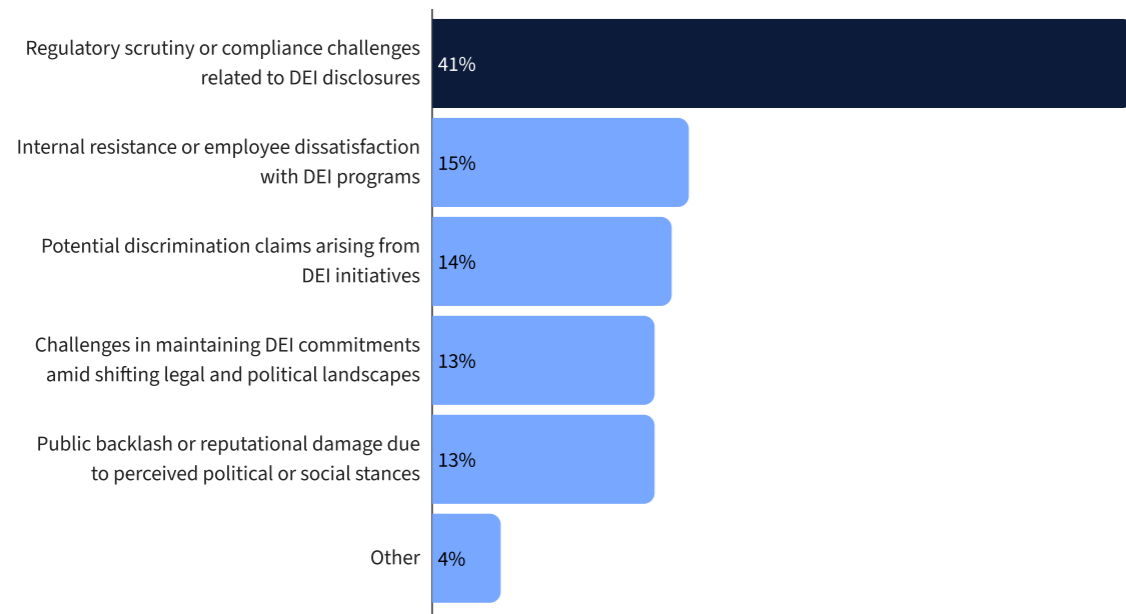


Claire Petricea Riding
Head of the Planning and Environment
Irwin Mitchell

“While parts of the US scale back ESG and DEI requirements, organisations recognise that the risks haven’t gone away; they’re simply shifting. Many are strengthening internal processes, improving reporting, and reassessing commercial relationships as global markets adjust and Europe prepares for further regulatory change.

Environmental claims, including those arising from historic operations such as PFAS-related litigation, are on the rise, making it essential for businesses to guard against future liability. External advisers like Irwin Mitchell can help organisations anticipate risk and navigate these evolving ESG and DEI pressures.”

What is the biggest DEI-related legal or reputational concern your organisation is currently facing?



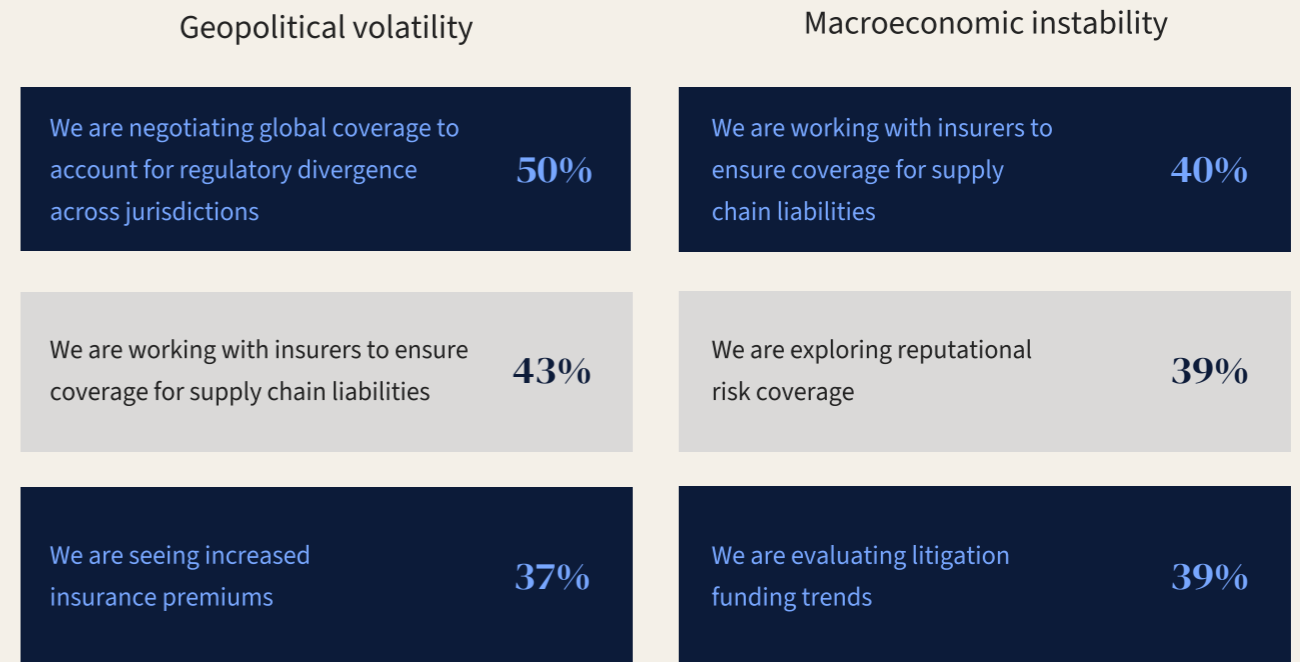
Managing volatility & litigation exposure

The means by which organisations are limiting their litigation exposure, like the risks they are facing, is varied and includes reassessment of insurance coverage. In response to geopolitical volatility, in-house teams noted negotiating global coverage to account for regulatory divergence across jurisdictions (50%) and working with insurers to ensure coverage for supply chain liabilities (43%) as key areas. Similarly from a macroeconomic perspective, organisations listed supply chain liabilities, reputational risk coverage and litigation funding trends (40, 39 and 39% respectively) as important considerations in the face of global volatility. In conversation with Darren Kelly, General Counsel of Nationwide, Kelly noted beyond necessary litigation the importance of working relationships, engaging with suppliers, and resolving through management of partnerships and collaboration.

Effective engagement with suppliers and strategic partners is understood as an important proactive strategy in limiting litigation. General counsel of an international consumer products brand similarly discussed proactive measures, noting in the face of global uncertainty future-proofing agreements in efforts to limit the impact of future tariff or other disruptions to supply chain. They equally noted a dedicated global sanctions compliance team as a further mitigation of litigation risk to their business.

In-house teams described extensive internal risk monitoring and horizon scanning activities, focused on the specific nuances of their organisations and potential litigation risks. Many noted the support of their external counsel in monitoring these risks however, often seeing such as supportive to their internal more business-relevant risk monitoring.

How is your organisation's in-house legal team adapting its insurance strategy in response to:



Conclusions

Many areas of litigation have been explored in this analysis, exemplifying the complexity of risks and mitigation strategies in-house teams are undertaking to protect their organisations. Litigation has become normalised, but remains selective, with organisations pursuing it where strategic value requires and building appropriate defences where exposure is greatest. As consistently noted, the unpredictability of litigation can have cost beyond the financial, driving organisational disruption.

While geopolitical volatility and macroeconomic change provide a constant array of risks for in-house teams to manage, the emergence of AI and its usage particularly in claims is driving resource and cost concerns for in-house teams. Though low-value claims are the main area of interaction, larger organisations equally note the potential

risk associated with AI and are creating protective measures accordingly. Many see long-term benefits in the usage of AI in litigation proceedings, particularly in areas of disclosure, document review and legal research though equally taking a structured, cautious approach.

Reassessing their coverage and the changing form risks might take is common factor among in-house leaders. The likes of class actions referenced by many along with the role of litigation funding are accepted parts of today's legal landscape and ones that organisations are both leveraging and mitigating against.

Litigation exposure remains broad, complex and increasingly, strategically embedded. Organisations remain focused on monitoring, mitigation and ensuring clear process in the management of litigation.



Katie Byrne
Head of Commercial
Dispute Resolution
Irwin Mitchell

“Litigation risk is evolving rapidly. As this report demonstrates, the growing influence of AI, alongside geopolitical and economic volatility, is adding increased complexity to an already demanding legal landscape. As in-house teams face increasing pressure to manage risk, control costs and limit exposure, the support of trusted external counsel becomes essential. By offering clarity and pragmatic guidance, specialist litigation experts assist in-house teams in exploring alternative funding models—including risk-sharing agreements—empowering organisations to make well-informed and timely decisions when it matters most.”