

LAW FIRMS COLLABORATE ON INDUSTRY FIRST TO ACCELERATE TECH ADOPTION IN INTERNATIONAL ARBITRATION

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Firm news

With the absence of universal guidance on the use of new technologies in international arbitration increasingly apparent and exacerbated by the COVID-19 pandemic, a group of six international law firms have developed a protocol to help deliver a globally consistent approach to the use of online case management platforms for conducting disputes.

Acknowledging that dispute resolution processes must evolve to keep pace with regulation, technological progress and increasing digitisation of information, the collaboration, launched by Herbert Smith Freehills, also includes Ashurst, CMS, DLA Piper, Hogan Lovells and Latham & Watkins.

The six firms have been working together since May 2019 to identify ways to remove the confusions arbitral participants face about how they can practically – and cost effectively – meet obligations relating to data handling and cyber security. Focusing on the use of online case management platforms, the six firms have developed a protocol to facilitate efficient and secure document sharing.

The joint approach comes as the use of technology and digitisation in arbitration is changing how dispute resolution practices operate. Arbitral tribunals are also giving greater focus to enhanced cybersecurity and data protection measures, as arbitral institutions are reviewing and revising their procedural rules to require tribunals to do so, together with implementing new online data hosting platforms to improve data security procedures. Against this backdrop, the six firms have worked together to produce guidance that will help to foster greater understanding and a consistent approach within the arbitration community. The guidance has just been launched for wider public consultation in June, with the aim of releasing a post-consultation draft later in the year. The protocol can be accessed [here](#).

As the protocol will have global application, it is designed to be flexible and take into account all jurisdictions, covering commercial and investment arbitration, institutional and ad hoc arbitrations. The protocol will act as guidance for parties to an arbitration, their lawyers, tribunal members and arbitral institutions. It will also aid technology developers and providers to tailor their solutions and ensure their products are well-suited.

"This protocol will help to drive discussion and consensus within the arbitration community and with relevant technology providers about the need for and functionality of online platforms in arbitration. Given the fantastic input from various arbitral participants to date, this guidance will support more informed, streamlined and effective decision-making about the adoption and use of online platforms in international arbitration. It will also herald the development of more sophisticated platform options that continue to meet the evolving needs of arbitration users," says [Charlie Morgan](#), Senior Associate and Digital Law Lead (UK) at Herbert Smith Freehills, who chairs the collaborative working group.

"This initiative has the ability fundamentally to change the future of arbitration" said Myfanwy Wood, senior international arbitration lawyer at Ashurst. "New technologies have a critical role to play in improving the efficiency, cost-effectiveness, security, transparency and to widen access to the arbitration process. Having an industry-wide protocol to act as a reference point for parties on key issues to consider when adopting new digital case management platforms will accelerate this process significantly. As parties are increasingly moving arbitration processes to the digital realm, with that trend accelerating yet further in response to Covid-19, there has never been a more important time to secure consistency of approach on these issues."

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