



OPINION ARTICLE

## MAKING THE CASE AGAINST LITIGATION

Stuart Evans, Chief Technology Officer, Invu



**Your business may be operating honestly and effectively,  
but can you prove it?**

**If an organisation cannot rapidly access the relevant documents, provide a clear audit trail or prove who had access to information the chances of successfully fighting a legal case are slim.**

*The need to reduce business risk has taken centre stage over the past few years. From financial losses to damaged reputation and corporate failure, there is a growing awareness that unforeseen market forces represent an escalating threat to business. Few organisations, however, recognise the financial implications of litigation until a court case- or threat of a case- arises.*

*Furthermore, it is often impossible to prove that processes have been correctly applied, the right version of a contract used, or accurate complaint information recorded. This is owing to a continued reliance on an unmanaged mix of paper and electronic information.*

*Without formal processes or a Document Management System, there is no audit trail, no version control, and no way of ensuring staff capture the correct information.*

*Stuart Evans, Chief Technology Officer, Invu, outlines the best way to prepare for the worst...*

The recent horse-meat scandal prompted a number of organisations to revisit governance risk and compliance (GRC) strategies - a key component of which, particularly in a difficult trading environment, includes the way the organisation responds to litigation.

As the UK economy has declined there has been an increase in litigation- from a rise in commercial cases launched in the High Court, to higher numbers of contracts claims, primarily driven by breach of contract and debt, and the personal injury claims fuelled by the growing compensation culture.

Any disputed contract, complaint or health and safety incident will incur significant fees, all of which can be crippling. Furthermore, organisations will also have to dedicate a significant internal team to retrieving relevant information- information that can be recorded in multiple locations, from paper archives to emails.

In the event of an accident, how can any construction site manager prove that a contractor provided the right documents before going on site if there is no audit trail? How can a retailer demonstrate that all the correct health and safety procedures were followed in the face of a customer making a claim or complaint? How can any business confidently respond to contractual disputes when version control is poor and there are multiple, inconsistent versions of a contract in existence?

A good Document Management System (DMS), combined with a robust approach to information retention, will minimise risk in two ways:

- Firstly, with fast, easy- even mobile- retrieval of information. Every member of staff should have immediate access to the right documents. With this insight, individuals are led likely to make mistakes, hence reducing the risk of legal action.
- Secondly, should a claim, complaint or contract dispute arise, the organisations information recording, retention and retrieval processes will make the process of assessing the case far quicker- and less costly. As an example, the ability to demonstrate a complete audit trail and time stamped information will immediately deter any dishonest legal cases.

Ensuring the system is compliant with the BIP 0008 Code of Practice on Legal Admissibility and Evidential Weight of Information Stored Electronically will ensure electronic documentation can be presented in court.

## Opinion Article: Making the Case against Litigation

However it is also important to look beyond the proven scanning and database technologies to streamline information recording and retrieval; never captured will mean never found. Organisations need to understand the information taxonomy and put in place effective processes for recording the right information at the right time.

The DMS should help individuals to quickly record the right information, by helping them answer a few questions to ensure that all the correct information is captured in full.

GRC strategies are aimed at reducing the risk of a business damaging event and mitigating that risk should an event occur. For the vast majority of organisations there is no need to create complex, dedicated systems to manage every aspect of the business.

It is, however, becoming essential for businesses of every size to have a simple, usable way of recording, storing and retrieving essential corporate documents.

***Transforming information management will support effective day to day processes, minimise the risk of mistakes, and critically, guarantee that any potential legal cases can be rapidly addressed and managed.***