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Despite Brexit, London retains its appeal as a leading global disputes hub

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London's pre-eminence as a forum for international disputes resolution both in courts and in arbitration is well established. A combination of history, strong rule of law and the city's status as an international financial center—particularly for banking, insurance, shipping and commodities trade—has contributed to London's international reputation as an arbitration hub.

Recent commentary[1] has speculated that Brexit may prove a major threat to London's position as one of the most preferred and widely used seats for international arbitration.

Although it is too early to tell for sure, London's popularity as a leading arbitral seat has not yet been significantly impacted by Brexit. Back in 2018, most respondents (55%) to a Queen Mary survey about the impact of Brexit did not believe it would have a negative impact on London as a seat.[2] As argued in a 2021 Queen Mary and White & Case study: "London's continued presence at the top of the table suggests that, as was predicted by the majority of the respondents in our 2018 survey, its popularity as a seat has not been significantly impacted (at least so far) by the UK's withdrawal from the European Union. London retains its reputation amongst users as a reliable seat of choice."[3]

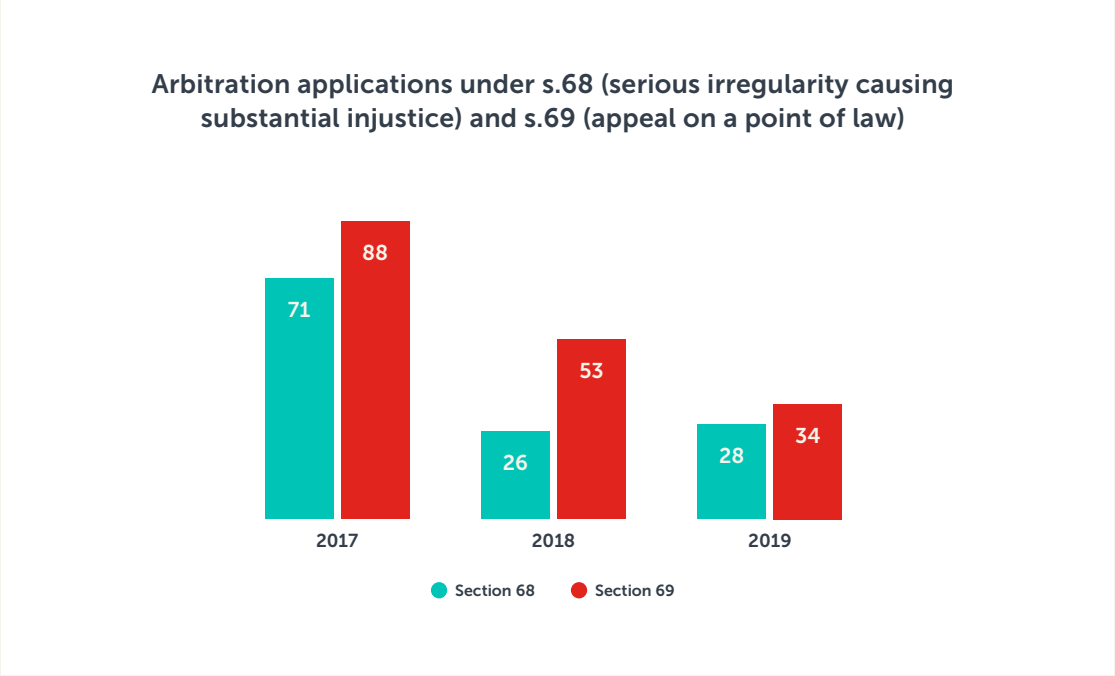
What do the numbers suggest? In 2020, the London Court of International Arbitration (LCIA) received 444 referrals, including 407 arbitrations pursuant to the LCIA rules—both all-time highs, representing a 10% increase in the total number of referrals and an 18% increase in the number of LCIA arbitrations.[4] There was a slight decrease in the choice of England as a seat (from 89% to 84%). But one cannot make too much of these numbers: Most of the underlying contracts containing the London-seated arbitration clause were likely drafted pre-2016. Thus it is simply too soon to tell whether London's popularity as a seat will decline in the coming years, as Brexit settles in.

BREXIT DOES NOT CHANGE THE ADVANTAGES OF LONDON AS AN ARBITRAL SEAT

While the jury is still out on whether London as an arbitral seat will be significantly impacted by Brexit, there is no question that it will retain many of the qualities and advantages that have made it a such a prominent global disputes hub in the past. One could even argue that its position may be strengthened as these qualities and advantages become ever more unique in a post-Brexit world—and indeed that potential is among the reasons I relocated to London from New York in March, as part of Burford Capital's pursuit of an expanded market opportunity in the city.

Among those advantages, London is globally recognized for its rigorous legal and disputes resolution system and has a centuries-old developed body of law that is independent of the EU. English law remains the most popular governing law for cross-border contracts and is widely considered the international standard for nomenclature and terminology in contractual documents. In industries such as banking, finance and shipping, English law is undisputedly the most frequently chosen, which often goes hand in hand with the choice of London as arbitral seat.

Additionally, commercial parties looking for certainty will want an arbitral seat that upholds contractual terms with minimal interference. English courts are well known for their non-interventionist approach to arbitral awards: Recently published statistics demonstrate a continuing downward trend in the appetite to bring challenges against arbitral awards under s.68 and s.69 of the Arbitration Act 1996.[5]



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