Review of Disclosure in the Business and Property Courts

Update as of July 2026

The Disclosure Review Working Group has continued its work. Important in its consideration of the functioning of Disclosure in the Business and Property Courts are the results of the Survey which was conducted at the end of last year and the beginning of this. Practitioners and other users of the Business and Property Courts may be assisted by having a summary of the results of that Survey.

Summary of Survey

The Survey enquired about the operation of PD57AD in the Business and Property Courts, including the use of technology-assisted review and artificial intelligence in disclosure. PD57AD came into force on 1 October 2022 and substantially reproduced the earlier Disclosure Pilot Scheme under PD51U.

The questionnaire was open to the legal marketplace between 17 November 2025 and 4 February 2026. Its purpose was to gather evidence about whether the disclosure reforms have achieved their intended aims: reducing costs, improving the accuracy of disclosure, reducing the burden on the courts, encouraging greater cooperation, and responding to developments in technology, including AI. The Survey scope and headline findings are summarised visually at Appendix A.

The questionnaire was answered by 215 respondents. The respondent group included firms of solicitors, individual solicitors, barristers, judges and e-disclosure providers, with a small number of repeat or unidentified respondents. Most respondents practised in London litigation, but the responses covered a range of Business and Property Court lists, including the Commercial Court, Business List, Circuit Commercial Courts, Insolvency and Companies List, Technology and Construction Court, Financial List, Property, Trusts and Probate List, Competition List, Intellectual Property List, Patent Court, Admiralty Court and Revenue List.

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1. **Overall assessment of PD57AD**

The Survey results show substantial dissatisfaction with PD57AD as presently operating. Only 19% of respondents agreed or strongly agreed that the reforms introduced by PD51U and now embodied in PD57AD had been a success. By contrast, 64% disagreed or strongly disagreed. Barristers were the most negative respondent group on this question, with 77% disagreeing or strongly disagreeing.

The positive views expressed in responses to the Survey were not insignificant. Respondents who saw value in the reforms identified benefits including better tailoring of disclosure to the type and size of case, greater focus on relevant datasets, more methodical disclosure planning, more accurate disclosure of relevant documents, reduced disclosure of irrelevant documents, earlier engagement between parties, and the usefulness of light-touch disclosure models in appropriate cases.

However, the dominant concerns were cost, complexity and proportionality. Respondents repeatedly identified increased costs, front-loading, disputes about the Disclosure Review Document, disagreement over issues and models for disclosure, satellite disputes, and the difficulty of achieving genuine cooperation in an adversarial process. Some respondents considered that PD57AD may be poorly suited to smaller, less complex, property or litigant-in-person cases.

There was little support for retaining PD57AD unchanged. Only 13% of respondents supported retaining the regime essentially as it is. A bare majority, 51%, supported retaining it with modifications. Views were divided on whether the regime should be replaced by a return to CPR Part 31: 40% supported dispensing with PD57AD and returning to CPR Part 31, while 48% disagreed.

The responses to the Survey revealed concern about contested disclosure applications. When asked whether there were more, fewer, or about the same number of contested disclosure applications under PD57AD compared with CPR Part 31, 47% said there were more, 22% said about the same, and only 9% said fewer.

The key respondent views on PD57AD generally, including views on whether the reforms were successful, whether PD57AD should be retained or modified, and whether contested disclosure applications have increased, are summarised visually at Appendix B.

2. Costs of disclosure

Cost was one of the clearest and most persistent themes in the Survey. The Survey recognised that direct cost comparisons between CPR Part 31 and PD57AD are difficult. Changes in data volumes, technology, document types and disclosure practice make like-for-like comparisons inherently imperfect.

Subject to that caveat, 67% of respondents said that the proportion of total case costs attributable to disclosure had increased since the reforms now embodied in PD57AD. A negligible number said costs had decreased, and 7% said costs had remained about the same.

Of those who said costs had increased, 50% placed the increase between 10% and 25%, while 36% placed it above 25%. The most commonly identified cause was the procedural work required by PD57AD, including preparation of the Disclosure Review Document. Respondents also identified greater involvement of counsel and more senior lawyers in disclosure work as contributing factors.

The responses to the Survey identified a strong theme of front-loading. There were 139 responses to the relevant question, and the vast majority said that costs were more front-loaded under PD57AD than under the previous regime. Respondents attributed this to pre-CMC work on the DRD, negotiation of issues, models, search terms and custodians, and disclosure-related hearings.

The quantitative section of the Survey asked respondents to provide data from recent PD57AD disclosure exercises. Examples given showed wide variation. In 20 examples, the calculated cost per document disclosed ranged from £4 to £333, with several examples producing a cost of £100 or more per disclosed document.

Respondents were also asked to consider whether the same disclosure exercise would have produced the same, more, or fewer documents under CPR Part 31. The responses were mixed: 27% said the output would have been the same, 19% said fewer documents would have been disclosed, 11% said more documents would have been disclosed, and 44% could not say.

The cost comparison was more marked. When asked whether the same exercise would have cost more, less, or the same under CPR Part 31, 54% said it would have cost less under CPR Part 31, while only 7% said it would have cost more. Among those who said CPR Part 31 would have cost less, 87% said the decrease would have been at least 10%.

3. Specific features of PD57AD

The results of the Survey do not portray PD57AD as wholly unsuccessful. A number of features attracted support or were seen as worth retaining.

There was support for retaining the obligation to disclose known adverse documents. Respondents generally appeared to regard that obligation as an important safeguard within the disclosure regime.

Initial Disclosure was also treated as a feature with practical value in appropriate cases. Respondents identified its usefulness in helping parties understand the case at an early stage and in bringing key documents into view. But the Survey also revealed concerns about proportionality and suitability in particular types of case.

The existing preservation obligations were not generally seen as too onerous. There was strong support for their retention, although some respondents raised practical issues about implementation and clarity.

Paragraph 17 and paragraph 18 orders were also treated as useful parts of the regime, although there were suggestions that further guidance may be needed on how they should operate and how they differ from each other in practice.

Other parts of PD57AD attracted more divided responses. Respondents were close to evenly split on whether the rules on Disclosure Certificates are sufficiently clear in cases involving tranche or supplemental disclosure. Cooperation also remained a difficult issue. Although cooperation is a central objective of PD57AD, many respondents considered that the regime had not produced the intended culture change. Some considered that cooperation mechanisms could be strengthened or clarified, while others doubted whether procedural rules can overcome adversarial incentives.

The List of Issues for Disclosure was another divided area. Some respondents considered it useful in focusing the disclosure exercise. Others considered that it creates disputes, cost and delay, particularly where issues are drafted too broadly, too narrowly, or too early in the case.

The Disclosure Review Document was one of the most frequently criticised features. Respondents raised concerns about its timing, format, complexity and cost. A recurring theme was that parties often spend substantial time and money negotiating the DRD before they have sufficient information about the real document universe. There were suggestions for simplification, earlier data scoping, clearer guidance and a less burdensome format.

Extended Disclosure and the disclosure models were also major areas of concern. Model D was the most commonly used model, while Models A and E were recorded as hardly used. There was support from 55% of respondents for reducing the number of models. Respondents raised particular concerns about the distinction between Models C and D, the treatment of narrative documents, and whether the current model structure creates unnecessary complexity without delivering proportionate benefits.

The Less Complex Claims regime appeared to have limited practical uptake. Only 23% of respondents had experience of a case agreed or ordered to be treated as a Less Complex Claim. Free-text comments included concerns that the wider PD57AD system may be poorly suited to less complex cases, and suggestions that simplified procedures could be extended or used as a model for wider reform.

Disclosure Guidance Hearings produced mixed views. A significant proportion of respondents had not participated in such hearings. Among those with experience, views were divided as to their usefulness. 68% of respondents saw a possible role for specialist Disclosure Masters and/or a supervising solicitor, although judicial respondents were less enthusiastic.

Respondent views on specific features of PD57AD, including areas of strong support, divided views and suggested improvement, are summarised visually at Appendix C.

4. Technology-assisted review and artificial intelligence

TAR and AI are increasingly significant to disclosure because of the growth in data volumes, document types and custodians. Modern disclosure exercises may involve email, messaging platforms, social media, smartphone data, Teams or Zoom material, recordings capable of transcription, hard copy documents and large archives. De-duplication is increasingly important where multiple custodians and overlapping communication channels are involved.

Some respondents considered that, in some circumstances, human review by large teams may not match TAR or AI-assisted review for accuracy or cost.

Respondents were divided on whether TAR and/or AI should be mandatory above a particular data volume. Only 33% supported a mandatory threshold, while 67% did not. Among those who did support a threshold, the suggested trigger points varied considerably. Respondents were also divided on whether there is a volume below which TAR or AI does not provide efficiency or cost benefits.

The responses to the Survey indicated a broad range of current or potential uses for TAR and AI in disclosure. These included prioritisation, coverage workflows, elusion testing, AI-assisted review, machine translation, privilege analysis, chronologies, identifying key people, asking questions of case documents using retrieval-augmented techniques, and checking or streamlining review of an opponent's disclosure.

At the same time, respondents raised concerns about reliability, transparency, availability, cost and the attitude of the courts. Some wanted clearer guidance on what uses of AI are acceptable, what validation is required, and how parties should explain their approach.

The reform themes in this area included adapting PD57AD to developments in TAR and AI, revising section 2 of the DRD, clarifying whether AI falls within TAR, addressing prompts and validation, requiring appropriate transparency, keeping guidance up to date, and developing a best practice guide capable of being incorporated into PD57AD.

Respondent views on TAR and AI, including thresholds, identified uses, concerns and possible reform themes, are summarised visually at Appendix D.

5. Overall themes emerging from the Survey

The results of the Survey point to a disclosure regime under significant pressure. The Survey responses do not support leaving PD57AD unchanged. Nor do they produce a simple consensus in favour of abandoning the regime entirely and returning to CPR Part 31.

The central themes are cost, proportionality, front-loading, DRD complexity, disputes over issues and models, and the practical difficulty of achieving cooperation. Respondents identified features of PD57AD that can be valuable, particularly where they focus the disclosure exercise, support early understanding of the case, preserve known adverse document obligations, or allow light-touch disclosure in appropriate cases. However, the Survey results indicate a strong concern that the regime can be too elaborate, too expensive and insufficiently tailored to the realities of many cases.

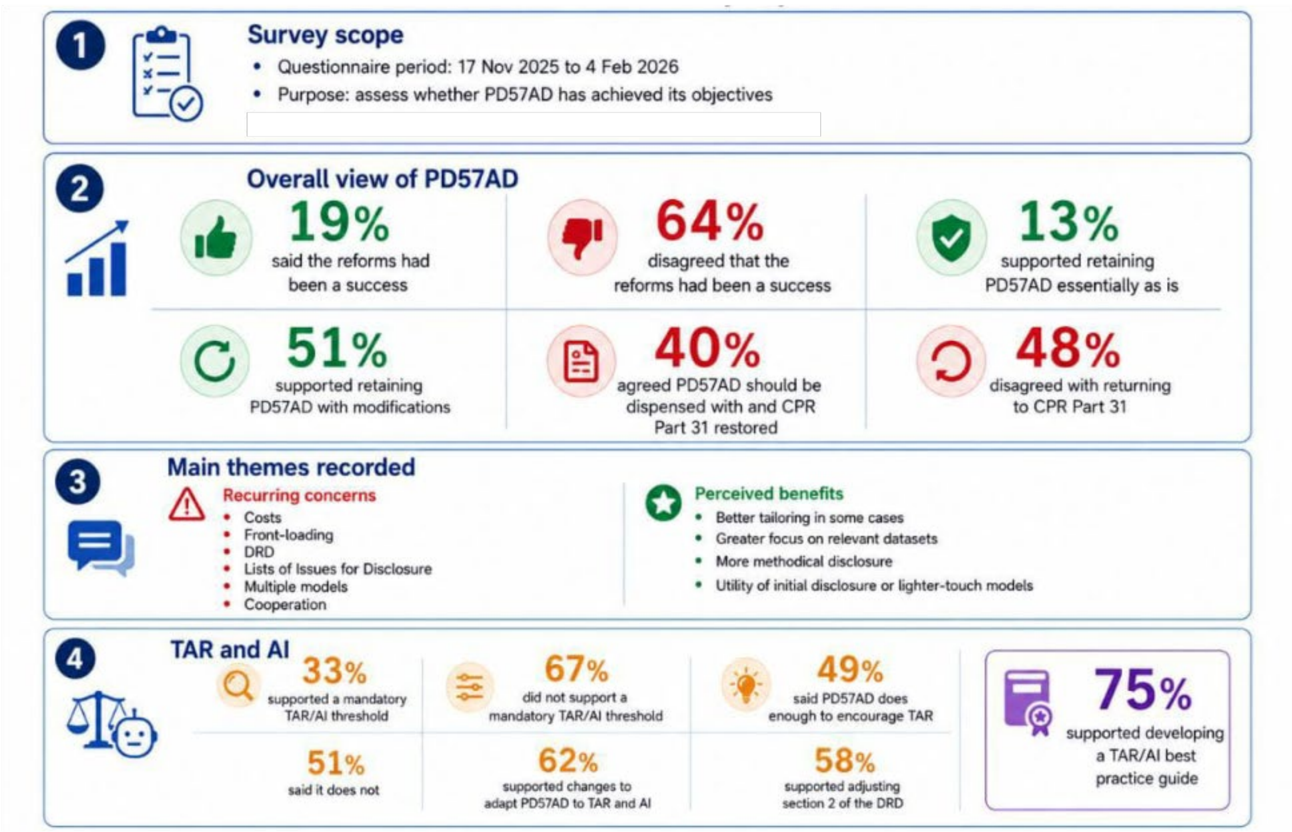
The most obvious reform themes are simplification of the DRD, reduction or reframing of the disclosure models, clarification of Model C and narrative documents, improvement of the List of Issues process, clearer cooperation mechanisms, clarification of certificate and preservation obligations, possible use of specialist disclosure support, and clearer guidance on TAR and AI.

Next steps

The Disclosure Review Working Group has conducted a series of meetings. It aims to produce proposals for the simplification of the regime in PD57AD, with a view to reducing complexity, front-loading and cost. It will not be recommending a simple return to Part 31. The Group hopes to be able to consult on a series of recommendations later this year or early in 2027.

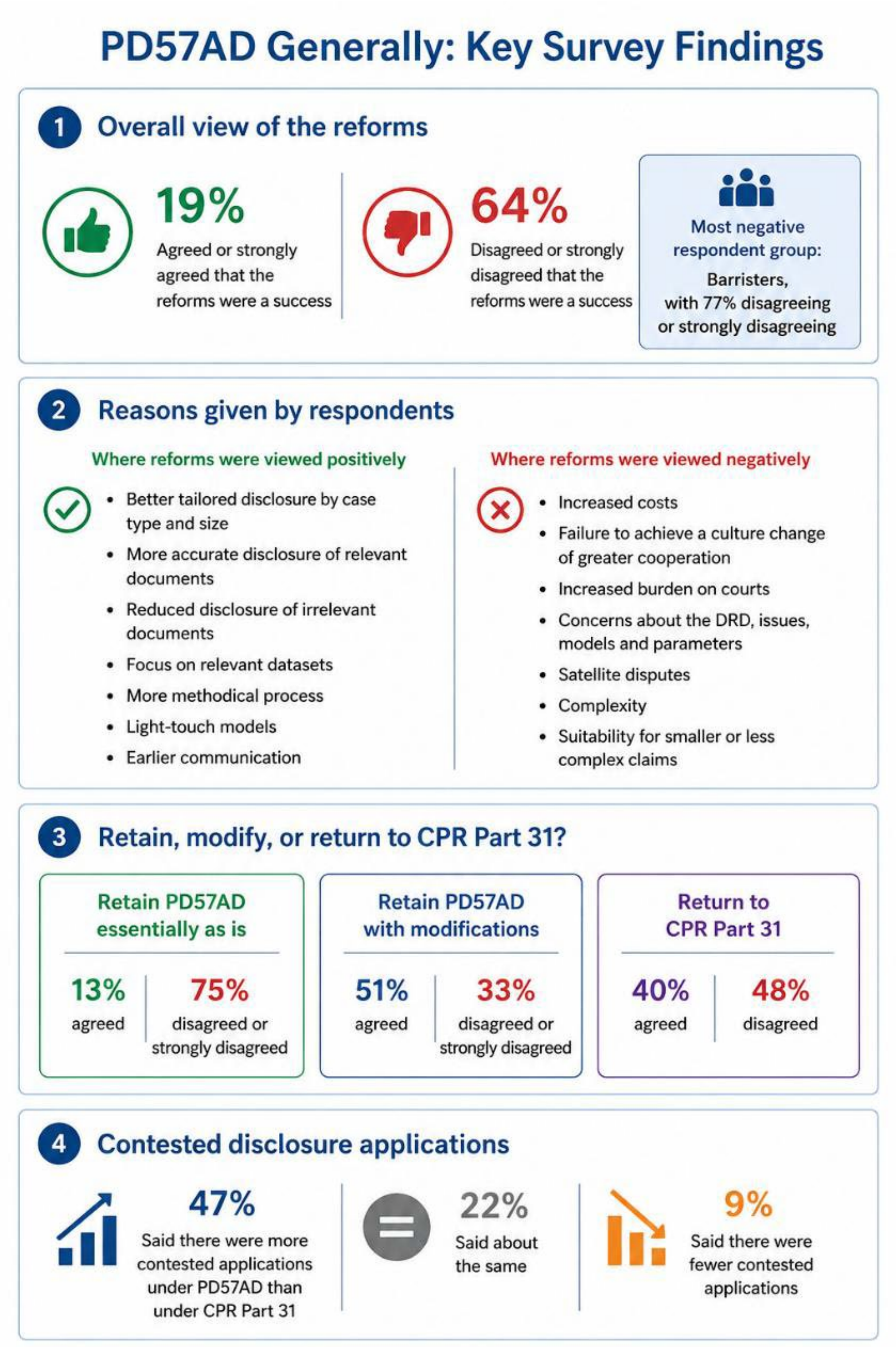
Appendix A: Survey scope and headline findings at a glance

A visual overview of the questionnaire period, Survey purpose, respondent findings on PD57AD generally, recurring themes, and headline TAR/AI findings.



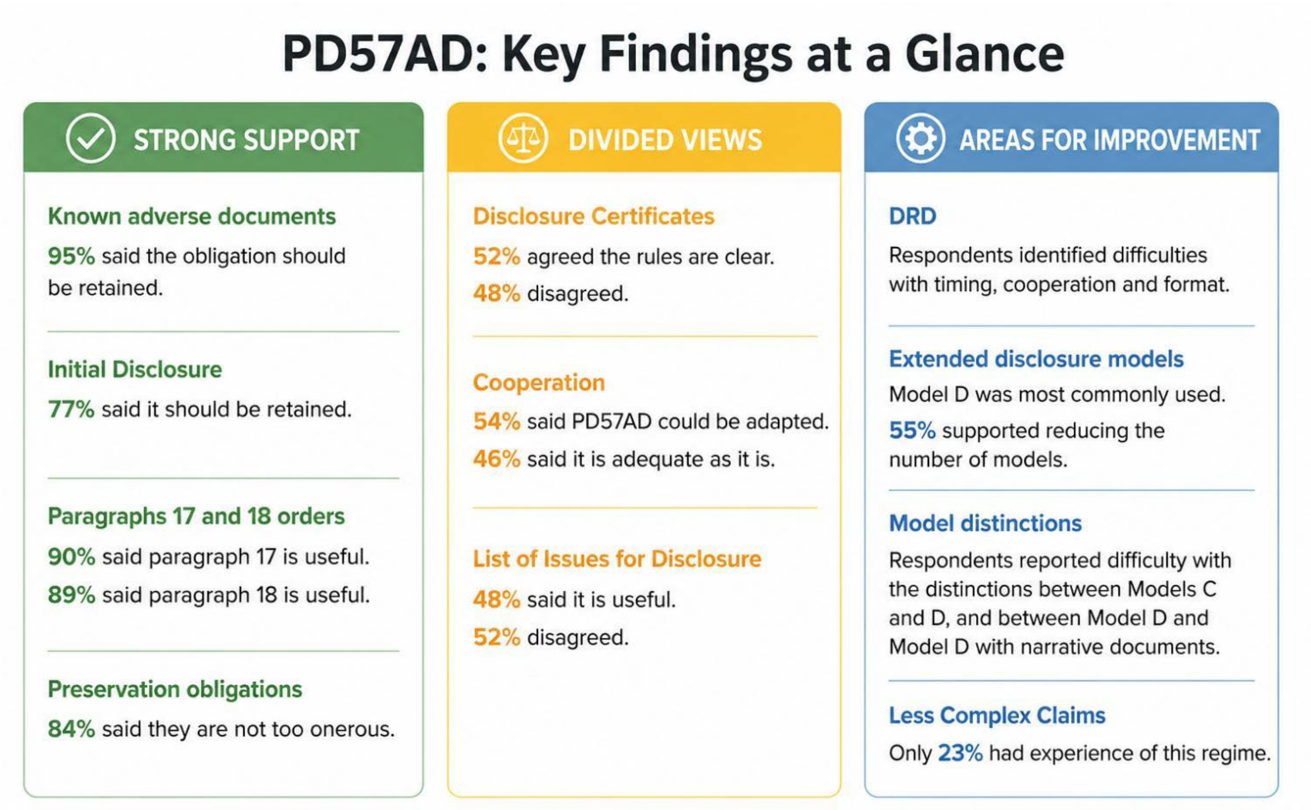
Appendix B: PD57AD generally: key Survey findings

A visual summary of respondent views on whether the reforms have been successful, the reasons given by respondents, views on retaining or modifying PD57AD, and contested disclosure applications.



Appendix C: Specific features of PD57AD: support, divided views and areas for improvement

A visual summary of respondent views on selected features of PD57AD, including known adverse documents, Initial Disclosure, paragraph 17 and paragraph 18 orders, preservation obligations, Disclosure Certificates, cooperation, the List of Issues for Disclosure, the DRD, disclosure models and Less Complex Claims.



Percentages refer to respondents.

Appendix D: TAR and AI in disclosure: key Survey findings

A visual summary of respondent views on why TAR and AI matter, possible thresholds, cost benefit, identified uses, concerns and reform themes.