



# **Data Security and Litigation Risks Facing Financial Services**

## **A Cautionary Tale!**

Disputes within the financial sector dominate the legal field and continue to grow, with courts globally being inundated with claims from customers, investors, shareholders, and various stakeholders. Due to the regularity, complexity, and size of these disputes, the outcome and costs can often be unpredictable and expensive. In addition, internal resources and staff productivity is often consumed by looking for critical information when it could be better directed towards driving revenue opportunities within the business.

To avoid costly financial penalties or the burden of litigation, businesses must look for efficient and effective solutions for managing and storing their data. Financial services are legally required to store information for a set period, but often it is not just the safe filing of critical information that is the issue. Firms often find difficulty in retrieving legacy data when required, meaning they are not able to provide crucial evidence for a claim or defense. This can result in significant financial costs and have a negative impact on the company's reputation. It is paramount that firms prioritise implementing solutions that will help mitigate these risks, prevent future exposure, and resolve disputes before they reach the need for legal intervention.

In this eBook, Mail Manager looks at some of the most prominent data breaches and litigations affecting financial services and what lessons can be learned to protect your firm from the same fate.

## Misleading Claims

Financial services have a duty to provide customers with products and services suitable for their needs. They must ensure that communication has been clear, the risks have been fully explained, and that the customer has not been misled in any way. This is where the ability to reference a whole audit trail of correspondence is imperative. Firms can evidence their due diligence and provide proof that their communications have been compliant and met regulatory guidelines, protecting themselves and the business against any potential for disputes.

In [Fine Care Homes Ltd v National Westminster Bank Plc & Anor \[2020\] EWHC 3233 \(Ch\)](#) Fine Care claimed losses of £1.4 million due to being mis-sold a derivative. The English High Court dismissed Fine Care's claims with a critical factor in the judgement being the claimants' inability to substantiate material conversations with any documentary evidence. Instead, Fine Care's principal witness and controlling director Mr Hassan Somani relied on referencing verbal communications with bank employees from over ten years ago, which caused the judge to question his "precise recall" of these events. He was dismissed as an unreliable witness, and his account of events was labelled as "confused and inconsistent." Although on this occasion the court found in favour of the financial institution, the case only serves to highlight the importance of being able to document and retrieve legacy communications and data. The lack of evidence to support Fine Care's claim presented the claimant with a significant disadvantage, which ultimately contributed to them losing their claim.



## Regulatory Disputes

Working within such a highly regulated industry creates a host of daily challenges and potential risks for financial service firms. Understanding regulators' expectations, managing your compliance records, and ensuring you are audit ready will save time and resources being drained, should any regulatory disputes or investigations be brought against the firm. Ensuring that you are proactive in managing sensitive communications, audit trails and actively preventing data loss can help successfully keep the business out of enforcement action.

In [Cattles, Welcome Financial Services and PWC](#), the UK High Court saw one of the largest ever cases with a claim of £1.6bn for audit negligence concerning two years of financial statements. The lawsuit was brought off the back of action taken towards Cattles by the FSA. In January 2012, Cattles had been subject to an investigation by the Financial Services Authority, which found the firm's annual report to contain 'highly misleading arrears, impairment and profit figures.' The investigation resulted in a total of £600,000 worth of fines for both Cattles and Welcome Financial Services, a ban on both finance directors from carrying out any regulated activity in the future, and Cattles incurring £1.6bn in liabilities.



### **Professional Negligence Claims**

Of course, it is not just customers and stakeholders that could pose a risk to the business, but also employees. Keeping a visible record of staff conduct and communications is imperative to ensure that industry best practices are adhered to. Unfortunately, there have been many high-profile cases where there have been accusations of fraud and insider trading. Regardless of whether these are successfully defended or not, the press surrounding the case can tarnish a firm's reputation beyond repair and hinder its prospects.

[ASIC v Citigroup Global Markets Australia Pty Ltd](#) was considered an international test case that raised issues around procedures for how investment banks handle potential conflicts of interests. The case highlights the importance of ensuring firms have effective internal communication and compliance management procedures to prevent insider trading and closely monitor the use of information barriers or "Chinese Wall" arrangements.

## **An Email Management Solution to help protect against risk and financial penalties**

With email correspondence being a primary method of communications for financial institutions, it makes sense to have an efficient email management system in place that will effortlessly file sensitive correspondence and attachments away safely and securely and make it simple for you to retrieve critical information instantly. Mail Manager helps firms focus more time on fee-earning activities by automating the process of managing email. All correspondence and attachments will be filed away in your chosen destination using the AI machine learning predict tool, and any information can be located again within just three clicks.

## How Mail Manager benefits Financial Services Businesses

Mail Manager helps financial services businesses to manage their communications effectively and ensures that critical data is never lost or deleted.

### **Ensure compliance with a fully traceable audit trail**

Financial services businesses spend a massive amount of time corresponding and sharing sensitive data and agreements by email. With Mail Manager, all client communications, records, and financial information can be retrieved without the risk of lost or deleted parts of the chain.

### **Locate critical agreements and evidence within seconds**

With Mail Manager's market-leading search tool, it is possible to retrieve legacy data and communications within just three clicks, reassuring financial firms that they can produce evidence quickly and effortlessly to solve queries and minimise disputes.

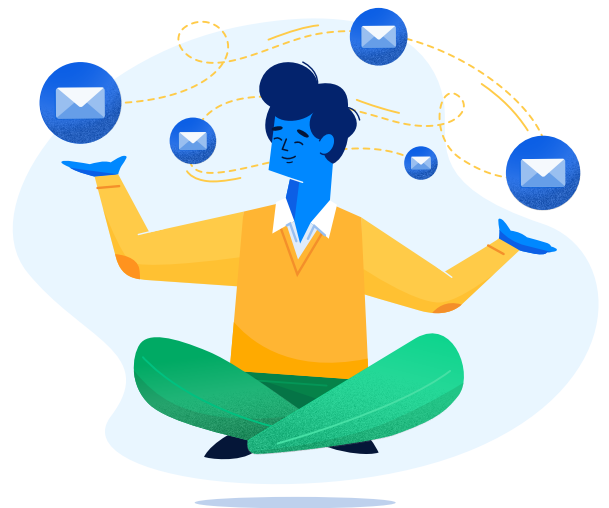
### **Improve staff productivity by automating email and document storage**

Mail Manager stops staff wasting time searching for historical data and allows them to focus on revenue-generating activities in the business.

### **Effortless collaboration with full transparency over projects**

Reduce the risk of working off outdated information or important information being trapped in a colleague's inbox. Mail Manager provides complete visibility over client projects, so everyone on the team can be aware of previous correspondence and know that they are working from the most up-to-date information.

Discover how Mail Manager can transform your firms' email and document management with a [free trial](#) of the solution.



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