

Data Centres: The Next Frontier for Class Action Risk?

Collective litigation risk and stakeholder scrutiny should be treated as strategic business issues, not just legal issues. As data centres become larger, more visible and more critical to digital economies, operators should expect increased scrutiny from regulators, communities and claimant firms.

CMS helps data centre clients stay ahead of these risks — combining deep sector knowledge with proven experience in defending complex, high-profile and collective litigation.

The data centre sector

The data centre sector is experiencing unprecedented growth, driven by cloud computing, AI infrastructure and increasing demand for digital capacity. That growth creates significant opportunities — but it is also making data centres more visible to claimant firms, litigation funders, regulators and community groups, who are increasingly active in scrutinising major infrastructure projects and identifying opportunities for coordinated legal and regulatory challenges.

For operators, developers and investors, the key risk is that a single issue, allegation or area of public concern may attract coordinated scrutiny from multiple stakeholders, creating the conditions for regulatory intervention, reputational pressure, organised opposition or collective litigation.

Why this matters now

While collective litigation involving data centres remains relatively uncommon in the UK, experience across other infrastructure sectors demonstrates how environmental concerns, planning disputes, consumer issues and data-related incidents can rapidly attract coordinated stakeholder activity. The increasing scale and visibility of data centre developments means many of the same drivers are now emerging within the sector.

Recent US activity demonstrates growing claimant interest in digital infrastructure. Claims and threatened claims have focused on alleged impacts arising from data centre development and operation, including:

- noise from cooling systems and backup generators;
- alleged impacts relating to water use, energy consumption and environmental sustainability;
- air quality and emissions from emergency power infrastructure;
- alleged failures to disclose environmental impacts during planning and development;
- data breaches and cyber incidents affecting large groups of users; and
- AI-related data processing and privacy concerns.

While many of these disputes have not developed into formal collective proceedings, they show how quickly local concerns, whether justified or not, can escalate into coordinated claims, political scrutiny, regulatory attention, and reputational pressure.

Recent developments: an early warning signal

The most significant lesson from recent disputes is not necessarily that data centres create unique environmental challenges, but that highly visible infrastructure projects can become focal points for public, political and stakeholder scrutiny. In sectors attracting significant attention, legal and regulatory exposure may arise before the underlying facts have been fully tested.

Why data centres are exposed

Data centres sit at the intersection of several issues that have generated heightened scrutiny across multiple sectors and in some cases led to collective litigation risk:



Planning and community opposition — large-scale developments can generate local objections and organised campaigns, which may evolve into coordinated legal challenges.



Environmental and ESG — disputes may arise concerning energy use, emissions, water consumption and sustainability commitments, which are increasingly scrutinised by regulators, communities and claimant groups. Such scrutiny may arise irrespective of the merits of the underlying allegations.



Data protection and cyber — a single incident can affect large numbers of individuals, creating potential group claim exposure.



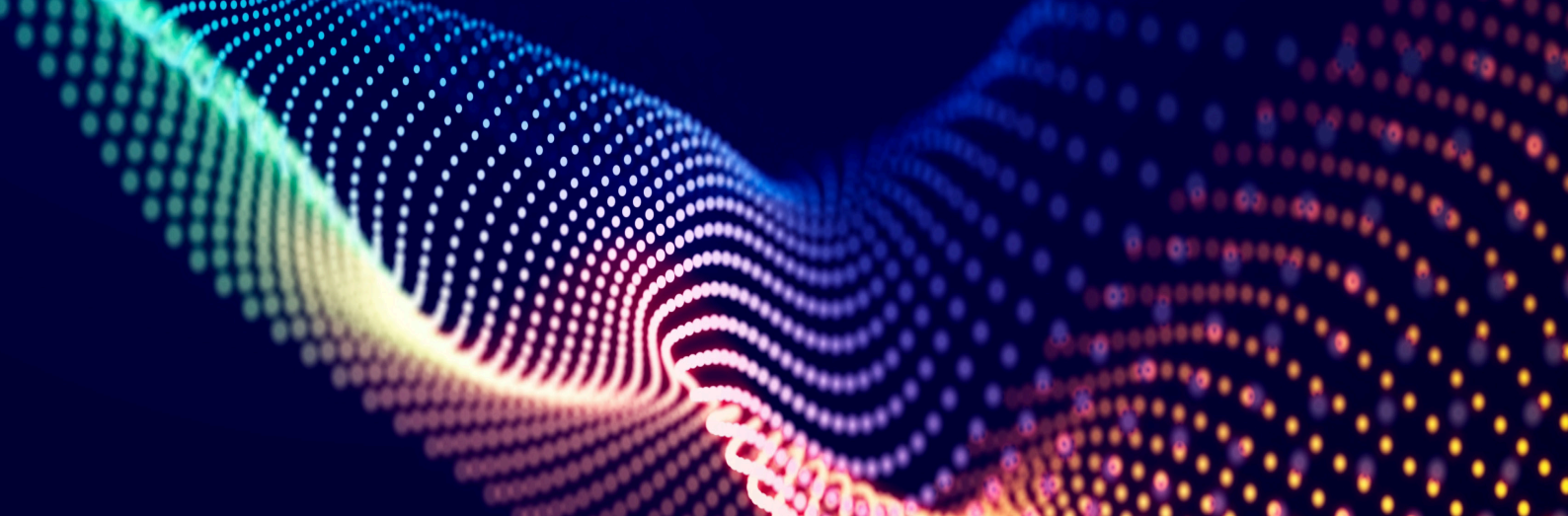
Consumer and competition issues — as digital infrastructure becomes increasingly critical, pricing, service interruption and competition-related allegations may attract closer attention.



AI infrastructure — the rapid deployment and expansion of AI and high-performance computing facilities is attracting increasing scrutiny around data governance, privacy, energy consumption, sustainability commitments and regulatory compliance.

What organisations should be doing now

- Review stakeholder engagement and community consultation processes.
- Assess environmental and ESG disclosures for consistency and evidential support.
- Test incident response plans for cyber and operational events.
- Consider litigation and regulatory risk when planning major developments.
- Monitor emerging collective action and claimant activity across relevant jurisdictions.



Why CMS?

CMS brings together deep data centre sector experience with market-leading class action and complex disputes capability. Our global data centre team advises investors, developers, operators and occupiers across the full lifecycle of data centre projects, from site acquisition and planning through to operational and regulatory issues.

Our disputes teams regularly advise on group and representative actions, high-value and reputationally sensitive disputes, data protection and cyber claims, ESG and environmental litigation, regulatory investigations, cross-border litigation and claims involving litigation funders and coordinated claimant groups. CMS' class actions team has a strong track-record developing successful early anti-proliferation strategies to prevent claims from proceeding outright, or – if they cannot be entirely prevented – to reduce the claimant book build process.

That combined capability means we can help data centre clients identify emerging risk, engage with regulators and stakeholders, manage incidents and disputes effectively, and develop coordinated litigation, regulatory and communications strategies where collective claims or organised campaigns emerge.

Contact our team



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