

'Ward'ing Off Late Amendments - *Ward v Rai* [2026] EWCA Civ 816

Ward confirms that a first-instance judge retains a wide discretion over non-compliant Points of Dispute and the admission of late amendments. Procedural discipline still matters but a discretionary case-management decision, made under pressure, is unlikely to be disturbed on appeal.

What does this mean in practice?

For receiving parties

- **Act early on Ainsworth** - on receipt of the Points of Dispute: (1) send open correspondence identifying the breach and requiring a curative amendment; (2) if there is no response, reiterate the point in your Replies, cross-refer to that correspondence, and reserve your position on the non-compliant item pending compliance; (3) consider applying early for strike-out or directions.
- **Offers** - if a challenge is too unparticularised to answer, or is impairing your ability to evaluate offers, say so in correspondence at the time and structure your offers to protect yourself, rather than curing the defect for your opponent.
- **Get the listing right** - set out in open correspondence the basis on which the ELH was formulated, cross-referring to your earlier requests for remedial action and for an explanation of the default.

For paying parties

- **Serve the schedule with the Points of Dispute** - cross-reference to an annotated or objections schedule that does not yet exist is non-compliant.
- **If you are going to be late, minimise the damage** - serve at the earliest possible moment, explain candidly, and volunteer conditions and costs.
- **Don't let live settlement talks stall the schedule** - the Court expressly declined to bless that excuse (see *Ward* at [51]); it survived only because it was not tactical.

At the hearing

Ward endorses, for detailed assessment, the commercial court approach to late amendments in *Quah Su-Ling* and *CIP Properties* (*Ward* at [53]–[54]):

- **Late or very late** - an amendment is “very late” if it imperils the hearing date, one that forces an adjournment is very late, which weighs heavily against permission.
- **The breach and its effect** - identify the PD breach and, crucially, its consequences, the stricter, post-Mitchell/Denton approach to procedural default applies.
- **A good reason** — for both the breach and any consequential delay. Live settlement negotiations are not a good reason (*Ward* at [51]), though they remain part of the overall discretion.

Cases referred to

- *Ward v Rai* [2026] EWCA Civ 816;
- *Ainsworth v Stewarts Law LLP* [2020] EWCA Civ 178;
- *Quah Su-Ling v Goldman Sachs International* [2015] EWHC 759 (Comm);
- *CIP Properties (AIPT) Ltd v Galliford Try Infrastructure Ltd* [2015] EWHC 1345 (TCC);
- *Mitchell v News Group Newspapers Ltd* [2013] EWCA Civ 1537;
- *Denton v TH White Ltd* [2014] EWCA Civ 906;
- *Broughton v Kop Football (Cayman) Ltd* [2012] EWCA Civ 1743;
- *Global Torch Ltd v Apex Global Management Ltd (No 2)* [2014] UKSC 64;
- *Barton v Wright Hassall LLP* [2018] UKSC 12; [2018] 1 WLR 1119;
- *Woodward v Phoenix Healthcare Distribution Ltd* [2019] EWCA Civ 985.

Disclaimer: this note summarises points from our seminar and is intended for general discussion only. It is not legal advice on any specific matter.