CIVIL JUSTICE COUNCIL

Use of AI for Preparing Court Documents

Final Report

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1. Foreword

1.1 This Report is the final of two reports the CJC's Working Group on the Use of AI for Preparing Court Documents has produced concerning the use of Artificial Intelligence (AI) for the preparation of court documents. Court documents are those documents prepared for the purpose of being provided to the court. The Working Group's first publication, Interim Report and Consultation, was published on 17 February 2026 (**the Interim Report**).[1] It explained the context and, particularly, the rapid development of the use of AI in legal proceedings in the civil courts in England and Wales. It further noted different approaches to the regulation of such use in other jurisdictions.

1.2 The Interim Report focused on the use of AI by legal representatives and by expert witnesses. AI use by judges and by unrepresented litigants (or litigants-in-person) was specifically not considered. Both lay outside the Working Group's Terms of Reference. The Interim Report also noted that the use of AI for functions such as spelling and grammar checks was outside the Terms of Reference. Such uses, where they are not capable of generating or influencing substantive content, do not require specific guidance. Instead, the Terms of Reference were focused on AI use that was capable of affecting the substantive content of material submitted in civil proceedings; a point which this Report develops by reference to whether AI use is capable of generating or influencing such content. Also outside the Terms of Reference was the use of AI with the deliberate intention to place false evidence before the court. Such AI use is already subject to effective control through, variously, the court's abuse of process and contempt of court jurisdiction, sanctions for making false statements of truth, and, potentially, proceedings for perjury.

1.3 This Report makes a series of recommendations, the aim of which are to promote the safe and responsible use of AI in the preparation of court documents. An outline of the Recommendations is set out in the **Executive Summary** and **Summary of Recommendations**.

[1] The Interim Report is available here: https://www.judiciary.uk/wp-content/uploads/2026/07/Interim-Report-and-Consultation-Use-of-AI-for-Preparing-Court-Docume.pdf.

1.4 The Working Group's Terms of Reference and Membership are set out at **Annex A** and **B** respectively. The CJC, as is its usual practice, will review the extent to which the Recommendations in this Report have been taken forward in its next Annual Review.

1.5 The Working Group thanks all those who have contributed. It has been greatly assisted by the many responses it received to its Interim Report and Consultation. All responses, and the points which they raised, have been considered carefully. The Working Group would also like to thank the CJC Secretariat, particularly Claire Lantsbury, for all the help and support they provided in the preparation of its two reports.

Sir Colin Birss PBPD (Working Group, Chair)

29 October 2026

2. Executive Summary

2.1 The Report considers the use of AI in the preparation of court documents for use in civil proceedings. In doing so it considers how best to regulate such AI use in the context of a range of different views and arguments set out in responses received to its Interim Report and Consultation.

2.2 The Report concludes that the starting point for the regulation of AI use in the preparation of court documents should remain with legal representatives and their professional regulators, e.g., the SRA, BSB and LSB.

2.3 Professional regulation should be supplemented by a Practice Direction, prepared by the Civil Procedure Rule Committee (CPRC). That Practice Direction should adopt a functional, risk-based approach to AI use. It should consolidate and clarify the court's existing approach to the accuracy and verification of, and responsibility for, AI use by legal representatives. It should also provide guidance on the existing sanctions for misuse of AI, as well as guidance on AI use in specific contexts, e.g. witness statement preparation and, subject to the outcome of the deliberations of the Disclosure Review Working Group that is currently considering revisions to PD 57AD,[2] disclosure.

2.4 While a consideration of the use of AI by litigants-in-person was outside the Working Group's Terms of Reference, the Interim Report posed the question of whether that was the right approach. Given the strength of consultation responses, which supported the urgent need for guidance to be issued to litigants-in-person, the Working Group also recommends that the CJC, working with the CPRC, should as a matter of urgency consider the approach that should be taken to the use of AI by litigants-in-person in civil proceedings. The CJC should be guided, as appropriate, in its consideration of this by the judicial cross-jurisdictional AI Committee. Its conclusions could and should when issued be considered by

[2] On which see https://www.judiciary.uk/disclosure-review-working-group-considering-simplification-of-practice-direction-57ad/.

the CPRC, which should revise the Practice Direction as necessary in the light of the CJC's recommendations.

2.5 Where witness statements are concerned, the Working Group recommends a differential approach. Where a witness statement is that of a witness of fact, the witness should be required to make a specific declaration that the statement has not been prepared through the use of an AI tool that has generated or influenced its substantive content. This is to secure the integrity of the witness's evidence; to ensure that the evidence is given in their own words.

2.6 Within this Report 'generate substantive content' refers to the production or modification of substantive content by an AI tool, whether intentionally or unintentionally. 'Influence substantive content' refers to the use of an AI tool which, without itself producing such content, affects its selection, analysis, development or evaluation. In either case, use of the AI tool may thus affect the substantive content, i.e. facts, evidence, opinion, reasoning, or argument contained in documents submitted in civil proceedings, including, in a witness statement, the witness's own words.

2.7 The declaration recommended for witness statements prepared by witnesses of fact does not, consistently with the approach taken in this Report, prohibit the use of any specific AI tool, or type of tool. It is intended to ensure that AI use does not affect the substantive content of such statements. It is a declaration that focuses on the result of such use, not on the use itself or the tool that produces the result.

2.8 No new rules are recommended, however, where witness statements are concerned, where they are prepared and signed by legal representatives and they are not giving the statement as a witness of fact.

2.9 The Report also makes specific recommendations for revision to the CPR where expert witness evidence is concerned. This includes a new declaration concerning AI use and revised guidance on AI use for experts. The Report otherwise rejects the introduction of declarations concerning AI use. The approach taken to expert witnesses is justified by reason

of the need for transparency and the maintenance of a level playing field in the expert process. Transparency is required to enable the expert's evidence to be scrutinised and tested effectively by opposing parties and the court.

2.10 The Report also rejects a requirement that parties should apply for permission to use AI in the preparation of materials for submission in civil proceedings. It does so in the context of recommending the adoption of a functional, risk-based approach to AI use. That approach identifies AI use that may generate or influence the substantive content of such materials and any resulting risk to the integrity of civil proceedings and the proper administration of justice.

3. Summary of Recommendations

3.1 The following specific recommendations are made in this Report.

3.2 **Recommendation One**: The provision of guidance to the legal profession on the appropriate use of AI in the preparation of court documents, consistent with professional and ethical obligations, should remain the responsibility of legal services regulators. Those regulators, including the Legal Services Board, should work together collaboratively to ensure guidance is mutually consistent. The Regulators should explore the possibility of devising and issuing joint guidance and ensuring that professional training requirements (including any future mandatory continuing competency ethics training) include suitable guidance on responsible AI use.

3.3 **Recommendation Two**: The CJC, drawing on its Futures Group, and working together with the CPRC, should as a matter of urgency consider the approach to be taken to litigants-in-person and their use of AI in civil proceedings. Its approach should also be guided, as appropriate, by the views of the judicial cross-jurisdictional AI Committee.

3.4 **Recommendation Three**: The CPRC should codify and consolidate the approach developed by the courts and tribunals in case law to the use, and sanctions for the misuse, of AI by legal representatives and litigants-in-person in civil proceedings in a Practice Direction, which should be written in plain language. It should also incorporate the substantive content of **Recommendations Eleven to Thirteen**. The Practice Direction should also be informed by, and where necessary revised, in the light of the work carried out by the CJC further to **Recommendation Two**.

3.5 **Recommendation Four**: No new rules requiring legal representatives to make a declaration concerning AI use in the preparation of statements of case, skeleton arguments or other forms of advocacy should be introduced. Legal representatives should remain responsible, further to existing obligations, for the accuracy and reliability of any such documents. Those obligations, and compliance with them, should be promoted and supported by the functional, risk-based approach to AI use recommended in **Recommendations Eleven to Thirteen**. In so far as is necessary, the current CPR requirements should be clarified in the Practice Direction, which forms part of Recommendation Three, to specify that, at least where AI use is concerned, the current requirements do require the identification of the specific legal professional who takes responsibility for the document.

3.6 **Recommendation Five**: Subject to any recommendations made by the Disclosure Review Working Group, no reforms are currently needed where AI use in the disclosure process is concerned. The approach to disclosure should remain governed by the existing requirements contained in the CPR and that set out in **Recommendations Eleven to Thirteen**.

3.7 **Recommendation Six**: The CPR should be amended to require a witness of fact who makes a witness statement to make a specific declaration that AI used in its preparation has not generated or influenced its substantive content.

3.8 **Recommendation Seven**: Where a witness statement is prepared by and signed by a legal representative, that legal representative should remain primarily responsible for its accuracy and reliability, except where the legal representative is making the statement as a witness of fact (in which case **Recommendation Six** applies). Provision should also be made in either the Practice Direction, proposed in **Recommendation Three**, or through amendments to the CPR, to apply the generally applicable, functional and risk-based approach to AI use to witness statements where they are prepared by and signed by legal representatives and which are not statements of the representative as a witness of fact.

3.9 **Recommendation Eight**: There is no need to introduce new substantive rules concerning the use of AI translation tools. All translations should be certified by a professional human translator as to their accuracy. AI translations should always be accompanied by the original

text to facilitate scrutiny of the translation by the opposing party and the court. CPR Pt 32 and its Practice Direction should, however, be amended to make explicitly clear that certification requirements apply to any use of AI translation tools for the preparation of documents to be used in civil proceedings. The CJC should also, consistently, with the approach set out in **Recommendation Two**, consider the need for guidance on the use of publicly available AI tools by litigants-in-person.

3.10 **Recommendation Nine**: The CPR should be amended to introduce a requirement for a new, specific declaration concerning AI use where such use generates or influences the substantive content of the expert's report. Where made, the declaration should provide sufficient information, including, where necessary for this purpose, disclosure of the AI tool used to the opposing party and the court, to facilitate effective scrutiny of the expert evidence, including the methodology used, the appropriateness of AI use for that purpose, and its substantive content.

3.11 **Recommendation Ten**: The CJC Working Party that is currently considering revisions to the CJC's Guidance for the Instruction of Experts in Civil Claims (2014) should introduce good practice guidance on AI use by experts into revised Guidance.

3.12 **Recommendation Eleven:** The CPR should not categorise AI tools by reference to whether they are generative, non-generative, administrative, analytical, substantive, or otherwise.

3.13 **Recommendation Twelve**: The CPR should define the scope of AI use functionally. It should identify activities capable of generating substantive content submitted to the court in civil proceedings. It should also identify those activities capable of influencing the nature or development of such substantive content where the activity does not generate that content directly.

3.14 **Recommendation Thirteen**: The CPR should adopt a risk-based approach to AI use that falls within the functional definition. This should identify the nature and consequences of a particular use of an AI tool. It should also then identify the risks to the integrity of civil

proceedings and the proper administration of justice from such use. Those risks should form the basis for determining the nature of procedural obligations that apply to that use.

3.15 **Recommendation Fourteen**: A requirement that legal representatives provide the court with details of any AI tool used in the preparation of materials submitted to the court in civil proceedings should not be introduced into the CPR.

3.16 **Recommendation Fifteen**: No new general rule or specific rules that would enable the court to grant permission for the use of AI should be introduced into the CPR.

4. Regulatory Guidance and Guidance for Litigants-in-Person

4.1 The use of AI in legal proceedings is now well-established. Guidance on its responsible and appropriate use has been issued by both the Bar Standards Board[3] and the Solicitors Regulation Authority.[4] Such guidance has highlighted the potential risks of using AI including (i) harm to a lawyer's clients through, for instance, the use of inaccurate information or potential breaches of client confidentiality and privilege; (ii) harm to the proper administration of justice through the submission of hallucinated authorities; (iii) potential breaches of data protection law and intellectual property rights; and, consequently (iv) harm to the public interest through trust and confidence in the provision of legal services being undermined.[5]

4.2 Guidance has also been issued for expert witnesses.[6] Additionally, courts and tribunals, as well as professional disciplinary tribunals,[7] continue to provide guidance to the legal profession, litigants and other participants in legal proceedings on the permissible and

[3] Bar Standards Board, *Guidance on the use of Artificial Intelligence and Other Technologies*, (18 May 2026) <https://www.barstandardsboard.org.uk/static/5e1baa5c-614c-4105-afae9a9ccdf8d97b/c0d1ed62-fcad-4a68-8ab810de5fa9b116/Artificial-Intelligence-Guidance-May-2026.pdf>; and see, Bar Council, *Considerationswhen using ChatGPT and generative artificial intelligence software based on large language models*, (25 November 2025) <https://www.barcouncilethics.co.uk/wp-content/uploads/2024/01/Considerations-when-using-ChatGPT-and-generative-artificial-intelligence-Nov-2025.pdf>.

[4] SRA, *Warning Notice – Misuse of AI*, (17 August 2026) <https://www.sra.org.uk/solicitors/guidance/misuse-ai/>.

[5] Ibid.

[6] Academy of Experts, *Guidance for Expert Witnesses on the use of Artificial Intelligence (AI)*, (January 2026) <https://taecdn.b-cdn.net/wordpress/wp-content/uploads/2026/02/fs-26-01-AI.pdf>.

[7] See, for instance, *SRA v Kumar* (Case No. 12884-2026) <https://solicitorstribunal.org.uk/wp-content/uploads/2026/03/12884-2026-Kumar-1-1.pdf>.

impermissible uses of AI within proceedings, including the sanctions that can be imposed where the latter occurs.[8]

4.3 The Interim Report asked whether the guidance issued by professional regulators was adequate where the use of AI in the preparation of court documents is concerned. It suggested that it was adequate. It also raised the question whether the use of AI in the preparation of court documents would benefit from further consideration. It is clear that since the Interim Report was issued, such AI use has increased significantly.[9] The Report suggested that the CJC may wish to consider whether a further report on this issue would be beneficial.

Consultation Responses

(i) Litigants-in-Person

4.4 The Interim Report noted that the use of AI by litigants-in-person was outside its Terms of Reference. It did, however, express the view that it was an issue that the CJC may wish to consider further. It also noted that there may be some benefit to requiring litigants-in-person to provide a declaration where they had used AI to assist their preparation of court documents. The Interim Report expressed no concluded view.

4.5 The consultation responses made it clear that there was strong support for the CJC developing guidance on this issue. Responses identified the absence of any existing guidance for litigants-in-person and stressed that this was an issue that needed urgent consideration; a point supported by the obvious tension between the extent to which access to justice is plainly facilitated by the use of AI by litigants-in-person and the harms that can nevertheless be caused to them, to opposing parties, and to the court by such use. Responses also identified that the development of such guidance would provide a necessary baseline for all court users on the use of AI.

[8] *For example, (R) Ayinde v London Borough of Haringey [2025] EWHC 1383 (Admin); [2025] 1 W.L.R. 5147; Bandla v Solicitors Regulation Authority* [2025] EWHC 1167 (Admin); *Ndaryiyumvire v Birmingham City* University (L20ZA723); [2025] 10 W.L.U.K. 719; *Professional Standards Authority for Health and Social Care v Nursing and Midwifery Council* [2026] EWHC 141 (Admin); *R (Munir) v Secretary of State for the Home* Department [2026] UKUT 81; *Cork v Smith* [2026] EWHC 1199 (Ch).

[9] As, for instance, noted in *Hancox v Sutherland* [2026] EAT 139 at [22].

4.6 The Working Group agrees that the CJC should, as a matter of urgency, consider and provide guidance where litigants-in-person and AI use is concerned. It considers that the absence of clear, accessible guidance for litigants-in-person is a pressing concern, not least because of the need to ensure that AI use by litigants-in-person properly promotes effective access to justice. The absence of guidance is a significant gap in the current framework, and is one that ought to be remedied at the earliest opportunity.

4.7 The CJC should, in carrying out this work, draw on the expertise it has amongst the members of its Futures Group. It should also carry out this work collaboratively with the Civil Procedure Rule Committee (CPRC). It should do so to enable guidance for litigants-in-person to be prepared and issued as early as possible within the Practice Direction, which forms the substance of **Recommendation Three**.

4.8 Since the Working Group commenced its consideration of the consultation responses, a new cross-jurisdictional AI Committee has been established by the judiciary. This is able to draw on experience from across the courts and tribunals, including those that have significant numbers of litigants-in-person. In the light of this development, the Working Group considers that the CJC should also be guided, as appropriate, by the AI Committee's views as it develops guidance for litigants-in-person.

(ii) Responsibility for issuing guidance

4.9 There was a clear consensus that responsibility for issuing guidance in respect of legal professionals should remain primarily with the legal services regulators. This is consistent with the current regulatory structure. It places responsibility for the regulation of the legal profession where Parliament has placed it, i.e., with the Legal Services Board and the frontline regulators. It is their role, rather than that of the courts (save where it exercises its *Hamid* jurisdiction) or the Civil Procedure Rules (CPR), to provide guidance on how legal representatives should give effect to the professional and ethical obligations imposed by their regulatory bodies.

4.10 Notwithstanding the consensus, some respondents raised objections to regulators continuing to be primarily responsible for guidance. The main concern, however, focused on

the scope for a lack of consistency across regulators. That is a valid concern. Where technology, such as AI, is developing rapidly and is used by a range of legal representatives (e.g., solicitors, barristers, legal executives, costs lawyers, patent and trade mark attorneys), there is a need to ensure consistency in approach. This is particularly the case where those different representatives can, and do, all prepare various types of documents for use in civil proceedings.

4.11 Consistency is a key consideration to ensure that common and high standards of use are developed and maintained. It is therefore important that the frontline legal services regulators (the SRA, BSB etc), in tandem with the Legal Services Board, co-operate to ensure that common, consistent standards are developed. It would also be beneficial if they explored the possibility and utility of issuing joint guidance and in ensuring that professional training, including future continuing training requirements concerning ethics, includes appropriate guidance on the responsible use of AI.[10] This is important as common standards and, if appropriate joint guidance, make it easier for litigants to understand the obligations and standards they should expect of their legal representatives, just as they make it easier for litigants-in-person who may be involved in proceedings with a represented party to understand the obligations and standards to expect from legal representatives on the other side. The administration of justice more generally would benefit from consistency in approach.

4.12 Overall, the Working Group agreed that regulatory guidance can be more detailed than any guidance provided by courts in judgments, or which could be contained in the CPR. As is apparent from the guidance currently issued by the SRA and BSB, regulators are able to update their guidance more readily and speedily than is ordinarily possible via these alternative channels. Maintaining the status quo recognises these advantages in addition to ensuring that responsibility for the issuing of guidance remains with those bodies to whom Parliament has entrusted it. Given the rapid development of AI, it is particularly important

[10] See, for instance, the recommendation on mandatory ethics training in SRA, *Strengthening our continuing competence approach: Consultation*, (April 2026) <https://www.sra.org.uk/globalassets/documents/sra/consultations/2026/continuing-comeptence-consultation-2026.pdf>.

that regulators also ensure that guidance to legal representatives is complemented by effective training, including continuing training (as noted above), where AI use is concerned.

4.13 There was a suggestion in the responses that His Majesty's Courts and Tribunals Service (HMCTS) should issue guidance on the use of AI. It was suggested that this guidance, which was to be accessible and principle-based, should apply to litigants-in-person, legal representatives, experts and other participants in proceedings. The Working Group considers the focus on guidance that is principle-based and accessible is important. Regulators should consider the extent to which their guidance is principle-based and accessible, and where necessary revise it accordingly. It is, for instance, important that guidance issued for legal representatives should also be accessible to and understandable by their clients and by litigants-in-person who may be involved in legal proceedings involving legal representatives.

4.14 However, the suggestion that HMCTS should issue such guidance misunderstands its constitutional role and function. HMCTS provides the court and tribunal administration. It is not its responsibility, nor does it have the power, to issue guidance on appropriate behaviour by participants in legal proceedings. That responsibility lies, variously, with the judiciary, the courts under the inherent common law jurisdiction, the Rule Committees, and the Lord Chancellor.

4.15 There is some force, however, in one substantive aspect of the suggestion. While HMCTS is not the proper body to issue such guidance, there is a role that the CPRC could play in codifying and consolidating the framework of expectations and approach to sanctions, which the civil courts may impose, where, for instance, a legal representative or litigant-in-person submits documents that contain hallucinated authorities. This is not to provide guidance on professional obligations.

4.16 Importantly, by consolidating the case law on the courts' expectations and approach to sanctions the CPRC could provide in plain English a clear and accessible account of the courts' approach to matters that fall within its jurisdiction. This could be achieved through a

Practice Direction, which could be updated regularly and subject to government scrutiny through the statutory procedure for making such Directions.

4.17 The development of a Practice Direction would have the significant advantage of drawing together in one place the case law as it has developed on the court's approach to AI use by legal representatives, litigants-in-person and other participants in proceedings. Such a Practice Direction would complement guidance issued by the regulators. It could, and should, also give effect to **Recommendations Eleven to Thirteen**. It would also be capable of being revised, where necessary, in the light of the outcome of the CJC's urgent consideration of the use of AI by litigants-in-person (as recommended above).

Recommendations

4.18 The Working Group makes the following recommendations in the light of the consultation responses:

4.19 **Recommendation One**: The provision of guidance to the legal profession on the appropriate use of AI in the preparation of court documents, consistent with professional and ethical obligations, should remain the responsibility of legal services regulators. Those regulators, including the Legal Services Board, should work together collaboratively to ensure guidance is mutually consistent. The Regulators should explore the possibility of devising and issuing joint guidance and ensuring that professional training requirements (including any future mandatory continuing competency ethics training) include suitable guidance on responsible AI use.

4.20 **Recommendation Two**: The CJC, drawing on its Futures Group, working together with the CPRC, should as a matter of urgency consider the approach to be taken to litigants-in-person and their use of AI in civil proceedings. Its approach should also be guided, as appropriate, by the views of the judicial cross-jurisdictional AI Committee.

4.21 **Recommendation Three**: The CPRC should codify and consolidate the approach developed by the courts and tribunals in case law to the use and sanctions for the misuse of AI by legal representatives and litigants-in-person in civil proceedings in a Practice Direction, which

should be written in plain language. It should also incorporate the substantive content of **Recommendations Eleven to Thirteen**. The Practice Direction should also be informed by, and where necessary revised in the light of, the work carried out by the CJC further to **Recommendation Two**.

5. Statements of Case, Skeleton Arguments and Other Advocacy

5.1 The Interim Report explained that statements of case are prepared by legal representatives, and that they are subject to professional regulation. It also noted how an 'AI law firm' (Garfield Law), which is regulated by the SRA, produces statements of case through use of an AI tool. Those documents are, however, subject to oversight from a human lawyer. It noted that while some countries may require a specific declaration as to whether an AI tool has been used in the preparation of a statement of case, it was not convinced that such a declaration was necessary where it was apparent that a specific individual was taking professional responsibility for the document.

5.2 The Working Group also expressed concern that requiring a declaration where an AI tool had been used might become increasingly problematic, given the increased integration of AI into other technological tools, specifically legal tools. It might also raise further questions, such as which tools were used and for what purpose in the preparation of statements of case.

5.3 The Working Group identified two possible reform options for statements of case. Its primary proposal was that, provided a statement of case bore the name of the legal representative who took professional responsibility for it (as required by CPR PD 5A, para. 2.1[11]), there was no need for further rules or requirements when an AI tool was used to assist in the statement's production. Alternatively, it suggested that where a legal

[11] CPR PD 5A para. 2.1, '*Statements of case and other documents drafted by a legal representative should bear his/her signature and if they are drafted by a legal representative as a member or employee of a firm they should be signed in the name of the firm.*'

representative used an AI tool to assist in the preparation of a statement of case, they be required to give a specific declaration making clear that they had done so.

5.4 Skeleton arguments are also prepared by legal representatives. Their preparation may therefore also be assisted by the use of AI tools. They are not verified by a statement of truth, although they usually bear the name of the legal professional(s) who prepared them. The Interim Report highlighted the importance of clarity in identifying the professional(s) taking professional responsibility for such documents. It suggested that if a declaration of AI use were required similar issues to those applicable to statements of case would arise.

5.5 The Working Group proposed in the light of this that no further rules or requirements concerning skeleton arguments (or comparable documents used to support advocacy in civil proceedings) be introduced where the document bore the name of the legal representative who took professional responsibility for it. In the alternative, it suggested that a discrete declaration could be required specifying AI use, where applicable.

Consultation Responses

(i) Statements of Case

5.6 There was strong support for maintaining the status quo on the basis that professional responsibility was sufficient: the current statement of truth already engages the legal representative's professional duties. There was, it was submitted, no need to introduce an additional requirement that the legal representative responsible for preparing statements of case should disclose the use of AI, nor for there to be a new, specific declaration relating to such AI use. Many respondents suggested that any such declaration would be practically unworkable given the widespread incorporation of AI into many tools used by legal representatives and the difficulties in determining which forms of technology used fell within the definition of AI. A declaration would, it was suggested, provide no positive benefit while leading to unwelcome satellite litigation over the question of whether AI had been used. The better approach was to promote greater compliance with existing professional duties, rather than to create an additional duty.

5.7 It was also submitted that such an AI-specific declaration would not assist the court in determining whether AI use was in fact problematic. On the contrary, it would, it was said,

simply create an additional layer of unnecessary formality, which would not promote reliability where the content of statements of case is concerned. Others suggested such a reform would discourage the use of AI tools when the CPR ought to facilitate such use.

5.8 Those respondents in favour of introducing a new declaration considered that it was in the interests of justice to identify the role that AI had played in generating factual material. It was said to be particularly important for there to be transparency where generative AI tools had been used. Some suggested that wherever that form of AI had been used there should be both a specific declaration to that effect and identification of the ways in which it had been used.

5.9 Others suggested that the current position does not provide an effective means of demonstrating that a legal representative has actually verified the content of a statement of case where AI tools have been used. To properly engage professional responsibility, and promote effective and careful verification, a specific declaration was needed either generally or, if a more targeted approach were taken, where generative AI was used. It was also suggested that a new declaration would promote transparency in the use of AI, which was a general government objective.

5.10 The Working Group has considered the views expressed. It has concluded that a new declaration would not necessarily promote reliability in the content of statements of case where it focused on the fact that an AI tool, or specific type of AI tool was used, rather than on the accuracy or reliability of such material. Further, a new tool-focused declaration would run the risk of promoting definitional problems concerning what constitutes an AI tool and, hence, potential satellite litigation over whether specific tools come within the scope of any new declaration with no attendant benefit. The current requirements, e.g., the statement of truth and the need to identify the legal representative who has professional responsibility for the statement of case, are, in the Working Group's view, sufficient to protect the integrity of statements of case submitted in civil proceedings. Those requirements properly engage professional and legal duties, which protect the integrity of such documents. Those obligations, and compliance with them should, however, be promoted through the functional, risk-based approach to AI use recommended in **Section 9**.

5.11 Finally, the Working Group notes that some consultees pointed to a perceived inconsistency in the requirements, in CPR PD 5A, para. 2.1, as to who is to sign a statement of case and, for instance, guidance on best practice given in the Commercial Court Guide.[12] In so far as there is a genuine inconsistency, it would be beneficial for clarification in the Practice Direction, which forms part of **Recommendation Three**, to specify that, at least where AI use is concerned, the current requirements do require the identification of the specific legal professional who takes responsibility for the document consistently with the guidance provided in the Commercial Court Guide.

(ii) Skeleton Arguments and Other Advocacy

5.12 Consultees generally considered that the approach to be taken to statements of case should equally apply to skeleton arguments and other forms of written advocacy.

Recommendation

5.13 The Working Group makes the following recommendation in the light of the consultation responses:

5.14 **Recommendation Four**: No new rules requiring legal representatives to make a declaration concerning AI use in the preparation of statements of case, skeleton arguments or other forms of advocacy should be introduced. Legal representatives should remain responsible, further to existing obligations, for the accuracy and reliability of any such documents. Those obligations, and compliance with them, should be promoted and supported by the functional, risk-based approach to AI use recommended in **Recommendations Eleven to Thirteen**. In so far as necessary, the current CPR requirements should be clarified in the Practice Direction, which forms part of **Recommendation Three**, to specify that, at least where AI use is concerned, the current requirements do require the identification of the specific legal professional who takes responsibility for the document.

[12] Commercial Court Guide (2022, updated 2026) at 29.

6. Disclosure

6.1 The Interim Report noted how the use of AI, particularly technology-assisted review (TAR), was well-established where disclosure was concerned. While it noted the existence of some issues concerning human oversight of such disclosure exercises, it highlighted that anecdotal evidence supported the view that this was an area that was not creating any real issues of concern. It was not, the Report suggested, an area that appeared to call for procedural reform, such as the introduction of a requirement that parties identify the extent to which they have used AI tools in the disclosure process.

Consultation Responses

6.2 There was a good degree of support for the proposition that this was an area where no reform was necessary. Use of AI tools was well-established and disclosure was understood to work well within the current duties and rules. Those rules already require parties to provide information on the search methodology that they have used. That was sufficient to cover AI tool use. Furthermore, it was said that rather than requiring disclosure of the AI tool used, the focus should remain on the integrity of the disclosure process and its output. An approach which shifted attention to the AI tool used would do little more than lead to formalistic challenges and unnecessary procedural litigation.

6.3 Rather than introducing new procedural requirements in respect of disclosure, it was suggested that the better approach was to maintain a focus on legal representatives taking responsibility for the disclosure process, verifying the accuracy of AI-assisted disclosure, and, hence, acting in accordance with their professional and ethical responsibilities. The answer to any problem with disclosure, it was suggested, lay with effective professional guidance, training and maintenance of a culture of professionalism: all points that are equally applicable to the other matters considered in this Report.

6.4 There was, however, support for the introduction of a requirement that where an AI tool was used, there should be disclosure of the tool, and version, used. There was also support

for a rule that required certification that any use of an AI tool had been verified by the user, not least to maintain the integrity of the administration of justice by minimising the risk that fabricated evidence would be placed before the court. It was said that this would enable more effective identification of, for instance, particular problems that any specific AI tool or the version used may produce. It was also suggested by some respondents that such certification was necessary as AI use could introduce bias into the disclosure process, adversely affect its fairness, or improperly exclude documents. Alternatively, there was some support for disclosure of the AI tool used where its use may materially affect the disclosure process.

6.5 In the circumstances, the Working Group, while it recognises the force in the concerns raised by respondents who support the introduction of new rules concerning the disclosure process, maintains its preliminary conclusion. It appears to the Working Group, subject to one caveat, that the present approach to disclosure and AI use is working well, not least through PD 31B and PD57AD, and effective and rigorous case management. The caveat relates to the ongoing work of the Disclosure Review Working Group, the remit of which includes consideration of the effect AI may have on disclosure. It may be, for instance, that the application of AI tools that generate or influence substantive content may have an adverse effect on the disclosure process. Given that Working Group's ongoing work in this area, it is best placed to consider whether there is a need, in future, for the introduction of new rules. That caveat being noted, the Working Group concludes that at the present time, the approach to be taken to AI use in disclosure generally, is best captured by **Recommendations Eleven to Thirteen** (see **Section Nine**), which provide for the introduction of a functional, risk-based approach to AI use.

Recommendation

6.6 The Working Group makes the following recommendation in the light of the consultation responses:

6.7 **Recommendation Five**: Subject to any recommendations made by the Disclosure Review Working Group, no reforms are currently needed where AI use in the disclosure process is

concerned. The approach to disclosure should remain governed by the existing requirements contained in the CPR and that set out in **Recommendations Eleven to Thirteen**.

7. Witness Statements

7.1 The Interim Report considered four issues concerning witness statements and AI use. They were: witness statements that were not created for use at trial; witness statements created for use at trial to which CPR PD57AC applied; witness statements created for use at a trial to which CPR PD57AC did not apply; and, witness statements that involved the use of translation. They are considered in turn.

7.2 Where non-trial witness statements were concerned, the Interim Report suggested that it was difficult to see a justification for treating them differently from the approach to be taken to statements of case and skeleton arguments, i.e., provided that the document contains the name of the legal representative who takes responsibility for it, or their law firm, there was no need for new, additional rules. Alternatively, the Report suggested that a specific declaration of AI use could be introduced, although it would not be required where, for instance, AI was used for grammar checking, transcription or facilitating summarisation of background facts or procedural history.

7.3 Where trial witness statements are prepared by a party who is legally represented and to which CPR PD 57AC applies, the Interim Report noted how the PD stressed that such statements should be in the witness's own words (see CPR PD57AC, Best Practice Guide). It expressed the view that it was difficult to see how, if AI were used in the production of a witness statement, the requirement that it be in the witness's own words could be maintained. The one exception to this was where AI was used to transcribe the witness's own words, although this would seem to entail retention of other records (notes, audio recordings) to facilitate verification of the transcription's accuracy.

7.4 Given these issues, and that it specifically appeared difficult for AI use (other than for non-text-generating purposes) to meet CPR PD57AC's objective of ensuring that witness statements accurately present the witness's evidence, the Report proposed that an obligation should be introduced into the CPR to require the relevant legal representative, in

addition to the statement of truth, to make a declaration to the effect that AI had not been used to generate or influence witness statement content in any way, including by way of altering, embellishing, strengthening, diluting or rephrasing the witness' evidence.

7.5 Where trial witness statements fell outside CPR PD 57AC, i.e., those otherwise covered by CPR Pt 32, the Interim Report suggested a similar approach for the same reasons.

7.6 Finally, where translation was concerned, the Interim Report noted that CPR PD 32, para. 23.2 requires the provision of a translation to be provided where a witness statement is filed in a foreign language. It also requires the translator to sign the original and certify the translation as accurate.

7.7 The Report posed the question whether there was a need to amend the CPR to make provision for translators to use AI, including use of publicly available AI translation tools. And if so, if the translator is prepared to sign a statement of accuracy, it asked if there was any need for further regulation within the CPR. It also posed the question whether use of publicly available AI translation tools should be limited to legal representatives on the basis that the tool used was identified. The Report suggested that such an approach appeared to be unduly restrictive.

Consultation Responses

(i) Trial and Non-trial witness statements

7.8 A significant majority of consultation responses expressed the view that there should be no difference in approach for non-trial and trial witness statements. The key point for all witness statements, it was noted, was that they had to be set out in the witness's own words. In all cases, the real issue was whether the content of the statement was authentic. It was essential in all cases, it was submitted, that the process through which the statement was produced maintained that authenticity, and did not result in the substantive content being distorted or embellished through the method by which it was produced.

7.9 Where non-trial witness statements were concerned, some respondents submitted that primary responsibility for ensuring their authenticity should remain with legal professionals.

Rather than introduce new rules of court that would duplicate existing professional obligations, it was submitted that the better approach would be to promote effective reliance on professional duties to ensure that such statements were prepared appropriately.

7.10 Other respondents, however, expressed the view that maintaining the authenticity of non-trial witness statements required the introduction of a specific declaration to that effect. Such a declaration, it was suggested, would promote transparency, would help to ensure that the statement was in the witness's own words, and would be a proportionate means to minimise the risk that the statement had been influenced by AI use, i.e., embellished or otherwise improperly improved. Where AI use contributed to the substantive content of a witness statement, it was submitted, that use should be declared, so as to promote effective scrutiny of the accuracy of the statement.

7.11 Other respondents considered that the introduction of declarations concerning authenticity and reliability would do little more than encourage satellite litigation over compliance, and hence the generation of unnecessary cost and delay. They would thus shift civil proceedings from focusing, where they should, on issues of substance (the merits of the claim) to issues of procedural compliance and non-compliance. The Working Group notes that one consequence of this would be to undermine the CPR's overriding objective.

7.12 It was also noted by some respondents that if a declaration of AI use were to be required where a party was legally represented, the same approach needed to be applied to non-legally represented parties. It was submitted that requiring a declaration from one type of litigant, but not another, was contrary to equality of arms, i.e., it was procedurally unfair.

7.13 These various points are as applicable to trial witness statements, whether they fall under CPR Pt 32 or CPR PD57AC.

7.14 The Working Group agrees that all litigants should be treated equally. It also considers that all forms of witness evidence should record the witness's evidence accurately, hence they should be in the witness's own words. The risk that the use of AI poses to accuracy needs, however, to take account of the witness statement's purpose and the identity of its maker,

and not necessarily whether it was prepared for non-trial or trial purposes. The real distinction appears to be between statements prepared and signed by solicitors for any procedural or interim purpose and all other statements of fact. In the former case, there is no need to take a different approach from the approach adopted to statements of case and skeleton arguments: the witness statement remains the responsibility of the legal professional and subject to professional regulation. In the case of all other witness statements of fact, however, it is essential that they accurately and reliably record the witness's evidence in their own words. The use of AI that can generate or influence substantive content poses a significant risk, not least because it may result in the evidence being embellished, strengthened or otherwise altered. The use of AI in this way can be viewed as analogous to witness coaching, which is impermissible because of the effect it has on their evidence.

7.15 Where, therefore, a witness statement is that of a witness of fact, the Working Group concludes that it is important to require the witness to make a specific declaration that AI use has not generated or influenced its substantive content. In this way, the witness is alerted to the fact that the statement must be in their own words unaffected and unaltered by AI use that generates or influences its substantive content. Of necessity, this declaration should apply irrespective of whether a party to litigation is legally represented or a litigant-in-person. This approach does not prohibit the use of any AI tool or type of such tool. It is an approach that focuses on the result of AI use, and seeks to minimise the risk that AI use poses to the integrity of the administration of justice. The declaration is thus intended to secure against AI use affecting the witness's evidence so that it is not genuinely their evidence.

7.16 Where a witness statement is, however, prepared and signed by a legal representative (except where they are giving evidence at trial or in other substantive proceedings as a witness of fact, in which case the approach identified above applies), the general approach of not requiring any form of declaration should be followed. In such cases, the accuracy and reliability of such statements can best be achieved through maintaining and further promoting compliance with legal representatives' existing professional duties and by the adoption of a functional, risk-based approach to AI use. That approach, contained within a Practice Direction (see

Recommendation Three), should therefore be adopted either through it including appropriate guidance or through amendment to the CPR.

(ii) Witness statements and translation

7.17 The majority of consultation responses considered that AI use should be permissible where witness statement translation was concerned. They also suggested that where AI was used it should be subject to verification and certification by a human translator. In other words, the present approach to certification by a translator as to the translation's accuracy should be maintained. As a necessary corollary, the majority of responses did not support the introduction of further regulation. Some respondents expressed the view, however, that where AI translation was concerned, if there was no human certification, the original source text should be made available and the identity of the translation tool should be disclosed.

7.18 Some respondents did, however, express concern about the use of publicly available translation tools. Those concerns focused on the possibility that such use could result in breaches of confidentiality or undermine legal professional privilege. Data protection concerns were also raised in connection with the use of publicly available tools. Should such use be permitted, it was suggested that good practice ought to require parties to obtain permission to use the particular AI tool, and particularly to clarify, prior to use, issues relating to confidentiality, privilege and data protection.

7.19 The Working Group agrees that the use of AI translation tools should be permissible. As elsewhere, the key issue is whether the translation is accurate and reliable. Maintaining the current requirement that the accuracy of the translation should be certified by a professional human translator, is sufficient to secure that commitment. The key, whether the translation is the product of human or AI translation, is its verification by a human translator and the ability of the opposing party and court to scrutinise it by reference to the original text. This is essential, and consistent with the functional, risk-based approach adopted by the Working Group generally, given the possibility that AI translation may generate inaccurate or fabricated content. Maintaining the requirement of human verification of the translation furthermore renders unnecessary any need to disclose the identity of any AI translation tool used.

7.20 In so far as the use of publicly available AI translation tools is concerned, the Working Group also considered that there was no need for further regulation within the CPR, including no need for prior permission to be granted. Use of such tools does raise questions of confidentiality, privilege, and compliance with data protection law. Those are matters that are currently, and properly, dealt with outside rules of court. They are matters of professional regulation and compliance with substantive law. In so far as the use of publicly available tools by litigants-in-person is concerned, the Working Group noted the issue and concluded, consistent with **Recommendation Two**, that the CJC, working together with the CPRC, should consider what guidance may be necessary regarding their use of publicly available AI tools.

7.21 The Working Group considered that it was a matter for parties and their legal representatives to ensure they complied with those obligations, and not a matter for rules of court to police. As with the use of AI translation generally, the court's concern is with the accuracy and reliability of translation, howsoever the translation is carried out. Accuracy and reliability should continue to be secured through human certification and the availability of the original, untranslated, text.

7.22 The Working Group therefore concluded that no new substantive rules concerning AI translation were required. However, to promote greater clarity and understanding of the need for AI translations to be subject to human certification, it considered that the CPR should be amended to make explicitly clear in CPR Pt 32 and its Practice Direction that certification requirements apply to any use of AI translation tools for the preparation of documents to be used in civil proceedings: the need for certification is essential for all documents as it is for witness statements. It is not necessarily clear that the present rules do apply this broadly to cover all translations submitted in civil proceedings. It is necessary that it does so apply given the need to secure accuracy and reliability of AI translation.

Recommendations

7.23 The Working Group makes the following recommendations in the light of the consultation responses:

7.24 **Recommendation Six**: The CPR should be amended to require a witness of fact who makes a witness statement to make a specific declaration that AI used in its preparation has not generated or influenced its substantive content.

7.25 **Recommendation Seven**: Where a witness statement is prepared by and signed by a legal representative, that legal representative should remain primarily responsible for its accuracy and reliability, except where the legal representative is making the statement as a witness of fact in which **case Recommendation** Six applies. Provision should be made in either the Practice Direction, proposed in **Recommendation Three**, or through amendments to the CPR to apply the generally applicable, functional and risk-based approach to AI use to witness statements where they are prepared and signed by legal representatives and which are not statements of the representative as a witness of fact.

7.26 **Recommendation Eight**: There is no need to introduce new substantive rules concerning the use of AI translation tools. All translations should be certified by a professional human translator as to their accuracy. AI translations should always be accompanied by the original text to facilitate scrutiny of the translation by the opposing party and the court. CPR Pt 32 and its Practice Direction should, however, be amended to make explicitly clear that certification requirements apply to any use of AI translation tools for the preparation of documents to be used in civil proceedings. The CJC should also, consistent, with the approach set out in **Recommendation Two**, consider the need for guidance on the use of publicly available AI tools by litigants-in-person.

8. Experts

8.1 Expert witnesses perform an essential role in civil proceedings where technical or scientific evidence of fact, or opinion evidence is required. Experts owe an overriding duty to the court, which is intended to promote the independence, impartiality and, crucially, integrity of their evidence. To support this duty and to promote these objectives, experts are currently required to verify their reports with a statement of truth (CPR PD 35, para. 3.3).

8.2 The Interim Report highlighted evidence that increasing numbers of expert witnesses are using AI in their role as experts.[13] There have also been examples of expert witnesses in other jurisdictions using AI in ways that compromised the accuracy and reliability of their evidence. Examples where this has occurred include experts including AI-produced fictitious content in their reports and experts instructing generative AI tools to produce reports that vindicate the party who has instructed them in the litigation.[14]

8.3 Given the importance of securing the accuracy and reliability of expert evidence, and for essentially the same reasons as it suggested reforms to witness statements, the Interim Report proposed that the expert witness statement of truth be revised. It specifically proposed that experts should be required to make a declaration explaining their use of AI, except where it had been used for transcription or other administrative uses, and identifying the AI tool used.

Consultation Responses

8.4 Consultation responses stressed the need for a distinction to be drawn between administrative AI use and that which generated or influenced substantive content, i.e., substantive AI use. There was strong support only for experts to disclose and explain any substantive use, i.e., disclosure of administrative use need not be required. It was, however,

[13] The Bond Solon Expert Witness Survey 2025.

[14] E.g., *Kohls v Elison No 24-cv-3754* (D Minn 10 January 2025) (USA); *Mathis, Kyle et al. v 3M Company et al., Cause No. 2020-05505A* (11th Dist. Ct., Harris County, Tex. 2026), as noted by G. Exall, Civil Litigation Brief.

noted that care needed to be taken where, for instance, language translation was concerned: such AI use might be construed as administrative, it could, however, produce inaccurate content or fabricate content. Some respondents, however, suggested that categorisation by reference to whether an AI tool was administrative or substantive was unhelpful and potentially misleading, as demonstrated by the problem where AI translation was concerned (see further below).

8.5 Those respondents who support specific disclosure of AI use considered it to be necessary to enable the opposing party to test the expert's opinion effectively. It was necessary to make such a disclosure as part of the expert disclosing their methodology and reasoning. Some respondents argued for the introduction of such a requirement via amendment to the current statement of truth required of experts. Some argued that there should be a separate, additional declaration. Others suggested that new and clear guidance on the use of AI by experts be introduced, albeit this would sit outside the CPR. It was noted that guidance issued by the Academy of Experts already encourages experts to consider disclosing AI use.[15] Such guidance, or clarity provided by revision to the CPR, could, for instance, ensure experts understood the extent to which AI use should be disclosed, not least to ensure that disclosure did not breach any confidentiality obligation or privilege.

8.6 Respondents who supported specific disclosure also suggested that such a requirement would help promote the integrity of expert evidence, as it would expose to scrutiny the potential bias that may arise from use of specific AI tools. It was also suggested that disclosure would promote effective verification of any content generated or influenced by AI use. This could be said to promote the independence, impartiality and integrity of expert evidence. Disclosure was also said to help promote scrutiny of specific AI tools, particularly new ones, so that any problems they might produce could be monitored effectively.

8.7 It was also suggested that where the imposition of a new disclosure obligation was concerned, a different approach from that taken to legal representatives could be taken where experts were concerned. The key distinction was that as experts provided evidence, it was important to ensure that the method and process used by the expert in preparing their

[15] See FN6, above.

evidence was transparent. Ensuring transparency would facilitate effective scrutiny and challenge. Legal representatives, and any material they submitted in civil proceedings, are not comparable to expert witnesses or the evidence they submit. Where material prepared by legal representatives is concerned, unlike expert evidence, disclosure of AI use does not, of itself, provide a means of determining whether it is accurate or reliable. Where expert evidence is concerned, disclosure may well be relevant to enable the opposing party to test accuracy and reliability and the court to make a determination on those points. Disclosure, in this way, may thus support the proper administration of justice.

8.8 Objections were also made to introducing a new declaration. It was, for instance, noted by some respondents that an additional requirement concerning disclosure of AI use was otiose. It was said that disclosure of AI use was already required by CPR PD 35 para. 3.3. It requires disclosure of an expert's methodology. Other respondents queried the utility of the categorisation of AI use as administrative and substantive: this point is further considered in **Section 9**, where the Working Group rejects use of such categorisation and adopts a functional, risk-based approach to AI use, which focuses on the question of whether specific AI use generates or influences the substantive content of material submitted in civil proceedings.

8.9 The Working Group accepts that the position of experts and expert evidence differs from that of legal representatives and material they produce for use in civil proceedings. AI use where experts are concerned may go directly to the question of the integrity of their evidence, to the methodology they use to develop that evidence, and to their substantive reasoning. Its disclosure is thus necessary to promote effective scrutiny of expert evidence.

8.10 The Working Group therefore considers that the integrity of expert evidence should be supported by the introduction of a new, AI use specific declaration. The declaration should be required where an expert's AI use has generated or influenced the substantive content of their report. It should thus apply where, for instance, AI use formed part of an expert's methodology or substantive analysis. It also concludes that the CJC's Working Group that is considering revisions to the CJC's Guidance for the Instruction of Experts in Civil Claims (the

2014 Guidance) should consider how it can be revised to give clear, practical guidance to experts on safe and responsible AI use.

8.11 The Working Group makes these recommendations given the importance of securing transparency in expert evidence, and particularly the methodology used to prepare it. Disclosure via a declaration of AI use and, exceptionally where experts are concerned, the tool used (where such disclosure is necessary, on which see **para. 8.14**, below) is justified where expert evidence is concerned, even though it is not in respect of legal representatives. It is justified because disclosure may be necessary to enable the opposing expert and court to understand, and scrutinise effectively, how the expert formed their opinion, i.e., their methodology, and their reasoning process. It may thus be necessary to enable the substantive content of expert evidence to be assessed effectively.

8.12 Given this, the declaration should only focus on AI use where it has been used to generate or influence the substantive content of an expert's evidence. It should provide for the disclosure of information about AI use and, where necessary, AI tools used sufficient to facilitate the expert's methodology and their substantive analysis to be scrutinised effectively. While the Working Group accepts that the current requirement placed on experts concerning disclosure of their methodology may be understood to already require such disclosure, it believes it would be preferable for there to be a separate and distinct obligation where such AI use is concerned. This would highlight the importance of such disclosure and its role in promoting the integrity of the expert's evidence.

8.13 The Working Group also concludes that additional guidance on AI use should be provided in the revision of the 2014 Guidance. It is important that AI use is dealt with in the 2014 Guidance as it explains good practice where compliance with the requirements of CPR Pt 35 and PD35 is concerned. It is thus of general application to all expert evidence in civil proceedings. It will thus help to embed good practice where AI use is concerned, and will help do so where there may well be gaps or inconsistencies between other forms of AI use guidance issued by expert witness bodies or the wide range of bodies that regulate experts' professions.

8.14 Revisions to the 2014 Guidance should, for instance, facilitate consideration and application of a three-part test, which flows from the recommendation made concerning revision to the CPR. It should make clear that three questions need to be considered by experts: first, whether their use of AI has generated or influenced the substance of their evidence. If so, the declaration needs to be made. Secondly, and if the declaration should be made, what information should be disclosed to enable the opposing party and court to scrutinise their methodology and analysis effectively? Thirdly, whether it is necessary to disclose the AI tool used as part of the information disclosed.

Recommendation

8.15 The Working Group makes the following recommendations in the light of the consultation responses:

8.16 **Recommendation Nine**: The CPR should be amended to introduce a requirement for a new, specific declaration concerning AI use where such use generates or influences the substantive content of the expert's report. Where made, the declaration should provide sufficient information, including, where necessary for this purpose, disclosure of the AI tool used to the opposing party and the court, to facilitate effective scrutiny of the expert evidence, including the methodology used, the appropriateness of AI use for that purpose, and its substantive content.

8.17 **Recommendation Ten**: The CJC Working Party that is considering revisions to the CJC's Guidance for the Instruction of Experts in Civil Claims (2014) should introduce good practice guidance on AI use by experts into revised Guidance.

9. General Issues

9.1 The Interim Report also considered four general issues: first, whether the term 'artificial intelligence' was sufficiently clear a term to be used in any proposed rule changes; secondly, whether it was appropriate to draw distinctions between different kinds of activity; thirdly, whether there should be a requirement that where AI use is to be notified, the type of AI used should also be identified in the notification; and finally, whether there should be a specific rule enabling parties to make an application to authorise their use of AI.

Consultation Responses

(i) Use of the term 'artificial intelligence'

9.2 The Interim Report suggested that AI, as a term, was sufficiently clear where its use in civil proceedings, and hence, rules of court was concerned, despite it being open to significant debate in technical terms.

9.3 A wide range of views were expressed in consultation responses. Some respondents accepted that the term was broadly acceptable as an umbrella concept, which from a pragmatic perspective was usable. The simplicity it offered was preferable to the use of technical definitions, which amongst other things are likely to evolve given AI's rapid development. A further pragmatic perspective put forward was that any definition used should explicitly be stated to be non-exhaustive, i.e., indicative only, and that it would be advisable to use a definition that was already commonly known, such as that adopted by the OECD, which has already been adopted by the Chartered Institute of Arbitrators and over 47 countries around the world,[16] or that set out in the EU AI Act, although as noted in one response, that too was influenced by the OECD definition.

[16] CIARB, *Guideline on the Use of AI in Arbitration (2025)*, at 2 <https://www.ciarb.org/media/bpndtcgu/guideline-on-the-use-of-ai-in-arbitration_updated-sept-2025.pdf?utm_source=AI+Guidelines+Launch&utm_medium=News+Page>.

9.4 Other respondents were also sceptical of setting out a specific definition on the basis that, in addition to its being unnecessary, the more technical a definition, the greater the prospect that disputes would arise over whether something fell within it or not. Linked to this, it was also noted that any specific, technical definition ran the risk of being over-inclusive and, again, could form the basis of disputes over whether something was to be characterised as AI or not. Over-inclusion could be overcome through providing a broad, generic definition with specific exclusions. However, such an approach would run the risk of failing to exclude something that ought to have been excluded and that it would rapidly stand in need of revision as technology evolved. It would thus either be unhelpful generally or lead to disputes over whether any particular tool fell within the definition or not.

9.5 Opposing views were also expressed. Some respondents argued that a detailed Practice Direction governing AI use was needed, within which there needed to be a clear definition of AI to ensure that it was not given too broad or expansive a meaning. This, it was suggested, would combat the problem of over-inclusivity, e.g., by ensuring that AI tools that did not generate substantive content, such as spellcheck, were clearly outside scope.

9.6 Others suggested that a functional definition of AI was needed, e.g. one that drew a clear distinction between, for instance, AI tools that generated or influenced substantive content and those that were simply used for administrative tasks. Without such an approach, again, the risk was that AI was too broad a term. This type of approach, for instance, has been adopted by the Irish High Court in its *Practice Direction on the Responsible Use of Generative Artificial Intelligence in Court Documents* (July 2026). Its scope is specifically limited to generative AI, which it defines as

'*AI technology or software capable of generating new content, including text, images, audio, video, data or computer code, typically in response to user prompts or instructions.*'[17]

[17] Practice Direction on the Responsible Use of Generative Artificial Intelligence in Court Documents (29 July 2026) (High Court of Ireland) at [2] <https://www.courts.ie/practice-directions/full-practicedirection?url=practice-direction-on-the-responsible-use-of-generative-artificial-intelligence-in-court-documents>.

With the development of agentic AI, which can independently and autonomously plan and execute actions, and the likely fast pace of development of other new forms of AI, the best approach is to avoid any specific definitions.

9.7 Other respondents developed the suggestion that a functional approach should be adopted, and did so on the basis that AI as a term was too unstable a concept given, as noted above, the rapid pace of technological change. Rather than use the term AI, it was thus suggested that rules should focus on activities and the risks they may generate and/or outcomes. Such an approach, it was suggested, would better enable the rules to focus on the accuracy, reliability and verification of material submitted to the court.

9.8 Overall, there was no strong consensus amongst respondents. At its highest, there was a weak consensus that AI, as a term, was capable of being used, albeit it was nevertheless problematic. There was, therefore, no clear support for the approach indicated in the Interim Report.

9.9 In the light of the consultation responses, and particularly noting the concerns about any potential definition being over-inclusive, capable of becoming rapidly out-of-date and thus requiring frequent revision, and potentially being a source of procedural disputes, the Working Group's view is that a pragmatic approach should be taken. Rules of court should focus on where AI use (of whatever kind) is capable of generating or influencing the substantive content of material that is submitted in civil proceedings.

9.10 The Working Group therefore recommends that, to achieve that aim, the CPR should define the scope of AI use functionally. The definition should identify those activities that are capable of generating substantive content submitted in civil proceedings or are capable of influencing the nature and development of such content even where they do not generate it. This approach, while similar to that adopted by the Irish High Court, is necessarily broader. Notwithstanding that difference, the approach taken by the Irish High Court provides a sound model for the form in which guidance could be given in the CPR.

9.11 The approach recommended here would also provide a better basis for the CPR to identify where, and in what ways, specific procedural obligations are needed than a purely technology-neutral approach. The definition, if introduced, should be kept under review, and amended as necessary.

(ii) Different uses of AI tools

9.12 The second question, which focused on distinctions that are drawn between different kinds of activity carried out by AI tools, is intrinsically linked to the preceding question. It noted that distinctions can be drawn between different kinds of activity that can be carried out by AI tools, e.g., administrative activities such as transcription and assistance software, which the Interim Report suggested seemed unobjectionable, and text-generation (substantive content), which might be viewed as objectionable. The Interim Report asked if respondents agreed with this distinction, and, if not, to suggest alternatives.

9.13 Respondents generally accepted the view that different uses of AI posed different risks to the administration of justice. There was, however, a range of views on how rules of court could best capture that risk and, thus, provide effective guidance. Where capturing risk by reference to categorisation was concerned, a variety of views were expressed. There was both support for, and criticism of, the approach canvased in the Interim Report.

9.14 Respondents who were supportive of the categorising of AI tools as either administrative tools or tools capable of creating substantive content tended to consider it to be a generally workable and pragmatic approach. Albeit, some noted that it might hide risks to the integrity of proceedings. Other supportive responses also favoured a binary approach, albeit one that rested on drawing a distinction between non-generative and generative AI, i.e. the approach effectively taken in the Irish High Court's Practice Direction, which provides a definition of AI that focuses on the latter. As noted, above, this distinction may already be out-of-date given the development of agentic AI.

9.15 Some responses, while supportive of categorisation, suggested that a binary approach was inadequate. They did so on the basis that it was not always the case that an administrative tool did not also generate or influence the development of substantive content. An

administrative tool that helps structure user-content may, for instance, influence the substantive nature of that content.

9.16 Some respondents also suggested that categorisation of AI tools could lead to disputes over whether any specific tool was of a type, the use of which was permissible, or another type, the use of which was impermissible. It might thus lead to unnecessary satellite litigation.

9.17 Alternative categorisation approaches were also advanced. Some respondents suggested a multi-tiered approach was more appropriate. One respondent, for instance, identified three potential categories of AI tool: administrative; organisational and analytical; and generative. To the extent that the binary approach was inadequate, given the capacity of administrative tools to generate or influence substantive content, this approach would seem to be equally problematic as it too is just as susceptible to procedural litigation concerning whether or not a particular tool falls within any of the three categories. Just as with a binary categorisation, this fails to provide a sound basis for identifying the impact that a specific AI tool may have on the administration of justice.

9.18 Other respondents suggested that rather than an administrative/substantive categorisation, a more appropriate approach would be to adopt a risk-based approach that did not depend upon categorisation by reference to the AI tool. This would avoid problems similar to those identified regarding use of a definition of AI based on the AI tool rather than the activity, discussed above. It would also enable guidance to focus on the use made of AI and, hence, the risk it might pose to the proper administration of justice.

9.19 The Working Group, consistently with its approach to defining AI by reference to function, considers that AI tools should not be categorised within rules of court. Both defining AI technically or descriptively solely by reference to whether it can be categorised as generative or non-generative and categorising individual AI tools as administrative or otherwise is problematic. Reliance on either or both is too simplistic and may lead to disputes over terminology and categorisation. It will also fail to future proof the guidance. Most importantly, it may obscure or lead to the misidentification of risk that specific uses of AI pose to the administration of justice. This latter point is, for instance, evident where

transcription is concerned. AI transcription may generate substantive content that does not accurately reflect what was said. It may also simply generate entirely fictitious content. It may do both of these things notwithstanding the fact that it can be categorised as an administrative tool. Risk of harm here arises from use of the AI tool and effect such use may have on substantive content. This is a risk that could be obscured by the categorisation of transcription as an administrative tool.[18] It should, however, be noted that where AI transcription or other such AI tools reproduces the source accurately, i.e., without generating substantive content, such use is not problematic: the focus of guidance, consistently, with the general approach taken in this report, as well as that set out in **Recommendation Six**, is ensuring that AI use does not generate or influence substantive content.

9.20 The Working Group thus concludes that AI tools should not be categorised within the CPR. The focus should be on use-related risk. Such an approach is more clearly focused on the real issue where AI use is concerned: the potential harm it may have to the integrity of proceedings and the administration of justice. It is an approach which does not focus on technical characteristics of AI tools, which are subject to change, debate as to their nature, and categorisation: all of which would move the rules' focus away from substantive concerns to formalistic ones.

9.21 Taken together with its conclusion on the question whether AI should be defined, the Working Group thus concludes that rules of court should: first, define the scope of AI use. They should do so by adopting a functional approach, which enables activities capable of content generation and those that are capable of influencing substantive content of material submitted in civil proceedings to be identified clearly. Second, they should then identify the nature, consequences and risk arising from those activities in so far as procedural obligations needed to protect the administration of justice are concerned. Hence the CPR should adopt a functional, risk-based approach defining and referring to AI use and risk.

(iii) Notification of AI tool used in civil proceedings

[18] O. Bruff & L. Groves, *Scribe and prejudice? Exploring the use of AI transcription tools in social care*, (Ada Lovelace Institute, 2026) <https://www.adalovelaceinstitute.org/wp-content/uploads/pdfs/33783/scribe-and-prejudice.pdf?v=1784574449>.

9.22 The third issue raised was, where there is a requirement to notify the court that AI has been used in the preparation of materials for civil proceedings, whether notification of the specific AI tool used should be given. This, it was suggested, could promote transparency. Less positively, the Interim Report also noted that it might imply that responsibility for the content of materials submitted to the court passed from the legal representative, or expert, to the AI tool used. This, it was noted, would be an undesirable consequence of notification.

9.23 There was some support for the introduction of a notification requirement. Support was particularly strong where expert evidence was concerned. Submissions highlighted how experts could beneficially identify the AI tools used, the version used, and also what prompts they had used. AI tools were to be understood, where experts were concerned, it was said, as just like other materials on which an expert had relied, thus disclosure was necessary to enable the expert's methodology to be scrutinised effectively.

9.24 Where legal representatives were concerned, there was also support for notification. It was submitted that this was particularly important where an AI tool generated substantive content. Such notification would better enable the content produced to be scrutinised and, if necessary, challenged. Additionally, it was suggested that notification would help promote the development of more reliable AI tools, i.e., notification would expose unreliable tools and thus encourage improvement in the market. Others still suggested that notification was required because the use of AI tools raised questions of confidentiality and privilege.

9.25 Opposition to a notification requirement focused on its utility. Some respondents highlighted how it was unclear what benefit was to be derived by notification of the tool used. This was particularly the case if it was a bespoke AI tool or one that had been modified for the user, notification would reveal nothing. Others submitted that notification was impractical at best and misleading at worst: naming the AI tool used does not provide information on whether its output is unreliable. Nor does it provide any information as to whether the user has checked its output before submitting it to the court.

9.26 Moreover, it was submitted that notification could lead to unnecessary and costly procedural litigation, which focused on the tool used rather than the real issue that the court

ought to be concerned with: whether the output is reliable. It thus shifts the focus away from risk to the tool. This could also lead to a shift in responsibility from the user to the tool, which would undermine the aim of ensuring that legal representatives took appropriate steps to comply with their professional, regulatory obligations where AI use is concerned. In other words, it could undermine the objective of promoting good practice in legal representatives to check the veracity of material they submit to the court by enabling them to default to the view that use of a specific tool does not require them to check.

9.27 Consistently with the general approach taken to the first and second issue raised in this section, the Working Group has concluded that it would not be appropriate to recommend that legal representatives should notify the court of specific AI tools that they have used. The position for experts is different, as AI use may be a relevant factor to consider in an expert's methodology: see **Section 8**.

9.28 The Working Group is particularly concerned that notification would run contrary to its approach, and the reasoning underpinning it, taken to the introduction of a functional, risk-based approach to AI use. A general requirement for AI tool notification runs counter to that approach. Importantly, as some respondents highlighted, and the Working Group agrees, requiring notification could lead legal representatives, and the court, to focus on the tool used rather than on the risk posed by its use. Naming the tool could become an inappropriate proxy for reliability and the absence of risk. That could promote a culture where insufficient attention is paid by both legal representatives and the court to ascertaining if content generated or influenced by AI use is accurate and capable of being relied upon, and hence can properly be submitted to the court.

9.29 In the circumstances, the Working Group does not recommend the introduction of a notification requirement where an AI tool is used by a legal representative.

(iv) Introduction of a specific rule relating to AI use

9.30 The final issue raised was whether there should be a rule or rules that enable a party to seek permission to use AI in a particular way or to use a particular AI tool. The Interim Report noted that such provision might be unnecessary as such applications could already be made

under existing rules, most obviously further to the court's general case management power. Nevertheless, it suggested that new and additional provision may be beneficial.

9.31 There was some degree of support for the proposition that the CPR should be amended to include a specific rule or rules, which would enable a party to apply for permission to use AI for a specific purpose. Respondents who supported the introduction of such rules considered that they would be beneficial because they would make it explicit that such a power to authorise the use of AI existed. Others took the view that such a power should be introduced and introduced in tandem with a blanket prohibition on AI use except where permission is granted. Others again suggested that if such a power was to be introduced it should not be a general power, but limited to specific uses of AI.

9.32 There was also a strong degree of opposition from some respondents and scepticism concerning the utility of such a development from others. This scepticism centred on the point that the CPR already has sufficient means to enable parties to make applications concerning the use or uses of AI. Most obviously, applications could already be made under CPR r.3.1(2)(p). A new rule or rules would thus be otiose.

9.33 Opposition also centred on the concern that the creation of specific rules would simply lead to an increase in costly, and hence also time-consuming, procedural litigation over the question of whether permission was needed and if needed whether it should be granted. This would be particularly problematic if permission was required before AI tools could be used at all. Others took the view that new rules should only be introduced if other reforms justified their introduction. That might be the case if, for instance, reforms prohibited the use of AI or particular uses absent permission being granted.

9.34 The Working Group is keen to avoid the risk that reforms may generate unnecessary, time-consuming and costly procedural litigation. It is also keen to avoid recommending reforms to the CPR that are unnecessary. In both respects, this proposed reform does, on reflection in the light of the consultation responses, appear to be problematic. There is force in the argument that this type of reform would produce procedural litigation, not least if the introduction of new rules were to lead legal representatives and litigants-in-person to

believe that the use of AI was prohibited unless express authorisation was granted by the court.

9.35 There is equally force in the argument that the introduction of new rules is unnecessary because the court already has sufficient power to grant permission to authorise specific uses of AI, or prohibit them in individual cases, through its general case management powers. Equally, parties, if they believe it to be necessary in the circumstances of their proceedings, can apply for confirmation from the court that a specific use of AI is permitted, and can do so under CPR r.3.1(2)(p).

9.36 Were a complete prohibition on the use of AI or prohibition on specific uses of AI to be introduced into the CPR, then there would, however, be a valid rationale for considering whether the court should be provided, via the CPR, with power to grant permission. The Working Group is not recommending either such reform option. Hence, that justification for the introduction of a specific power within the rules to set aside or suspend the prohibition does not arise.

9.37 In the circumstances, the Working Group recommends that no new rule or rules be introduced into the CPR to provide for the grant of permission for the use of AI generally or specifically.

Recommendations

9.38 The Working Group makes the following recommendations in the light of the consultation responses:

9.39 **Recommendation Eleven:** The CPR should not categorise AI tools by reference to whether they are generative, non-generative, administrative, analytical, substantive, or otherwise.

9.40 **Recommendation Twelve**: The CPR should define the scope of AI use functionally. It should identify activities capable of generating substantive content submitted to the court in civil proceedings. It should also identify those activities capable of influencing the nature or

development of such substantive content where the activity does not generate that content directly.

9.41 **Recommendation Thirteen**: The CPR should adopt a risk-based approach to AI use that falls within the functional definition. This should identify the nature and consequences of a particular use of an AI tool. It should also then identify the risks to the integrity of civil proceedings and the proper administration of justice from such use. Those risks should form the basis for determining the nature of procedural obligations that apply to that use.

9.42 **Recommendation Fourteen**: A requirement that legal representatives provide the court with details of any AI tool used in the preparation of materials submitted to the court in civil proceedings should not be introduced into the CPR.

9.43 **Recommendation Fifteen**: No new general rule or specific rules that would enable the court to grant permission for the use of AI should be introduced into the CPR.

Table of abbreviations and acronyms

Abbreviation or acronym	Meaning
BSB	Bar Standards Board
CIArb	Chartered Institute of Arbitrators
CJC	Civil Justice Council
CPRC	Civil Procedure Rule Committee
HMCTS	His Majesty's Courts and Tribunals Service
LSB	Legal Services Board
SRA	Solicitors Regulation Authority

Annexes

Annex A – Terms of Reference

The Terms of Reference for the Working Group required it to produce a consultation paper and a final report, which address the question whether rules are needed to govern the use of AI by legal representatives for the preparation of court documents, including pleadings, witness statements, and by legal representatives and experts for the preparation of expert's reports.

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