

# Use of AI for Preparing Court Documents

Interim Report and Consultation



# Contents

1.	Executive Summary	2
2.	Introduction	4
3.	International	4
4.	Statements of Case	4
5.	Skeleton Arguments and Other Advocacy Documents	4
6.	Disclosure	4
7.	Witness Statements	4
8.	Expert Reports	4
9.	General Issues	4
	Annex A - Members	6
	Annex B - Questions	7

# 1. Executive Summary

- 1.1 Artificial intelligence (“AI”) has enormous potential to be used for social good. In the context of the justice system it has already transformed the way in which the legal profession goes about its work, including in relation to research, data analysis and the preparation of court documents. However, these benefits do not come without significant risk. In **Ayinde v The London Borough of Haringey [2025] EWHC 1383 (Admin)** at [2] (“Ayinde”) Dame Victoria Sharp, President of the Kings Bench Division, observed that:
- 1.2 “Artificial Intelligence is a tool that carries with it risks as well as opportunities. Its use must take place therefore with an appropriate degree of oversight, and within a regulatory framework that ensures compliance with well-established professional and ethical standards if public confidence in the administration of justice is to be maintained.”
- 1.3 The purpose of this consultation paper is to consider whether rules are needed to govern the use of AI by legal representatives for the preparation of court documents. This consultation paper sets out the CJC’s initial thinking on the issues and proposes a possible way forward. By publishing this paper, the CJC seeks your views on the issues, including the proposed way forward. The paper also includes specific questions on which we would welcome your views. Once the consultation has taken place the CJC will produce a final report.
- 1.4 In summary the proposals we make, and on which we invite consultation responses, are that in specific circumstances, and depending on what use of AI has been made, legal representatives involved in the preparation of court documents should be required to make a declaration relating to its use. The circumstances are addressed in detail below. Essentially, they are those in which AI has been used to generate evidence on which the court is being asked to rely. Other uses of AI, such as administrative uses for transcription, spell checking, assistance and the like do not require a declaration.
- 1.5 The capabilities of AI systems are changing rapidly. Legal practice is changing as a result of these new and powerful tools. This is and will remain a positive development as long as the interests of justice are kept firmly in view. The overall objective of these proposals is to maintain a balance, ensuring that the latest technology can be used to maximum advantage in the civil justice system in order to enhance access to justice by improving

efficiency and reducing costs; while at the same time maintaining confidence in the rule of law.

## 2. Introduction

- 2.1 The terms of reference (TOR) for the working group are as follows:
- 2.2 The Working Group will produce a consultation paper, followed by a final report, seeking to address the question of 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.
- 2.3 The introduction will address the context in which these terms of reference arise, the specific nature of the terms of reference and the possibility of future work on a wider footing.
- 2.4 The original TOR, although it included expert's reports, did not include the use of AI by experts in relation to the preparation of their reports. However, the TOR were amended to include this at the Working Group's request.

### Context

- 2.5 The judiciary of England and Wales issued their most recent guidance for judges on the use of AI in October 2025. This guidance includes a section on the use by legal representatives and Litigants in Person (LiPs) of various types of AI tools in the context of court proceedings. We note in particular the following passage:
- 2.6 "All legal representatives are responsible for the material they put before the court/tribunal and have a professional obligation to ensure it is accurate and appropriate. Provided AI is used responsibly, there is no reason why a legal representative ought to refer to its use, but this is dependent upon context.  
  
Until the legal profession becomes familiar with these new technologies, however, it may be necessary at times to remind individual lawyers of their obligations and confirm that they have independently verified the accuracy of any research or case citations that have been generated with the assistance of an AI chatbot.  
  
AI chatbots are now being used by unrepresented litigants. They may be the only source of advice or assistance some litigants receive. Litigants rarely have the skills independently to verify legal information provided by AI chatbots and may not be aware that they are prone

to error. If it appears an AI chatbot may have been used to prepare submissions or other documents, it is appropriate to inquire about this, ask what checks for accuracy have been undertaken (if any), and inform the litigant that they are responsible for what they put to the court/tribunal.”

- 2.7 Guidance on the use of AI in court proceedings has also been issued in a number of jurisdictions across the world, including in Singapore, New Zealand, Australia, Canada, Argentina, the United States and Hong Kong. This guidance, which varies across these jurisdictions, has included general guidance on AI together with guidance addressed to the use of AI by particular participants in the justice system such as judges, lawyers and others. In 2025 **UNESCO** published guidelines on the use of AI systems in courts and tribunals, with a specific focus on the judiciary. **The Chartered Institute of Arbitrators** (CIArb) has also issued its own Guidelines on the Use of AI in Arbitration (most recently updated in September 2025).
- 2.8 The focus of this consultation paper is whether court rules are required to regulate the use of AI by legal representatives (however see below in relation to experts).
- 2.9 In this context we consider that we should be concerned with AI systems which are said to be able to perform tasks requiring ‘intelligence’, such as reasoning, problem solving and learning, particularly so called generative AI, which generates text, images or videos based on inputs or prompts from users. We do not consider that we should be concerned with the use of AI or advanced technology which merely corrects spelling or grammar, provides transcription, operates as accessibility software, or assists with formatting and otherwise does not generate substantive content. In this report these latter uses are referred to as “administrative uses”. A question arises as to whether we should be concerned with legal research software using AI, even when the results of such use may find their way into skeleton arguments. The working group have different views about this (see below).

### The Specific Nature of the Terms of Reference

- 2.10 The question with which this paper is concerned is whether there is a need for **rules** – i.e. procedural rules (which for this purpose includes Practice Directions) to govern the use of AI in the preparation of court documents or whether guidance for legal representatives is adequate. We believe that guidance is a matter for the appropriate professional bodies.
- Do you agree?**

2.11 The focus of this work is on **court documents**, by which we mean documents created for the purpose of their being provided to the court. These are primarily statements of case (also called pleadings), skeleton arguments (or briefs), witness statements and expert reports, although we will also include other documents typically prepared for use by the court such as chronologies, lists of issues and neutral case summaries. These various documents raise distinct, albeit overlapping, issues. Skeleton arguments are generally exercises in legal advocacy presented in the name of a legal professional who is subject to various professional obligations (see below). Statements of case are usually signed by a legal representative, but may also bear a statement of truth by the litigant. Although some witness statements at an interim stage may be statements by a legal representative, in general witness statements and expert reports are, or ought to be, the words of someone other than the legal representative. They are presented as the evidence of a litigant, fact witness or expert witness as the case may be. However, at least in connection with witness statements, solicitors usually prepare the statements and have duties in respect of them.

2.12 We believe that for the purposes of this consultation, court documents can be grouped into four categories:

- Statements of case (such as the Particulars of Claim, Defence and Grounds of Appeal).
- Skeleton arguments, and other advocacy documents. This category is meant to include all forms of briefing documents which legal representatives use to present their client's case to court (whether agreed or not agreed), including documents such as chronologies, lists of issues and agreed case summaries.
- Witness statements.
- Experts reports.

2.13 In the context of court documents the TOR is concerned for the purposes of this consultation with the role of **legal representatives** in the preparation of the documents concerned. That is a specific context in that legal representatives are subject to professional regulation in any event.

2.14 This report is not concerned with:

- Use of AI by litigants in person (LiPs);
- Use of AI by judges;
- Use of AI for functions which do not involve the production of substantive content - such as spelling and grammar checks, accessibility, and the like (see above);
- Use of AI with the deliberate intention of placing false evidence before the court.
- Use of AI in the context of experts reports raised the point on the TOR which has been explained above. The TOR were expanded to cover not only the position of legal representatives in that connection, but also the experts themselves.

2.15 For both barristers and solicitors there are existing obligations to act with honesty and integrity in their dealings with the court. These include not misleading the court and not advancing propositions which are not properly arguable (see the BSB Conduct Rules, at rC3, rC6 and rC9 and the SRA Code of Conduct for Solicitors at 1.4, 2.4 and 2.7. See also the detailed discussion of the obligations of barristers and solicitors in **Ayinde** at [17]-[22]).

2.16 A particular topic arising in connection with the use of AI in legal practice is **hallucination**. A now well-known example of hallucination in the legal context arises when documents setting out legal argument (such as a skeleton argument) contain case citations, references to legislation or legal articles or text which look real but have in fact been fabricated by an AI system.

2.17 It would be a breach of the existing professional duties referred to above for any legal representative to present and rely upon a document in court which includes reference to such fictitious material. As **Dame Victoria Sharp also observed in Ayinde**: “the administration of justice depends upon the court being able to rely without question on the integrity of those who appear before it and on their professionalism in only making submissions which can properly be supported.” The court has a range of powers in the event of false information being presented to the court. These are discussed in detail in *Ayinde* at [23]-[31], and include public admonition of the lawyer, the imposition of a costs order, the

imposition of a wasted costs order, striking out a case, referral to a regulator, the initiation of contempt proceedings and referral to the police.

- 2.18 The question of hallucinations in court documents presented and relied upon by unrepresented litigants raises different issues. Unrepresented litigants must not knowingly mislead the court. However, the problem of unrepresented litigants presenting documents which contain incorrect and even misleading statements is not specific to AI. Even the most scrupulous unrepresented litigant can present material which is legally wrong (as, on occasions, can lawyers) . Judges are aware that whilst they can place reliance on a lawyer's professional duties, they cannot do the same with legal submissions made by unrepresented parties.
- 2.19 Aside from the issue of hallucination, AI tools based on Large Language Models (LLMs) inevitably reflect the errors and biases in the data used to train the model. This may be more difficult to identify than hallucinations but, by using these tools legal representatives may allow those biases unwittingly to be perpetuated in court documents. Legal representatives also owe professional duties not to discriminate unlawfully.
- 2.20 Furthermore, the increasing ability of AI to manipulate meta data and to generate realistic text, images and videos (often referred to as deepfakes) has already begun to pose challenges for the civil courts, particularly in connection with reliance upon forged evidence (see for example **Crypto Open Patent Alliance v Craig Steven Wright [2024] EWHC 1198 (Ch)**). White text, which consists of hidden prompts or concealed text inserted into a document so as to be visible to the computer or system but not to the human reader is capable of being used to manipulate search engines and LLMs. Aside from issues around authenticity, the use of white text can cause confusion over whether a document has in fact been altered and when.

## **Possibility of Wider Work**

- 2.21 It will be clear from the identification above of the areas with which this report is not concerned, that there are a number of areas that would benefit from further consideration. The use of AI by LiPs to assist in the preparation of their statements of case, witness statements and submissions to the court requires a different focus, which does not

involve the background context of legal professional regulation to which we have referred above.

2.22 Any regulation of the use of AI by LiPs presents a particularly difficult challenge, owing to its potential to assist with access to justice and thus the undesirability as a matter of policy of discouraging its use as well as the lack of regulatory framework to govern the conduct of LiPs. It is inevitable that LiPs will use AI to produce court documents and that many may do so without appreciating the risks involved or intending to mislead the court. It may be that requiring a declaration on such documents as to the use of AI would at least alert the court to the possibility that the material being presented may be inaccurate or fictitious (albeit the requirement for a declaration might of course be ignored). But we express no concluded view on this now. The CJC may wish to consider whether a further report on this topic would be worthwhile.

2.23 We also consider that there is potential for a wider consideration of the use, and potential regulation, of AI tools by legal representatives in other areas of the justice system. However, as things stand our remit is firmly related to civil justice.

## 3. International

- 3.1 A very brief look at the practice and procedure in courts around the world suggests that some jurisdictions require up front declarations about the use of AI in court documents while others do not. Jurisdictions can learn from one another in this area on points of detail but it is not clear whether an international consensus has emerged either in courts generally or in common law courts in particular.
- 3.2 For example the **guidance issued by the Singapore**<sup>1</sup> makes clear that use of AI to prepare court documents is not prohibited. The guidance emphasises the need to ensure accuracy and provides that a court user may be asked to declare that if AI has been used, the guidance has been complied with. The guidance does not require upfront statements by legal representatives about the use of AI.
- 3.3 By contrast, we have identified illustrative examples of more restrictive guidance. In some jurisdictions in the United States, declarations regarding the use of AI in court documents are required when the focus is on ensuring accuracy protecting confidentiality and maintaining professional accountability. Various courts expect attorneys to submit a certification or notice outlining their use of AI tools which certifies that all AI-generated content, especially legal citations, has been verified using reliable traditional sources. A number of federal and state judges have issued standing orders requiring the use of generative AI in filings to be identified (including the specific AI program used and the portions of text drafted with its assistance). By way of example:
- 3.4 The **Local Civil Rules of the North District of Texas** dated 3 September 2024 provide that “[a] brief prepared using generative artificial intelligence must disclose this fact on the first page under the heading ‘Use of Generative Artificial Intelligence.’ If the presiding judge so directs, the party filing the brief must disclose the specific parts prepared using generative artificial intelligence.”
- 3.5 Eastern District of Pennsylvania – **Order of Magistrate Judge José R. Arteaga dated 15 May 2025**: “Any attorney for a party or any pro se party who uses generative artificial intelligence (“A.I.”) to prepare any complaint, answer, motion, brief, or other paper filed with the Court

---

<sup>1</sup> (<https://www.judiciary.gov.sg/docs/default-source/news-and-resources-docs/guide-on-the-use-of-generative-ai-tools-by-court-users.pdf>)

in a matter assigned to Judge Arteaga shall: (1) disclose that generative artificial intelligence was used to prepare the filing; (2) identify precisely what portion or portions of the document contain the generated content; (3) identify the specific tool used and how it was used; and (4) certify that each and every citation to the law or the record in the filing was verified as accurate in accordance with the obligations set forth in Rule 11 of the Federal Rules of Civil Procedure. Failure to comply with this policy may result in consequences such as referral to the appropriate state bar, monetary sanctions, or any other sanction the Court deems appropriate.”

- 3.6 Similarly, the Chief Justice of New South Wales issued a Supreme Court Practice Note in January of this year (**Supreme Court Practice Note SC Gen 23**) identifying the circumstances in which AI should not be used for the preparation of affidavits, witness statements, written submissions and expert reports. Focussing on the obligations of legal representatives, for present purposes, it is worth noting that the Practice Note requires, in summary, that (i) an affidavit or witness statement must contain a statement that AI was not used in generating its content; and that (ii) where AI has been used in the preparation of written submissions, the author must verify in the body of those submissions that all citations, legal and academic authority and case law and legislative references exist, are accurate and are relevant to the proceedings. The Practice Note provides that, in exceptional cases, leave may be sought to use AI for the preparation or generation of any annex or exhibit to a witness statement (subject to the provision of detailed information about the proposed use).
- 3.7 Given the absence of a consensus, a full-scale review of international practice in this area would not appear to be the best use of the working group’s limited resources.

## 4. Statements of Case

- 4.1 Statements of case are prepared by legal representatives who are subject to professional regulation. Increasingly, AI may be used in connection with the preparation of statements of case to summarise background material, to put it into chronological order, to produce appendices and so forth. Statements of Case must be verified by a statement of truth.
- 4.2 There is already one firm in England and Wales which could be called an AI law firm (Garfield Law) which uses a legal AI platform to produce simple documents for the purposes of court proceedings including Particulars of Claim. The firm is regulated by the SRA and all documents are subject to legal oversight from a human lawyer. The SRA required the firm to adhere to strict guidelines which include designating regulated solicitors who remain accountable for ensuring compliance with professional standards.
- 4.3 We note that the AI requirements in some states of the USA and in New South Wales would, or would appear to, require a statement as to whether AI has been used in their preparation. We are not convinced that is needed provided it is clear who is taking appropriate professional responsibility for the document in question.
- 4.4 Overall, we are rapidly approaching a point where it might be difficult to distinguish when AI has been used and how as it becomes increasingly integrated into legal tools. The group would be concerned that a statement which goes beyond an acknowledgement of professional responsibility for the content of the document might lead to more questions being asked of the court and add to delays.
- 4.5 A requirement to make a statement about the use of AI in this context would necessarily raise the question of what use of AI ought to be disclosed. Some possible examples include:
- Use of AI to generate text to set out evidence or assertions of fact.
  - The administrative uses defined at paragraph 11 above, which do not involve generating text such as use for spelling or grammar, transcription, accessibility software, or assistance with formatting.
  - Use of legal research software to identify legal sources such as legislation or cases and/or to generate legal argument.

4.6 Although many statements of case ought not to contain legal submissions, there are numerous circumstances in which they can and should and so sub-paragraph (c) above is relevant.

4.7 **Proposal:** Provided the statement of case bears the name of the legal representative who is taking professional responsibility for the statement of case, there is no need for any (further) rules relating to statements of case produced with the assistance of AI.

4.8 An *alternative* would be to require a specific declaration to make clear if the legal representative has used AI in the preparation of the statement of case.

**Do you agree with the proposal? Or the alternative? If the latter, which uses of AI ought to be covered?**

## 5. Skeleton Arguments and Other Advocacy

- 5.1 Like statements of case, these are prepared by legal representatives who are subject to professional regulation, and also, increasingly, AI may be used in connection with their preparation. It is also notable that these documents are covered by the US state court and New South Wales requirements. However, unlike statements of case, these documents are not verified by a statement of truth. Nevertheless, we believe the important factor is or ought to be clarity about who is taking appropriate professional responsibility for the document.
- 5.2 If a statement about AI use was required, the same issues identified above in relation to statements of case would arise about what kinds of use of AI ought to be disclosed.
- 5.3 **Proposal:** Provided the document bears the name of the legal representative who is taking professional responsibility for it, there is no need for any (further) rules relating to skeleton arguments or other advocacy documents produced with the assistance of AI.
- 5.4 An **alternative** would be to require a specific declaration to make clear if the legal representative has used AI in the preparation of these documents.
- 5.5 **Do you agree with the proposal? Or the alternative? If the latter, which uses of AI ought to be covered.**

## 6. Disclosure

- 6.1 The use of AI in connection with disclosure is already well-established. The TCC was the first court to develop an e-Disclosure protocol and the courts embraced the use of TAR, starting with the decision of Master Matthews in **Pyrrho Investments v MWB** [2016] EWHC 256. Since then it has become possible to carry out context searches and to interrogate documents in increasingly efficient and accurate ways, although ultimately the issues that concerned Master Matthews in **Pyrrho** remain the key issues: the scope and quality of the search. This is something that the courts will need to grapple with in connection with requests by parties to use increasingly innovative tools to facilitate disclosure. The use of AI, involving detailed prompts, is likely to give rise to its own particular issues (including the extent to which the disclosure of prompts, together with the testing and refinement of those prompts, and the sample documents on which the prompts were tested, is required). Furthermore, the use of AI involves a much-reduced level of human oversight because, while human intervention is required at the testing and validation stage, it can be dispensed with for the ultimate disclosure exercise. While guidance may be required to deal with this in due course, anecdotal evidence suggests that, at present, parties are cooperating in their use of AI to conduct disclosure exercises and we are not aware of any case in which there has been a dispute which has required intervention from the court.
- 6.2 Therefore, there does not appear to be a pressing case to introduce a requirement that disclosure lists/statements have a section addressing the extent to which AI tools/software have been used, nevertheless since that is something which could be done, we will consult on the matter.
- Do you agree that disclosure lists/statements do not need to contain such a statement?**

## 7. Witness Statements

7.1 **Paragraph 32.1.1.2 of the White Book 2025** provides:

7.2 “There is currently no specific guidance as to whether generative AI can be used in the preparation of witness statements. However, strong emphasis is placed in the rules on the evidence of the witness being as much as possible in their own words and coming from their personal knowledge. This generally appears to preclude any use of generative AI in drafting them. For example, witness statements need to be (if practicable) in the witness’s “own words” (see PD 32 para.18, and for trial witness statements in the Business and Property Court PD 57AC para.3.3, Statement of Best Practice, para.3.7 and para.3.16. See also generally for preparation and content of witness statements para.32.4.5).

7.3 The general requirement in PD32 para 18, which applies in general in the civil courts, will be complied with by the common practice of transcribing the words of a witness by a legal representative. Nothing in PD32, or in any other generally applicable rule, addresses the question of a legal representative using an automatic transcription tool which might be specific to the task or embedded in practice management software, to perform that task nor is there any rule which obliges the legal representative in that case to verify what has happened. PD 57AC, applicable in the Business and Property Courts (“**B&PCs**”) does make more detailed provisions about the preparation of witness statements. At least anecdotally, this Practice Direction has been welcomed in the B&PCs. Trial witness statements covered by PD57AC which were prepared with the assistance of legal representatives must also carry a certificate signed by the legal professional. As addressed in more detail below, the suggestion has been made that even though the PD contemplates the preparation of a witness statement by a legal representative transcribing the words of a witness, it might be said that using AI (even simply to assist in that task) would contravene PD57AC. For present purposes it is worth observing that the relationship between the actions of legal representatives as catered for by the rules, and the use of AI, bears examination.

7.4 Later in the same paragraph of the White Book cited above, the question of the use of automatic AI translation tools is raised. A question is whether the issues raised in respect of the use of AI in connection with translations can be dealt with in this consultation or addressed later.

7.5 We believe that the question of whether a general regime akin to PD57AC should be extended to all civil courts is beyond the scope of the TOR. Nevertheless, for reasons explained below, we believe that an aspect of the legal representative's certification obligation, which is part of the PD57AC regime, should – in the context of AI – be applied more generally. We also believe that the distinction drawn in PD 57AC between trial witness statements and other witness statements is a real one whether the case is within the B&PCs or not and we will approach the issues in that way.

7.6 For convenience we will consider the following three categories:

- Witness statements not for trial
- Witness statements covered by PD57AC
- Trial witness statements outside PD57AC

### **Witness statements Not for Trial**

7.7 For witness statements which are not trial witness statements, (therefore even if the case was in the B&PCs, PD57AC would not apply) it is difficult to see a relevant distinction between the approach we identify above in respect of statements of case and skeleton arguments and the approach to be taken here. If that is right, then a proposal could be one analogous to the previous proposals, i.e. that provided the document bears the name (or firm name?) of the legal representative who is taking professional responsibility for its preparation, there is no need for any (further) rules relating to these non-trial witness statements.

#### **Do you agree?**

7.8 An alternative could be that even for these documents the use of AI would not need to be referred to only for specific uses, i.e.:

7.9 Uses which are not text generating, such as grammar checking or transcription; or

7.10 Uses which facilitate the drafting of sections of the statement (perhaps summarising background facts or the procedural history) since these at least might appear to be unobjectionable.

#### **Which of these alternatives would you support? Why?**

## Witness Statements Covered by PD57AC

- 7.11 Turning to witness statements within PD 57AC; PD 57AC applies whether a party is legally represented or not (see e.g. PD para 1.2 (definition of relevant legal representative and PD para 4.3 about the relevant legal representative’s endorsement). This paper is only concerned with the case where there is a relevant legal representative.
- 7.12 The use of AI to draft these witness statements presents more complex issues, given the provisions of PD57AC which, at their heart, are aimed at taking steps over and above PD 32 paragraph 18 itself, to ensure that the statement is in the witnesses own words and, for example, has not been created by a legal representative asking the witness leading questions (see the **Best Practice Guidance appended to PD 57AC paragraph 3.11(1)**).
- 7.13 Current guidance in the White Book points out that the rules “seem to prevent the use of generative AI, at least to the extent that it suggests any substantive content for a witness statement.” PD57AC para 3.13 provides that a legal representative may take “primary responsibility for drafting” a witness statement, but that the content should be “taken from, and should not go beyond, the content of the record or notes [obtained from the witness]”. Such a legal representative may decide to use AI to improve the grammar, or to find a better way of expressing what the witness has said (just as he or she might decide to make such improvements themselves), albeit this would appear to go beyond what is permitted.
- 7.14 It is difficult to see how this could be an area where AI should be involved in preparing the substantive text, beyond transcribing the witness’s own words. The problem is that unless there is a requirement to retain records/notes/audio of any interview with the witness there is scope for statements prepared using AI to be misleading.
- 7.15 **Proposal:** It is difficult to see that the aims and objectives of PD57AC in the legally represented context can properly be met if AI is used, other than for non-text generating purposes, in the process of drafting witness statements covered by that rule. With this in mind, we consider that a rule requiring a declaration that AI has not been used for the purposes of generating the content of such a statement (including by way of altering, embellishing, strengthening, diluting or rephrasing the witness’s evidence) would be consistent with the aims of the Practice Direction and reinforce the importance of witness statements being in the witness’s own words.

**Do you agree?**

## **Trial Witness Statements Under CPR Part 32 (not covered by PD57AC)**

7.16 The current general rules in Part 32 require evidence to be in a witness's own words but do not provide for the legal representative to make a declaration about the preparation of witness evidence at all. Nevertheless we believe that for the same reasons as set out above in relation to PD 57AC, if AI has been used, other than for transcription, then Part 32 should be amended to include a requirement that, along with the statement of truth, the relevant legal professional must include in the witness statement a declaration that AI has not been used for the purposes of generating its content (including by way of altering, embellishing, strengthening, diluting or rephrasing the witness's evidence).

## **Witness Statements Involving Translation**

7.17 In general terms today the use of AI as a translator is well established. We would not wish to discourage appropriate use by unrepresented parties, who may not have access to paid for translation services.

7.18 In the context of witness statements to be filed at court, CPR Practice Direction PD 23 paragraph 23.2 provides that when a witness statement to be filed is in a foreign language, a translation must be provided and the translator must sign the original and certify the translation as accurate.

**Should there be a rule making provision for the use of AI by human translators? If a translator is prepared to sign a statement of accuracy, taking responsibility for it, is there any need to enquire further? Do you agree?**

7.19 One question is whether the rule should be amended to permit the use of publicly available machine translation, provided the tool used is identified, and provided it is clear that other parties would be entitled to check the translation themselves by using such a tool. After all both the foreign language original and the translation ought to be available.

**Do you agree?**

7.20 An alternative proposal, since the proposal is not limited to cases with legal representatives, would be only to permit such use by a legal representative and to require that the legal representative involved in the preparation of the translation should identify what tool has been used. This seems unduly restrictive.

**Do you agree?**

## 8. Experts

- 8.1 Experts are often regulated by their own professional bodies and are subject to distinct duties under the CPR, but consideration will need to be given to whether existing expert guidance is sufficient to cover their use of AI for the purposes of the preparation of expert reports. **The Bond Solon Expert Witness Survey 2025**, published on 7 November 2025 (to which 525 experts contributed) reports that 20% of respondents had used AI in their role as expert witness. It cites the American case of **Kohls v Elison No 24-cv-3754** (D Minn 10 January 2025) in which an expert witness used AI to draft his report and accidentally submitted misinformation. Bond Solon suggests that “[p]erhaps this is the time for strong guidance from the judiciary in terms of court rules, protocols and case law dealing with AI”. While it is difficult to see why using AI as a research tool or to extract material from voluminous documents should necessarily be disclosed, there will be circumstances (as occurred in **Kohls v Elison**) in which a failure to disclose its use could lead to erroneous evidence being put before the court. Furthermore, there is obvious potential for the failure to disclose its use to undermine the level playing field between experts. We believe that the consultation ought to ask whether there should be consideration of this in the specific context of existing expert duties and guidance.
- 8.2 Practice Direction PD35 at 3.3 provides for the specific form of statement of truth to be used by experts to verify their reports. We propose that, for essentially the same reasons as above, this provision should be amended to add a further requirement about AI. The nature of the declaration for experts will not be the same as the declarations relating to witness statements since, provided its use is properly identified and explained, the nature of the expert’s evidence may properly include AI generated material. We propose a requirement that the expert explains what use of AI has been made other than for transcription (or other administrative uses) and that the expert identifies the AI tools used.

**Do you agree?**

## 9. General Issues

- 9.1 A number of general questions arise which apply to all of the various proposals. They are addressed briefly in this section.
- 9.2 The first is whether the term artificial intelligence is sufficiently clear to be used in these proposed rules. Although, in technical terms, the scope of what is and is not “AI” is open to significant debate, it may be that in this context the term is sufficiently clear to be used.
- Do you agree? If not do you have an alternative proposal?**
- 9.3 The second relates to the distinctions between different kinds of activity, such as transcription and assistance software – which seems unobjectionable – on the one hand, and generating text on the other. The distinctions are not the same in different contexts.
- Do you agree with the distinctions drawn in these proposals? If not what alternatives do you propose?**
- 9.4 The third is whether the endorsements proposed should always identify the AI tool used, in order to verify the task has been carried out by a recognised and trusted AI model. On the one hand this may be desirable to ensure transparency (and could be addressed by appropriate guidance rather than rules); on the other, it might imply that responsibility for the content could be thought to be shifted away from the relevant legal representative and on to the tool, which is not the purpose of these proposals and would be undesirable.
- 9.5 The fourth is whether there should be rules dealing generally with the possibility that a party may legitimately wish to use AI and thus making provision for an application to the court where this is so. It may be said to be unnecessary to have a rule for this because the application could be made already but we believe a provision of this kind in the rules may assist.
- Do you agree? Should such a rule be general or confined to specific uses?**

# Table of abbreviations and acronyms

Abbreviation or acronym	Meaning
CJC	Civil Justice Council
HMCTS	Her Majesty's Courts and Tribunals Service
MOJ	Ministry of Justice
TOR	Terms of Reference
LiPs	Litigants in Person
CIArb	Chartered Institute of Arbitrators
LLMs	Large Language Models

# Annexes

## Annex A – Working Group Members

- a. Sir Colin Birss, Chancellor of the High Court
- b. Joanna Smith J
- c. John Cuss (CJC)
- d. John Sorabji (CJC)
- e. Sue Prince (CJC)
- f. Lisa McClory (Law Society)
- g. Shobana Iyer (Bar Council)

## Annex B - Questions

### Scope

- The scope of this work has been concerned with rules relating to legal representatives, on the basis that guidance is a matter for their professional bodies. Do you agree with that approach to guidance? If not, please explain why not.

### Statements of Case

- The CJC proposes that provided a statement of case bears the name of the legal representative who is taking professional responsibility for it, there is no need for any (further) rules relating to statements of case produced with the assistance of AI. Do you agree? If not why not?
- An alternative would be to require a specific declaration to make clear if the legal representative has used AI in the preparation of the statement of case. Do you prefer this alternative? If so, please explain why and consider which uses of AI ought to be covered.

## Civil Justice Council

- Skeleton arguments and other advocacy documents [Part E - paragraph 41-45]
- The CJC proposes that provided the skeleton argument or other advocacy document bears the name of the legal representative who is taking professional responsibility for it, there is no need for any (further) rules relating to these documents produced with the assistance of AI. Do you agree? If not why not?
- An alternative would be to require a specific declaration to make clear if the legal representative has used AI in the preparation of these documents. Do you prefer this alternative? If so, please explain why and consider which uses of AI ought to be covered.

## Disclosure

- The CJC proposes that there does not appear to be a pressing case introduce a requirement that disclosure lists/statements have a section addressing the extent to which AI tools/software have been used. Do you agree that disclosure lists/statements do not need to contain such a statement? If not why not?

## Witness statements

- The CJC makes different proposals for different kinds of witness statements, in particular drawing a distinction between trial witness statement and non-trial witness statements. Do you agree with that approach? What distinction if any would you propose?
- In relation to non-trial witness statements, the proposal is that provided the statement bears the name (or firm name?) of the legal representative who is taking professional responsibility for its preparation, there is no need for any (further) rules relating to these documents produced with the assistance of AI. Do you agree? If not, why not?
- An alternative would be to require a specific declaration to make clear if the legal representative has used AI in the preparation of non-trial witness statements. Do you prefer this alternative? If so, please explain why and consider which uses of AI ought to be covered.
- In relation to witness statements covered by PD57AC and within the scope of this paper (i.e. trial witness statements prepared with the involvement of a legal representative), the proposal is that there be a rule requiring a declaration on such a statement that AI has not been used for the

purposes of generating its content (including by way of altering, embellishing, strengthening, diluting or rephrasing the witness's evidence). Do you agree? If not, why not?

- In relation to witness statements under CPR Part 32, not covered by PD57AC but within the scope of this paper (i.e. trial witness statements prepared with the involvement of a legal representative), the proposal is that there be a rule requiring a declaration on such a statement that AI has not been used for the purposes of generating its content (including by way of altering, embellishing, strengthening or diluting or rephrasing the witness's evidence). Do you agree? If not, why not?
- In relation to witness statements involving translation, one issue relates to use of AI by translators. Should there be a rule making provision for the use of AI by human translators? If a translator is prepared to sign a statement of accuracy, taking responsibility for it, is there any need to enquire further? A further proposal is to permit the use of publicly available machine translation, provided the tool used is identified, and provided (if necessary) that provision is made clarifying that other parties are entitled to check the translation themselves by using such a tool. Do you agree? If not, why not? Do you favour the alternative below? If so why
- An alternative to the previous proposal would be only to permit such use by a legal representative and to require that the legal representative involved in the preparation of the translation should identify what tool has been used. Do you favour this alternative?

### Experts

- The proposal is that the specific provisions for statements of truth used by experts should be amended to add a further requirement confirming that the expert's report identifies and explains any AI which has been used, other than for administrative uses such as transcription. Do you agree? If not why not?

### General Issues

- Is the term artificial intelligence sufficiently clear to be used in these proposed rules? If not do you have an alternative proposal?
- One of the distinctions drawn between different uses of AI is between activity defined in the report as administrative uses, which merely corrects spelling or grammar, provides transcription, operates as accessibility software, or assists with formatting and otherwise does not generate substantive

## Civil Justice Council

content on the one hand, and activity which generates substantive text, images or videos on the other. Another distinction drawn is between fact evidence and the product of legal research. Do you agree with the distinctions drawn in these proposals? If not what alternatives do you propose?

- Should the endorsements proposed always identify the AI tool used? If so, to what end?
- Should there be a rule providing for a power to give a party permission to use AI for some specific purpose? If such a rule should be introduced, should it be general or confined to specific uses?