



**Informing Progress - Shaping the Future**

## FOIL Update 5<sup>th</sup> May 2026



### The Academy of Experts

#### Guidance for Expert Witnesses on the use of Artificial Intelligence

In January 2026, the Academy of Experts published [guidance](#) which is intended to assist expert witnesses regarding the use of AI in their outputs. It identifies the key risks associated with AI use and offers a helpful checklist that experts can use before deciding whether to deploy AI in connection with their report writing and expert services. It alerts experts to the fact that it may not always be obvious or transparent that a tool uses AI or what form of technology is being used.

Critically the guidance makes it clear that when experts use AI *'they remain ultimately responsible for their work product. Experts cannot divest responsibility or evade their duties when they use AI.'* Experts are asked to ensure that they document, and have a clear record of, key decisions taken in relation to their use of AI and their particular purpose(s).

There is a helpful section covering liaison with instructing lawyers. Experts should consider whether to disclose their proposed use of AI to their instructing lawyers (or even obtain their approval). Experts should check and follow what is said in their engagement letter (or equivalent) about the use of AI and any necessary disclosures or consents. The guidance makes it clear that in the absence of any contractual requirements and for any proposed high-risk purpose, the expert should disclose this to their instructing lawyers and ensure that there are no objections (either from the instructing lawyers or the underlying client) before proceeding. It emphasises the benefit of discussion with the instructing lawyers.

FOIL members may want to refer to this guidance, and where required, clarify the need for early transparency and disclosure about AI use in any letter of instruction.

In terms of the disclosure of AI use in written expert reports, the guidance states that *'experts should verify whether their professional duties and/or applicable laws and regulations (including any court rules) require them to disclose the use of AI to the court or tribunal, and/or to the opposing side. It is prudent to discuss this with instructing lawyers, especially where there is no clarity on whether there is a requirement to disclose, as it may still be advisable to do so.'*

In FOIL's response to the CJC Consultation on the Use of AI in Preparation of Court Documents, we agree with the CJC's proposal that experts should be permitted to include AI generated material in their reports, provided a declaration is included explaining the use made of AI and the AI tools used. Awareness of the use of AI will allow review of the report against that background, potentially encouraging a greater focus on the accuracy of the conclusions and on appropriate cross-examination.

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