



Informing Progress - Shaping the Future

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The Law Society Proposes a Public Consultation on AI Use in the Courts

In its response to the Civil Justice Council's (CJC) AI consultation, the Law Society of England and Wales has called on the Ministry of Justice (MoJ) to launch a wider review into the use of AI across the entire justice system. The Law Society was direct in its language, with the growing application of AI in legal practice making the stakes particularly high when AI is used in court, and the implications deserving of a proper public debate.

Due to the potential repercussions, it is important for law firms, legal advisors, and those trying to keep pace with how AI technology is reshaping the profession to understand the background, objectives, and potential outcomes should the Law Society get its wish.

Prompts for the Call

The immediate trigger behind the Law Society's appeal was the CJC's own consultation on the use of AI in preparing court documents, which launched after a series of cases in which AI-generated content containing fabricated case citations and inaccurate legal authorities was placed before the courts. In addition to the embarrassment caused, these incidents have brought increased judicial and regulatory attention to how AI tools are being used to draft various litigation documents, and who is responsible when something goes wrong.

The Law Society's response comes within the context of a period of sustained technological development within a regulatory framework underprepared to manage it. The lessons of the Post Office Horizon scandal were highlighted as an example of where things can go wrong

and faulty software evidence can contribute to wrongful convictions. That case remains a reminder that confidence in computer-generated material has to be earned through scrutiny, transparency, and accountability and cannot be assumed. The Law Society's engagement with the MoJ in this area is not new, having previously responded to a 2025 call for evidence on the use of software-generated evidence in criminal proceedings.

The Need for a Consultation

The Law Society's position acknowledges that AI has a genuine role to play in modern legal practice, and it has not called for the Civil Procedure Rules to be rewritten. However, it does maintain that the pace and scale of AI adoption extend beyond the guidance and oversight currently available to solicitors, court users, and the judiciary.

The benefits of AI are real, in that it can improve efficiency, reduce costs, and widen access to justice, particularly for litigants who might otherwise struggle to navigate the legal system unrepresented. The risks, however, are equally real, with inaccurate outputs and hallucinations known to introduce bias, distort evidence, and produce unfair outcomes if unrestricted. Confidentiality and data protection are further concerns wherever client or case information is processed through AI tools. In addition, public trust in the administration of justice is reliant on people believing that whatever technology is used behind the scenes, the system remains fair, accurate, and accountable.

When taken together, these concerns help explain why the Law Society believes that informal, ad hoc adjustments are not enough. Chief executive Ian Jeffery captured the underlying philosophy when saying "*We need a balanced framework to support the use of AI in court proceedings.*" By definition, a framework requires deliberate design, and this requires the kind of structured input that a formal consultation process can capture.

The Proposed Changes

The Law Society has set out a multidimensional approach to reform, culminating in the wider consultation by the MoJ rather than this serving as the starting point. First, the Solicitors Regulation Authority (SRA) is asked to review its Code of Conduct and issue clear, practical guidance on how solicitors' existing professional duties apply when AI is used to prepare court documents. The Law Society wants something more definitive than the preliminary compliance guidance already published by the SRA, suggesting specific guidance that addresses supervision, verification of AI-generated content, and the standards solicitors must meet before using such material.

Next, HM Courts & Tribunals Service is asked to produce simple, accessible guidance aimed at litigants and other court users, recognising that AI tools are increasingly used by represented parties as well as by people navigating the system on their own. The call for the MoJ to conduct a wider review of AI use across the justice system as a whole represents the final element, presented as the mechanism through which evidence can be gathered and used to inform any future procedural rule changes, should they prove necessary.

Transparency is the recurring theme running throughout, with the Law Society also calling for new disclosure requirements that would make it clear when AI has been used to prepare or contribute to court documents, with appropriate training and governance measures in place for the solicitors who oversee its use. The aim is to ensure that any use of AI is visible, supervised, and explainable, so that any errors can be traced and addressed rather than discovered only after harm has been caused.

Possible Improvements

If the MoJ does initiate a public consultation, several practical improvements could follow, including clearer definition of where responsibilities sit between regulators, court administrators, and government, which would replace the assorted guidance currently in place that has developed on a case-by-case basis. Solicitors would get more certainty about what is expected of them when overseeing the use of AI, which would help reduce the professional indemnity and reputational risk that currently sits with individual legal practitioners trying to operate in largely unfamiliar territory.

Court users, including the growing number of self-represented litigants, would benefit from straightforward guidance on what AI tools can and cannot reliably do, which directly relates to the access-to-justice ambitions that AI is often promoted on. If implemented responsibly, disclosure requirements would allow judges and all parties to easily identify AI-generated content, supporting more efficient case management. Additionally, a formal public consultation would give the legal sector, the judiciary, technology providers, and civil society a coordinated opportunity to proactively shape policy before it is set.

In the broader context, other jurisdictions are already moving to establish clearer conditions for AI use in courts, so a UK consultation would position England and Wales as proactive rather than reactive in a fast-moving discussion set to continue in the spotlight.

Setting the Right Tone

The Law Society's suggestion sets it apart from more partisan discussions centred on AI, in that there is no call for AI adoption to slow down, and a clear acknowledgement of the efficiencies and productivity gains AI can deliver. However, suggesting that it is simply good policy to approach a fast-moving technology with structured, public deliberation rather than with ad hoc guidance is measured and reasonable. For legal professionals already dealing with how to supervise AI-assisted drafting, train staff, and manage client expectations, the prospect of a coordinated framework, built through proper consultation, is likely to be welcomed.

It remains to be seen what decision the MoJ takes, and if it agrees to the consultation, what timetable it might set. What is clear, however, is that the conversation about AI in the justice system has moved beyond evaluating the convenience and cost, into a focus on accountability, fairness, and trust. It is these areas where the Law Society hopes a public consultation can help set a clear path forward.

A Practitioner Perspective

Whilst the Law Society's position is carefully calibrated, it is worth stepping back to consider a tension that any framework will need to confront directly: the implicit assumption that human legal reasoning represents a reliable benchmark against which AI must be measured. In practice, human-only legal reasoning is not infallible. It is shaped by cognitive bias, fatigue, and inconsistency — vulnerabilities that are often underacknowledged in discussions that treat AI error as categorically more serious than human error. A mature framework should hold both to account with equal rigour.

The access-to-justice argument cuts sharply here. The traditional, purely human legal model is prohibitively expensive, and that expense is widely accepted as one of the root causes of the current access-to-justice crisis. AI, applied intelligently, offers a genuine opportunity to address that. Yet if the MoJ consultation sets a standard of perfection for AI that far exceeds the levels human practitioners routinely achieve, there is a real risk that the framework inadvertently entrenches the very inequalities it aims to address.

A further question worth raising is whether, as AI adoption becomes the norm rather than the exception, the framework should acknowledge that a deliberate refusal to use AI tools may itself carry professional risk. If AI-assisted review is demonstrably better at catching the kind of oversight errors that human drafting routinely misses, at what point does choosing not to deploy it become difficult to justify? That is a provocative framing, but one that a serious public consultation should not avoid.

There is also a competitive dimension that the consultation should not overlook. Smaller firms may find it harder to adopt and properly govern AI tools than their larger counterparts, raising the possibility that a compliance-heavy framework could impose a disproportionate burden on those least able to absorb it. The goal of the consultation should be a framework that enables intelligent, proportionate use of AI across the profession — one that combines the objectivity and consistency that technology can offer with the judgement and accountability that human oversight must provide.

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