

Civil Justice Council Consultation on Use of AI for Preparing Court Documents

RESPONSE OF THE LONDON SOLICITORS LITIGATION ASSOCIATION

The LSLA was formed in 1952 and currently represents the interests of a wide range of civil litigators in London. It has almost 4,000 members throughout London among all the major litigation practices, ranging from the sole practitioner to major international firms. Members of the LSLA Committee sit on the Civil Justice Council, the Chancery Court Users Committee, the Rolls Building Users Committee, the Law Society Civil Litigation Committee and the Commercial Court Users Committee to name but a few. As a consequence, the LSLA has become the first port of call for consultation on issues affecting civil and commercial litigation in London, and it has on many occasions been at the forefront of the process of change.

This document sets out the response of the LSLA to the consultation exercise by the Civil Justice Council on the use of AI for Preparing Court Documents. In this, we draw on the experience of our corporate member firms, the vast majority of which have experience in the use AI for the preparation of Court documents or use of AI in general during practice. Given this, the views that are expressed below reflect a range of perspectives.

There are a number of questions for consultation, and this document responds to those to which the LSLA feels it can provide a meaningful response.

We have numbered the main sections from A to F and provide our comments by reference to those main topics, rather than question by question.

A – Question concerning the 'scope'.

- 1. 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.*

A – LSLA Response

- a) The LSLA agrees that it is for professional bodies to provide guidance on the use of AI. Indeed, AI technology is fast-moving and now pervasive. Given the rapidly evolving landscape, practitioners may be better governed by general principles and duties in terms of ethics and integrity, rather than prescriptive rules that risk becoming outdated.
- b) Professional bodies are best placed to consider the terms of any necessary guidance and principles to underline the obligations relating to the preparation of court documents, alongside how AI is used by the profession in other respects.

- c) As discussed below in section F, the term "Artificial Intelligence" can be of wide application, covering for example AI functionality within another tool (eg. use of TAR on disclosure) through to drafting of a court submission. For the purpose of the responses below, we will be focusing on the use of AI in the context of producing relevant material (eg. legal research, substantive analysis and drafting, etc) as opposed to the use of AI for administrative purposes within a case. We think it goes without saying that AI will and should be used for administrative purposes, subject to confidentiality safeguards.

B – Questions concerning 'Statements of case'

2. *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?*
3. *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*
4. *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?*
5. *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*

B – LSLA Response

- d) The LSLA agrees that imposing further rules relating to statements of case produced with the assistance of AI would add an unnecessary layer of complexity. It is sufficient that a statement of case bears the name of the legal representative who is taking professional responsibility for it.
- e) As with any tool, it is the legal representative's responsibility to ensure that the information relied upon is correct and can be verified.
- f) Moreover, as AI technology becomes increasingly pervasive, requiring a specific declaration or certificate confirming whether AI was used in the preparation of a statement of case may quickly become otiose, given how commonly AI is now employed across legal practice. Practitioners may also rely on third parties behind the scenes — for example, counsel or experts — which would add a further layer of complexity in certifying precisely what has been done and by whom. It is important not to assume all use of AI is inherently wrong or problematic. Rather, as with any tool, the focus should be to ensure that use is appropriate and undertaken with the right level of care and verification.
- g) A statement of case must be verified by a statement of truth which is, as per Part 22.1(4) of the CPR, "a statement that the maker believes the facts stated in the document to which the statement refers are true". That requirement must stand regardless of the use of AI.
- h) The above considerations should apply equally to skeleton arguments - we see no reason for a different approach given that they are similar in nature.

C – Questions concerning 'Disclosure'

6. *The CJC proposes that 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. Do you agree that disclosure lists/statements do not need to contain such a statement? If not, why not?*

C – LSLA Response

- i) We agree that disclosure lists/statements do not need to contain a section addressing the extent to which AI tools/software have been used. AI has been used in the disclosure process for several years, and it is an integral part of a disclosure review involving a large number of documents.
- j) Furthermore, just as the parties may discuss and agree on relevant search terms to be applied in the disclosure exercise, the same approach could extend to AI prompts where these are used to identify relevant documents. Parties should be encouraged to engage cooperatively in agreeing the appropriate prompts to be used, in much the same way as they would discuss keyword searches or the use of TAR, so as to ensure that the disclosure process remains transparent, proportionate, and fair.

D – Questions concerning 'witness statements'

7. *The CJC makes different proposals for different kinds of witness statements, in particular drawing a distinction between trial witness statements and non-trial witness statements. Do you agree with that approach? What distinction, if any, would you propose?*
8. *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?*
9. *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.*
10. *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?*
11. *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, diluting or rephrasing the witness's evidence). Do you agree? If not, why not?*
12. *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?*
13. *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?

14. 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? If so, why?

D – LSLA Response

- k) A distinction could potentially be drawn between statements prepared which provide evidence of events (such as trial witness statements) or statements which are more procedural in nature (such as statements prepared to support interlocutory applications). However, statements (or typically affidavits) prepared to support applications for freezing injunctions or search orders often include the sort of evidence of fact usually seen in trial statements. As such, a more useful distinction might be between factual and procedural statements rather than trial/non-trial statements. Nonetheless, it does not seem particularly useful to make any distinction when it comes to rules or approaches to the use of AI in the preparation of statements.
- l) Where a statement is prepared for any purpose, it is the signatory's obligation to ensure they believe in the truth of its contents. The use of AI to prepare a statement (or part of a statement) should have no impact on the witness's belief in the truth of the content of the statement. For example, in the event that the AI used hallucinates or otherwise invents information which is included in a draft statement, it is the duty of the signatory of the statement to recognise the hallucination or invention and remove the same.
- m) For factual witness statements, AI could be of great assistance in preparing evidence which is true to the witness's own words, where it is provided with transcripts or recordings of interviews with the witness and is asked to prepare an initial draft without using any other source material. This may be an efficient process and one which produces material consistent with the witness's recollection and in their own words. To that end it seems unnecessary to prohibit the use of AI in the preparation of PD57AC compliant statements. What we think would be preferable is that where AI has been used, its use is explained and (as is currently the case) the witness properly understands their obligations to ensure their belief in the truth of its contents.
- n) The statement of best practice at PD57AC already requires a trial witness statement to include information about how the statement was prepared. That requirement would therefore necessitate details of any AI used to draft or otherwise compile information to be included at the beginning of the statement. It does not seem necessary to include additional or separate declaratory requirements.
- o) In relation to translation services, the use of AI for translation is already widely used in the market, with translation companies offering tailored services which may or may not incorporate AI or "machine translation" alongside human translation. Ultimately, the translator who signs a statement of accuracy bears the responsibility for the contents of the translation, rendering further declarations unnecessary.
- p) Legal representatives may also make use of machine translation — that is, without the involvement of a certified translator — as a low-cost alternative for documents which are not central to the dispute. This will help to manage costs as well as avoiding delay where formal translation is obtained.

- q) Regardless of whether a document was translated using AI or by a certified translator, the parties may check the translation by any means that they see fit.

E – Questions concerning 'experts'.

15. 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?

E – LSLA Response

- r) The LSLA considers that, in principle, there should be no need for experts to provide a blanket declaration as to whether and how AI was used in preparing their report. Expert reports already require the expert to set out the methodology and sources relied upon. To the extent that AI has been used in a manner that is material to the expert's analysis or conclusions — for example, in data modelling or the generation of projections — this would naturally fall to be explained as part of the expert's methodology.
- s) For administrative uses such as transcription, formatting, or grammar correction, a separate declaration would be unnecessary and disproportionate. Furthermore, requiring experts to certify the use of AI introduces an additional layer of complexity, particularly where the expert may have relied on third-party tools or services in ways that are not always transparent. We consider that the existing obligations on experts, including their overriding duty to the Court, provide a sufficient framework.

F – Questions concerning 'general issues'.

- 16. Is the term "artificial intelligence" sufficiently clear to be used in these proposed rules? If not, do you have an alternative proposal?*
- 17. 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 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?*
- 18. Should the endorsements proposed always identify the AI tool used? If so, to what end?*
- 19. 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?*

F – LSLA Response

- t) In relation to the term "artificial intelligence", and as briefly explored in section A above, the pace of technological development means that any definition risks becoming outdated or under-inclusive. A broad, principles-based definition may be more appropriate than an attempt at an exhaustive or technical one. We would suggest that any definition be drafted with sufficient flexibility to accommodate future developments.

- u) As to the distinction between "administrative uses" and activity which generates substantive content, the LSLA considers this to be a reasonable starting point. However, in practice the boundary between the two categories may not always be clear-cut, and the distinction may become increasingly difficult to maintain as AI tools become more sophisticated. The key must be to look at appropriate and transparent use, as the technology develops.
- v) On the question of whether endorsements should always identify the specific AI tool used, the LSLA does not consider this to be necessary or practicable. As noted above, AI is now so commonly used that such a requirement may quickly become otiose. Legal representatives may use multiple AI tools in the course of preparing a single document, or may rely on third parties — such as experts or counsel — who themselves use AI tools that may not be known to the instructing solicitor. Likewise, a declaration of use of in-house or bespoke tools may offer little to no practical use in terms of understanding the tool. Requiring identification of specific tools would add a layer of complexity that is unlikely to serve a proportionate purpose. It should be sufficient for practitioners to focus on the general principles governing their conduct, taking into account their duties as officers of the Court.
- w) Finally, the LSLA considers that a rule providing for a power to give a party permission to use AI for a specific purpose is not necessary at this stage. We consider that the existing framework of professional duties, supplemented by guidance from the relevant professional bodies, is sufficient to regulate the responsible use of AI in the preparation of court documents.

London Solicitors Litigation Association

13 April 2026