

The consultation closes on **14th April 2026 at midnight**.

Consultees do not need to answer all questions if only some are of interest or relevance.

Answers should be submitted by PDF or word document to CJC.AI.consultation@judiciary.uk.

If you have any questions about the consultation or submission process, please contact CJC@judiciary.uk.

Please name your submission as follows: 'name/organisation - CJC The Use of AI for Preparing Court Documents'.

You must fill in the following and submit this sheet with your response:

Your response is (public/anonymous/confidential):	Public
First name:	Mark Lim, Vice Chair of the CLLS Litigation Committee James Levy, Member of the CLLS Litigation Committee
Last name:	
Location:	London
Role:	
Job title:	
Organisation:	City of London Law Society – Litigation Committee and AI Committee
Are you responding on behalf of your organisation?	Yes
Your email address:	mark.lim@lewissilkin.com ; James.Levy@ashurst.com

Information provided to the Civil Justice Council:

We aim to be transparent and to explain the basis on which conclusions have been reached. We may publish or disclose information you provide in response to Civil Justice Council papers, including personal information. For example, we may publish an extract of your response in Civil Justice Council publications or publish the response itself. Additionally, we may be required to disclose the information, such as in accordance with the Freedom of Information Act 2000. We will process your personal data in accordance with the General Data Protection Regulation and the Data Protection Act 2018.

Consultation responses are most effective where we are able to report which consultees responded to us, and what they said. If you consider that it is necessary for all or some of the information that you provide to be treated as **confidential** and so neither published nor disclosed, please contact us before sending it. Please limit the confidential material to the minimum, clearly identify it and explain why you want it to be confidential. We cannot guarantee that confidentiality can be maintained in all circumstances and an automatic disclaimer generated by your IT system will not be regarded as binding on the Civil Justice Council.

Alternatively, you may want your response to be **anonymous**. That means that we may refer to what you say in your response but will not reveal that the information came from you. You might want your response to be anonymous because it contains sensitive information about you or your organisation, or because you are worried about other people knowing what you have said to us.

We list who responded to our consultations in our reports. If you provide a confidential response your name will appear in that list. If your response is anonymous, we will not include your name in the list unless you have given us permission to do so. Please let us know if you wish your response to be anonymous or confidential.



Furniture Makers' Hall, 12 Austin Friars
London EC2N 2HE

enquiries@ccls.org
ccls.org

LITIGATION COMMITTEE and AI COMMITTEE response to the Civil Justice Council Consultation on Use of AI for Preparing Court Documents

The City of London Law Society ("CLLS") represents approximately 22,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through over 20 specialist committees. This response has been prepared by the CLLS Litigation Committee and AI Committee. This response addresses the consultation insofar as it relates to the law and civil procedure of England and Wales. It does not, therefore, address the questions in the consultation paper insofar as they relate to the law and civil procedure of Northern Ireland or Scotland.

The full list of consultation questions is below:

We would prefer a principles-based approach to updating the rules on the preparation of court documents, rather than the introduction of AI-specific requirements. A principles-based approach ensures that the rules adequately address any risks posed by AI whilst guarding against new rules becoming outdated as technology develops. We do not favour the introduction of new declaration or certification requirements unless the risk they seek to address cannot be addressed in a more proportionate way. Such requirements necessarily have a time and cost impact for the parties, and these factors should be weighed against the benefits the certification or declaration is intended to achieve.

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.

The focus on rules rather than guidance is appropriate. We note that guidance from organisations other than legal representatives' professional bodies (for example the International Legal Technology Association's Generative AI Best Practice Guide) can be helpful but we do not consider guidance to be required in relation to the preparation of court documents.

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?

We agree with this proposal. The existing requirement under PD5A paragraph 2.1 that statements of case and other documents drafted by a legal representative must bear the signature of the legal representative

or their firm provides sufficient accountability and confirms that the legal representative has taken professional responsibility for the preparation of the document.

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.

No, this alternative is not preferred. It would not be appropriate to require a general declaration regarding an author's wider sources or working methodologies, which properly remain subject to privilege and confidentiality. Equally, the use of AI should be facilitated rather than discouraged, and should not be subjected to unduly disproportionate or unnecessary scrutiny.

4. Skeleton arguments and other advocacy documents [Part E – paragraph 41-45]

5. 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?

We agree with this proposal. The existing requirement under PD5A paragraph 2.1 that documents drafted by a legal representative must bear the signature of the legal representative or their firm provides sufficient accountability and confirms that the legal representative has taken professional responsibility for the preparation of the document.

6. 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.

No, this alternative is not preferred. It would not be appropriate to require a general declaration regarding an author's wider sources or working methodologies, which properly remain subject to privilege and confidentiality. Equally, the use of AI should be facilitated rather than discouraged, and should not be subjected to unduly disproportionate or unnecessary scrutiny.

Disclosure

7. 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?

We agree that there is no pressing need to introduce a new requirement for disclosure lists, statements, review documents or certificates to include a section addressing AI use. The existing rules already require parties to explain their search methodology and any limitations. We understand that, in practice, parties are addressing AI use within this existing framework.

We note the approach recommended by the ILTA Generative AI Best Practice Guide, which provides that the intended use of generative AI should be clearly set out in Section 2 of the DRD.

Witness statements

8. 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?

For the reasons set out in our response to question 11, our position is that there is no need to introduce a rule requiring the inclusion of a statement on the use of AI within trial or non-trial witness statements. As a result, our view is that a distinction between trial and non-trial witness statements is not required.

If a rule is introduced requiring statements relating to AI use in witness statements, a distinction between trial and non-trial statements is efficient as it mirrors the distinction adopted in the CPR. We note, however, that while a significant proportion of non-trial statements are given by legal representatives and concern technical procedural or legal issues, there are circumstances where non-trial statements addressing factual issues are given by non-lawyers. If the primary aim of introducing statements relating to AI use into witness statements is to ensure that witness statements addressing factual issues are in the witness' own words, an alternative would be to make a distinction between witness statements provided by legal representatives and witness statements provided by others. Such an approach would be in line with the distinction referred to in question 17 between fact evidence and the product of legal research, it would also be consistent with the proposals made in relation to statements of case and skeleton arguments (i.e. that new rules are not required if a legal representative is putting their name to the document).

9. 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?

Given our view, explained in response to question 11, that the introduction of new rules on the use of AI in witness statements is not required, we do not consider this proposal to be necessary.

However, if rules are to be introduced, this proposal would work for non-trial statements produced by legal representatives as the statement of truth would bear the witness' name. However, non-trial statements provided by non-legal representatives would not necessarily contain the name of the legal representative or firm that has assisted in preparation of the statement and, as a result, a new rule may be required to address this.

10. 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.

This alternative is not preferred.

11. 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?

We do not consider that new rules on the use of AI to prepare witness statements covered by PD57AC are required. The existing framework – including the CPR and professional conduct rules - already provides adequate safeguards, and we are concerned that the report takes an unnecessarily restrictive view of AI's role in witness statement preparation. We address each of these points in turn.

The adequacy of the current rules

The existing framework already guards against the misuse of AI in witness statements. By virtue of PD57AC, paragraph 4.3, legal representatives must confirm compliance with paragraph 18.1 of PD32 (requiring the statement to be, if practicable, in the witness' own words) and with the Statement of Best Practice appended to PD57AC.

The Statement of Best Practice requires that trial witness statements be based upon records of evidence obtained from the witness (paragraph 3.10). Paragraph 3.13 confirms that while legal representatives may take primary responsibility for drafting, "*the content should be taken from, and should not go beyond*" those records. Where further evidence is needed, it must be sought by non-leading questions, not by proposing content for the witness' approval.

In addition, professional conduct rules provide a further safeguard against the misuse of AI to manipulate evidence. Section 2 of the SRA's Code of Conduct for Solicitors provides that solicitors must not "*misuse or tamper with evidence or attempt to do so*" or "*seek to influence the substance of evidence, including generating false evidence or persuading witnesses to change their evidence*".

Given these requirements a separate declaration on AI use would add nothing of substance. The existing rules already address the underlying concern that AI might be used to generate statements which are not in the witness' own words.

Role of AI in witness statement preparation

The report concludes at paragraph 7.14 that AI should not be involved in preparing substantive text "*beyond transcribing the witness's own words*", citing concerns about record retention. We consider this conclusion to be too narrow.

First, the record retention concern is not unique to AI. The risk that a witness statement cannot be verified against interview notes exists regardless of whether AI is used in its preparation. In practice, legal representatives routinely maintain records of witness interviews, as envisaged by paragraph 3.10 of the Statement of Best Practice appended to PD57AC.

Second, whilst we agree that AI must not be used to generate or change substantive content, its role extends beyond transcription. A legal representative should be able to use AI to assist with tasks they would otherwise carry out themselves or delegate to a colleague, provided the AI's outputs are properly reviewed. Examples of how we are seeing AI be used in practice include:

- a) Pre-interview preparation: Using AI to review the witness' documents and identify issues that could be explored during the interview.
- b) Transcript analysis: Where witness interviews span multiple sessions and produce lengthy transcripts, using AI to identify themes as an aide to structuring the statement appropriately.
- c) Evidence collation: Using AI to extract all statements the witness made on a particular issue (which may be scattered across the transcript) so that the evidence can be addressed in a single, coherent section of the statement.
- d) Gap analysis: Using AI to check whether any issues have been missed and to suggest follow-up questions.

If, notwithstanding the above, a new rule is introduced

The proposal would create uncertainty for practitioners as it is not clear what uses of AI would be prohibited. In order to avoid unduly restricting the use of AI, guidance would be required explaining what is and is not permitted.

If a declaration requirement were to be introduced, it should be confined to steps taken by the legal representative. In practice, a legal representative cannot prevent a witness from independently using AI when reviewing a draft statement, even if advised that such use would breach the rules. Equally, any restriction on a witness's use of AI in reviewing their own statement should not be unduly stringent. There may be entirely proper reasons for a witness to use AI—for example, to satisfy themselves that the draft does not stray beyond the language of their own notes or other contemporaneous records.

12. 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?

We consider that the proposal would serve no practical purpose. The requirement in PD32 paragraph 18 that a witness statement must, if practicable, be in the witness' own words, and solicitors' professional duties in relation to evidence provide adequate safeguards against the risk of AI being used to generate content for witness statements which is not in the witness' own words. For the reasons set out in our response to question 11, we also consider that the report takes an unnecessarily restrictive view of AI's role in witness statement preparation.

13. 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?

For many years, professional translators have used machine translation to produce draft translations which are then subject to their review and edit. If a human translator is prepared to sign a statement of accuracy taking responsibility for a translation, we do not consider that there is the need for a rule making provision for their use of AI.

While we consider that parties may be able to use AI tools in the future to provide translations of witness statements, human oversight is still required at this stage. Our concerns fall into three broad categories: lack of accountability, confidentiality, and reliability and accuracy.

Lack of accountability

- a) Lack of accountability: Unlike human translators, AI tools cannot be held professionally accountable for errors. Human translators can be called to explain their translation choices if challenged; AI tools cannot be so called.
- b) Certificate of accuracy: The requirement for a translator to sign a certificate of accuracy serves an important gatekeeping function, ensuring that a qualified individual has taken personal

responsibility for the translation's fidelity to the original. Permitting AI translation without human oversight removes this safeguard.

Confidentiality

- c) Confidentiality: It is unclear what is meant by "publicly available machine translation". We have assumed this refers to machine translation tools which are free to use, where inputs and outputs are not held in a secure environment and could be used for future training of the tool and/or to generate future outputs. Such a proposal poses confidentiality risks. The October 2025 guidance to the judiciary on the use of AI states that: "*Any information that you input into a public AI chatbot should be seen as being published to all the world*". Trial witness statements do not usually become open to inspection by third parties until trial (CPR 32.13). The use of publicly available translation tools could make the content of witness statements available to third parties much earlier, potentially prejudicing the parties involved.
- d) Professional obligations: Legal representatives owe duties of confidentiality to their clients. Using publicly available tools may breach these professional obligations, even if the translation itself is accurate.

Reliability and accuracy

- e) "Hallucinations": Generative AI tools are known to produce confident but incorrect outputs. In a translation context, this could result in the insertion of words or phrases that do not appear in the original statement. Unlike a human translator who may flag uncertainty, AI tools present fabricated content with the same confidence as accurate translations.
- f) Inconsistent outputs: AI tools may produce different translations of the same text on different occasions. While the proposal suggests that other parties could check the translation using the same tool, they are unlikely to receive identical results. This could result in satellite disputes about which translation is most accurate, and reference to a human translator would likely be required to assess the accuracy of the translation.
- g) Preservation of the witness' own words: AI tools may rephrase, simplify or alter the statement in ways that subtly change the meaning or emphasis of the evidence.
- h) Nuance and legal and technical terminology: Witness statements often contain subtle distinctions in meaning, idiomatic expressions, technical detail or culturally specific references that AI tools may fail to capture accurately. Legal concepts do not always have direct equivalents across languages, and a human translator with legal expertise (or knowledge in a technical subject matter) can identify when a term requires explanation or adaptation. AI tools may simply substitute an inappropriate or misleading equivalent without flagging the issue.

If it is decided that parties should be allowed to use AI tools to produce translations without human oversight, we question why the parties should be limited to using publicly available AI tools. Many law firms have access to private AI translation tools which are trained on legal data and are therefore likely to be more accurate than publicly available tools. Within these tools there is scope to allow third parties to access and review the translations produced.

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?

No, this alternative is not favoured, as it would not solve a number of the issues highlighted above. Further, it would mean that legal representatives could use AI for translation but would appear to preclude litigants in person from doing so, which seems contrary to the principle of accessibility and would put a cost burden on litigants in person who may be less likely to afford professional translation.

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?

In our view, the use of AI by experts poses two main risks:

- (i) that hallucinated material is put before the court (as occurred in *Kohls v Elison* No 24-cv-3754 (D Minn 10 January 2025)); and
- (ii) over-reliance on AI in the conduct of technical or scientific tests, exercises or experiments, resulting in an expert adopting an inappropriate methodology or in the report providing the (potentially inaccurate/flawed) opinion of an AI tool rather than the appointed expert.

We do not think the CJC's proposal is a proportionate way of addressing these risks for two main reasons.

Firstly, experts already owe duties to the court which safeguard against the expert adopting an inappropriate methodology and against inaccurate material being put before the court in an expert report. The duties include but are not limited to:

- PD 35 paragraph 3.3 requires the expert to sign a statement of truth which acknowledges that proceedings for contempt of court may be brought against anyone who makes a false statement in a document verified by a statement of truth without an honest belief in its truth.
- PD 35 paragraph 3.2(2) requires an expert's report to give details of any literature or other material which has been relied on in making the report.
- PD 35 paragraph 3.2(5) and paragraph 56 of the CJC's 2014 Guidance for the instruction of experts in civil claims requires the expert's report to explain the methodology used where tests of a scientific or technical nature have been carried out and explain who has undertaken the tests and under whose supervision.

Secondly, the proposal is unduly burdensome and ambiguous. It is not clear what would count as an administrative use and what would not. Experts could use AI in many ways that are not purely administrative and it would increase the work for experts (and the parties' costs) if experts had to log and disclose every time they used AI. For example, AI might be used for conducting research, extracting and collating information from a large body of documents, coding to develop or work with financial models or assisting with ensuring that technical content is expressed in a way that is easily accessible to a layperson. In our view, the court and other parties to the proceedings would derive little to no benefit from being made aware of the use of AI to carry out such tasks.

Nonetheless, we do think that it is important that experts explain the methodology they have used for scientific or technical tests clearly. Where AI has been used to conduct such tests, the expert should identify what tools have carried out the test and how the tool was supervised. To this end, we propose that PD 35 paragraph 3.2(5) could be updated so that an expert is not only obliged to identify individuals who have carried out tests and whether the expert has supervised the test, but also circumstances where

an AI tool has been used. We consider that the CJC should avoid referring specifically to "artificial intelligence tools" in any such update and should instead refer to a better understood term such as "software tool".

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?

As explained in the introduction to our response, we would prefer the adoption of a principles-based approach focussed on the outcome to be achieved, rather than the introduction of specific requirements that reference AI. "Artificial intelligence" is a broad term that was first coined in the 1950s and what is considered to be AI has changed over time. The report appears to be primarily concerned with generative AI, but in the future legal representatives may be working with other forms of technology that may (or may not) be considered "artificial intelligence". A principles-based approach would avoid any updated rules becoming outdated.

Our position differs in relation to expert evidence, where it is important to understand the methodology adopted by the expert. As suggested in our response to question 15, we would propose avoiding reference to "artificial intelligence" and instead use a better understood term such as "software tool".

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?

As explained in the introduction to our response, we would prefer the adoption of a principles-based approach which is focussed on the outcome to be achieved, rather than the introduction of specific rules for AI. The distinction between administrative and substantive uses of AI is problematic. In practice it will likely be difficult to differentiate between what counts as administrative and substantive. A principles-based approach avoids the need to introduce these distinctions.

The proposal which appears to provide for a distinction between fact evidence and the product of legal research is the proposed difference in treatment of trial and non-trial witness statements. For the reasons given in response to question 11, we do not consider rules relating to the use of AI in witness statements are required. However, if rules are to be introduced on this, a distinction between statements relating to legal points and statements providing factual evidence is sensible.

18. Should the endorsements proposed always identify the AI tool used? If so, to what end?

For the reasons stated in our responses above, we do not agree with the proposed introduction of endorsements. If a requirement for endorsements is introduced, the only area where we think identification of the tool used would be of benefit to the parties and the court is in the preparation of expert reports.

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?

We do not consider such a rule to be necessary. The courts' existing case management powers are sufficiently broad; a new rule would be superfluous.

If the CJC has any comments or further questions please contact Mark Lim, Vice Chair of the Litigation Committee, at mark.lim@lewissilkin.com or James Levy, Member of Litigation Committee, at James.Levy@ashurst.com.

Date: 13 April 2026

© CITY OF LONDON LAW SOCIETY 2026

All rights reserved. This paper has been prepared as part of a consultation process.

Its contents should not be taken as legal advice in relation to a particular situation or transaction.