

Regulators Progress Update

Name of organisation: Advertising Standards Authority (ASA)
Date received: 6 September 2023

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

Our assessment of the current challenges posed by AI in the context of our regulation of UK advertising (by legitimate businesses) is that any immediate issues or threats are low-level and that we're equipped to tackle them. We are, however, keeping a watching brief on how AI is or may be adopted by advertisers and what, if any, ramifications that has for our role and the systems and processes we have in place in keeping UK ads legal, decent, honest and truthful.

We openly acknowledge that technological developments like generative AI promise great opportunities for society, but also carry great risks, including risks around advertising. Accordingly, we aim to develop our capabilities and demonstrate authority and influence in online ad regulation presented by this technology.

In terms of how we're already using AI to bolster our regulation, as part of our five-year strategy *More Impact Online* (2018 – 2023), the ASA has invested in, established and is expanding our in-house data science team and AI capability. And the role of data science/AI plays a fundamental role in our new five-year strategy helping us to take on the specific challenges of regulating online advertising.

In harnessing AI, the initial projects we have undertaken have significantly enhanced our intelligence gathering, helping to deliver more efficient and effective investigations and enforcement activity. Our own-built '**Active Ad Monitoring**' system enables us to act at pace and scale, identifying potential problem content automatically and filtering priority ads for expert review.

In summary, our Active Ad Monitoring system is a three-stage process:

1. **Capturing ads at scale**
The system captures ads across online – social media, search and display – using a mix of public and non-public data as well as our own monitoring tools.
2. **AI-based filtering**
Machine learning helps us spot ads relating to issues we're monitoring and highlight where there are potential problems.
3. **Expert review**
Our experts are able to focus their attention on ads identified by the monitoring system as more likely to break the rules and where we need to take action.

This approach streamlines our processes, freeing staff from the manually intensive process of monitoring individual ads (which is unsustainable in the online environment) and puts the ads most likely to break the rules in front of human experts leading to quicker and more effective action.

Developing the capabilities of our AI system is an ongoing project. At the moment it covers important subsets of the issues we're working on. But it is already making an impact in high-priority areas, and we're currently **processing more than 200,000 ads each month**.

Key areas of focus so far have been:

- Identifying **influencer posts** that should be, but aren't, clearly labelled as ads, prioritising those influencer accounts which are most likely to be producing non-compliant content and carrying out enforcement work, threatening and deploying sanctions
- Capturing ads on social media and using facial image detection software to identify potential breaches of a new rule that prohibits **gambling ads** from being of strong appeal to under-18s which includes prohibiting the use of topflight footballers
- Capturing and analysing **cryptocurrency ads** across multiple online platforms, supporting monitoring and enforcement against non-compliant advertisers following the issuing of an [Enforcement Notice](#) to 60 cryptocurrency firms. The Notice requires ads to include risk warnings and to be responsible by not taking advantage of consumers' inexperience or by trivialising investment in cryptocurrencies
- Using our monitoring technology to identify ads on Instagram for **prescription-only medicines such as Botox** which are prohibited from being advertised to the general public. This has led to over **56,000 takedowns** on Instagram in the past three years
- Analysing ads in the eVehicle and airline sectors for potential **misleading environmental claims** as part of our Climate Change and Environment project, with data science intelligence leading to ASA investigations

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

We do not have direct controls in place on advertisers' safe or ethical use of AI. We do, however, place primary responsibility on advertisers for the creative content, audience targeting and media placement of their ads. Where the use of AI, by advertisers or others they contract, results in misleading, harmful or seriously offensive advertising, we will ban the ad including, as relevant, clarifying any role that AI has played in the ad breaching the Code. In this way, we can – and we expect we will – publish case studies where the use of AI has resulted in non-compliance. As an evidence-based regulator, we would consider the number and nature of any such Code breaches in determining whether broader policy-based interventions (for example, through new rules, guidance, regulatory statements etc.) are necessary and proportionate.

We regulate the advertising of legitimate business and are not a body set-up or equipped to tackle illegal advertising. If AI was used in advertising in an illegal way, including for criminal intent, then we would seek to play our part in addressing it but that would likely involve close working with and referral to statutory enforcement partners and, as relevant, third-party ad supply businesses.

We would signpost that access to online ads and related data (for example, the audience demographic targeted by the ad) is fundamental to our monitoring activity specifically and our regulation more broadly. Accessing and capturing this information can be problematic however, especially in the area of influencer marketing where we are continuing to seek solutions in dialogue with social media platforms and, potentially third-party service providers and other regulators. We are optimistic that the emergence of ad libraries, which are required by European law and provided by very large online platforms and very large search engines, will significantly enhance our access to traditional paid ads, especially in walled-garden online environments. The development of our own in-house monitoring tools

and the emergence of commercial solution providers should further support our access to ads. Under our new five-year strategy, we are committed to developing more systematic and universal access to online ads.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

Yes, we think we're appropriately resourced and plugged-in to a network of partner organisations to enable us to effectively regulate the use of AI technology in advertising. That said, we consider we are still in the relative foothills in terms of seeing examples of where AI may have or is being used in an advertising context and, if so, where any issues may arise. As noted above, the advertising rules already apply to ads created by or using AI technology. Ultimately, an advertiser behind any AI generated or targeted ad would be held accountable for ensuring it abides by the rules.

As an active member of its regulators' roundtable, we work closely with the Digital Regulators Cooperation Forum (DRCF) and other regulatory partners. Participation in this forum includes information sharing with partner organisations, such as ICO, Ofcom, CMA, and keeping tabs on developments in AI technology including discussions around current issues and horizon scanning for future regulatory challenges.

We are also a member of and contribute to the Regulators and AI Working Group chaired by the ICO. It's a useful forum for discussing AI related issues with partner regulators and, as the ICO outlines, provides a forum for the development of a collaborative and multilateral approach to AI regulation.

4. Do you have any other comments you would like to make?

No.



13 September 2023

Lord Evans of Weardale KCB DL



Dear Lord Evans,

Thank you for your letter and for sharing your report on artificial intelligence and public standards.

We have considered the report and I have included responses to the points raised in your letter. We hope these are helpful insight into how regulators like ARB are adapting to the challenges posed by AI.

In your letter you asked about how we are adapting our regulatory practices and the extent to which we place controls on those we regulate.

ARB does not currently use AI technology to make regulatory decisions. This may change in future, particularly as we implement new investment into our IT systems. AI may, for example, have the potential to help in identifying regulatory risks or concerns. If we do this, we will always comply with any relevant laws while considering the latest guidance and best practice. Alongside this, ARB's governance would add further oversight to any use of AI.

Within the profession we regulate, we are aware of and monitoring the increasing use of AI. There are two areas of our work that are most relevant to this:

- We ensure only those who are suitably competent are allowed to practise as architects. We do this by approving the architecture qualifications required to join the Register of architects.

- We set the standards of conduct and practice the profession must meet and take action when any architect falls below the required standards of conduct or competence.

Education

ARB sets Criteria for the Prescription of Qualifications. This describes the subject material that must be covered by students gaining qualifications that we prescribe. The Criteria includes that graduates should have an understanding of “the role of the architect within the design team and construction industry, recognising the importance of current methods and trends in the construction of the built environment”.

We are, however, currently undertaking a fundamental overhaul of the regulatory framework for the education and training of architects that may impact on how the profession uses AI in future. Under this new framework, qualifications accredited by ARB will need to be designed based on new learning outcomes which have been approved following statutory consultation and will be published by the end of September 2023. These include:

- As part of the new design competencies, architects entering the profession must be able to demonstrate an ability to propose strategies for construction technology that is appropriate to a project’s brief and context. The use of AI is likely to be an increasingly important element of that ability within the construction industry.
- Architects entering the profession must be able to use research, enquiry and experimentation to develop effective solutions to architectural problems and to broaden their knowledge base.
- As part of our contextual and architectural knowledge competency outcome, architects will be required to know how technologies influence aspects of architecture and urban design.

There will be a transition period, with new qualifications being introduced from 2025 and from September 2027 all students entering a Master’s level (Level 7, or Scottish Level 11) programme will need to be enrolled on an accredited course using the new, improved framework and assessed using the new learning outcomes.

We are also continuing to consider the use of AI by applicants to our Register through routes that require them to submit additional work. As part of currently reviewing our general policy towards plagiarism, we are aware of the potential for AI to be used as a method of this, whether intentional or inadvertent. Individual schools of architecture will also have their own approaches to this within their examination procedures.

Standards

For architects who have then registered with us, the *Architects Code: Standards of Professional Conduct and Practice* lays down the standards of professional conduct and practice expected of

persons registered as architects under the Architects Act 1997. It includes that architects are expected to:

- Be honest and act with integrity
- Be competent
- Promote their services honestly and responsibly
- Manage their business competently
- Consider the wider impact of their work
- Carry out their work faithfully and conscientiously
- Maintain the reputation of architects
- Co-operate with regulatory requirements and investigations

Registered architects are expected to observe this Code wherever in the world they work, and are expected to conduct themselves according to a country's laws, codes and ethical standards. This would extend to the use of technologies such as AI in an architect's day-to-day work, which at all times must be used responsibly and in line with the laws of the country they are practising in.

The Code applies wherever a registered architect carries out architectural work. This applies to all architects, whether they run a practice employing hundreds of staff or are a sole trader, to help ensure their business is run competently and effectively for clients.

Furthermore, Standards 4.1 and 4.2 require the systems, resources, monitoring, and supervision architects have in place to be appropriate and ensure good client services throughout the life of a project. Systems and resources would include the use of technologies in an architect's work. For architects employing staff, they must ensure they are suitably qualified and supervised accordingly.

Standard 4.3 relates specifically to the management of client data. This is something we increasingly see in the complaints we handle. We advise that implementing a policy on data management is a good way to ensure good practice is understood and followed by all staff. Where data-driven technology is used, as with all other areas of their work, architects should always deliver services in compliance with their legal obligations.

Finally, you asked about our access to advice and whether we know where to go for guidance on the use of AI. We are aware of various central government sources of advice, including the Office for Artificial Intelligence and the Department for Science, Innovation and Technology. This includes the recently updated policy paper 'A pro-innovation approach to AI regulation'. We will continue to review new information or advice as it is published.

Yours sincerely,



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By email

28 September 2023

Re: Artificial Intelligence and Public Standards Report Follow Up

Dear Lord Evans,

Thank you for your letter of 4th July, in which you invited the BSB to provide a brief progress update on how we are adapting to the challenges posed by AI three years on from your previous report.

Since then, we have published our [2022-2025 strategic plan](#), which emphasises the importance of technology and innovation. We stated that:

- Technology and innovation have an important role in helping to deliver legal services for consumers, especially around improving access to justice, and in helping to deliver transparency for consumers to navigate legal services.
- We need to ensure the Bar is equipped to adapt to technological changes and meet the expectations of future clients.

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

In line with our [2022-25 Strategic Plan](#), we have recruited two policy professionals in technology & innovation to focus specifically on the opportunities and risks that new technologies (including AI) present to the Bar. This policy workstream will develop regulatory practices to support safe and effective use of technology within the sector that advances the public interest. We are already progressing this workstream, beginning with horizon scanning, stakeholder mapping and research. This will help to develop a dedicated policy framework for regulating technology and innovation at the Bar. We have commissioned research this summer to understand the use of technology at the Bar and the opportunities and risks it poses, as well as the barriers faced by technology companies developing legal technologies for the Bar.

Regarding AI specifically, we are working closely with our counterparts at the other UK legal regulators, as well as in wider regulatory forums such as the Turing Institute AI Standards Hub Regulators Forum, to identify the impacts of AI in the legal services sector. We recently submitted our consultation response to the UK Government (Department for Science, Innovation and Technology and Office for AI) white paper on AI Regulation. We actively participate in the LawtechUK Regulatory Response Unit,

including contributing to the recent discussion paper on the risks and opportunities posed by AI and Machine Learning in legal services¹.

As a risk-based regulator, we have embedded indicators for technology-related risks, including those related to AI, into our BSB regulatory risk framework and review these monthly to unpack the current state of play in the market. For example, we recently carried out a deep dive analysis into the case of ChatGPT misuse in legal proceedings in New York² to review the risks posed and our ability to respond appropriately were a similar case to occur in our jurisdiction.

We are also gathering evidence on legal service professionals' training and competence in technology and AI use, including horizon scanning on legaltech training programmes within England and Wales, a review of technology competency requirements at the Bar, and participation in an Essex Law School workshop on the future of technology in legal education.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically. For example, to ensure they are using AI in ways that are legal and legitimate.

Our 2022-25 Strategic Plan aligns with the strategic themes set by the Legal Services Board, including to "support responsible use of technology that commands public trust". AI technologies, used safely, ethically, and effectively at the Bar, could help improve access to justice, transparency for consumers navigating legal services markets, and quality of legal services, in line with our regulatory objectives. However, the adoption of AI-based technologies in the UK legal services sector, including at the Bar, remain limited. The Legal Services Board's recent survey of technology use by legal service providers indicates less than 5% uptake of the class of legal technologies most likely to incorporate AI.

Since we are still very much in the early stages, we are yet to define or place specific controls on AI usage; we believe our general professional conduct rules and guidance are sufficient to cover existing risks arising from AI use at the Bar. For example, in our recent risk analysis of the New York ChatGPT case, we considered the degree to which our existing controls would cover a similar case arising within our jurisdiction, including testing various alternative scenarios. We were satisfied our professional conduct rules would cover the risks posed in this case, particularly those governing barristers' duty to the court (Core Duty 1), to act in the best interests of each client (Core Duty 2), and duty to act with honesty and integrity (Core Duty 3), including requirements not to knowingly or recklessly mislead (rC9). We continue to monitor potential harms that may arise from use of AI in our sector via our Risk and Technology & Innovation functions. As part of a general review of our professional competence standards, we are also evaluating technology competence needs at the Bar. This review includes considering what actions we may need take to ensure those we regulate are able to use AI and other technologies safely and ethically.

In our response to the AI Regulation White Paper, we expressed general support for the proposed pro-innovation principles and sector-specific regulatory architecture. However, we also raised concerns that our remit from the Legal Services Act 2007 only enables regulatory oversight of barristers and authorised legal services entities and not technology developers or providers. We are therefore only able to regulate the use of AI in service provision, and not the upstream design, development, marketing, or delivery of AI technologies used in our sector. We believe this may create a regulatory

¹ <https://lawtechuk.io/our-reports/>

² <https://www.nytimes.com/2023/06/22/nyregion/lawyers-chatgpt-schwartz-loduca.html>

gap for harms caused by technologies which are not directly attributable to the legal professional's misuse of the technology. Similarly, given the Government's position that existing regulators would maintain oversight for AI applications in their regulated industry, without a dedicated AI regulator or oversight body, we are concerned that potential differences in how each legal regulator might regulate the same underlying technology could create regulatory gaps and/or barriers for entry to the various UK legal services markets for AI technologies. We therefore recommend a more comprehensive approach to AI regulation involving collaboration with other regulatory bodies and stakeholders to address the entire development cycle chain of AI.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

Yes, with the establishment of our dedicated Technology & Innovation Policy team, we are developing good working relationships with technology and AI policy and research teams, including within peer legal services regulators, other regulatory bodies, academic institutions, the Turing Institute, and the private sector. We are aware of the Office for Artificial Intelligence, with whom we and other legal service regulators recently held a dedicated roundtable to discuss implications of the Government AI regulation white paper for the legal services sector.

We actively participate in the LawtechUK Regulatory Response Unit, Turing Institute AI Standards Hub Regulator Forum, and Information Commissioner's Office (ICO) Regulators and AI Working Group, where we jointly address emerging regulatory issues, and share best practice in regulatory approaches to AI and subject matter expertise. We also have a strategic collaboration with the other UK legal regulators, in particular the LSB, SRA and ICAEW, in sharing knowledge about how we approach AI regulation and evidence gathering.

Nevertheless, under the proposed AI regulation framework, we are concerned we may not have sufficient AI-specific expertise or resource to carry out the proposed statutory duty to consider the AI principles in each regulatory action we carry out, nor might that be effective in the vast amount of regulatory work we carry out given the low rates of AI use we currently observe in our sector.

4. Do you have any other comments you would like to make?

We would like to highlight that AI is one part of a wider range of technology and innovation opportunities, and our existing evidence shows adoption at the Bar is quite low for the time being. Technology and innovation, including AI, could have a significant impact on access to justice and quality of service. It is therefore a priority for us to support its safe and effective adoption at the Bar, while monitoring and mitigating its potential risks in line with our regulatory objectives and within the wider public interest.

Regulators Progress Update

Name of organisation: Care Quality Commission

Date received: 19 September 2023

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

Recognising that innovation and technological change, including AI, present opportunities for rapid improvement in health and care, we have committed to encouraging and championing innovation and technology in our [strategy](#). As part of this commitment, we have:

- In collaboration with NICE, MHRA and HRA, developed and delivered the [AI & Digital Regulations Service](#) (formerly known as the Multi Agency Advice Service) helping those developing and adopting AI in health and care understand and follow evaluation and regulatory pathways. This service is funded by the NHS AI Lab until March 2024 and we are currently exploring sustainable options beyond then.
- Updated our [Scope of Registration](#) to clarify (p. 50) when the use of AI constitutes regulated activity in scope of registration with and regulation by CQC.
- Undertaken an eight-month project, funded by the Regulators' Pioneer Fund exploring how we can capture examples and learning about all types of innovation to support improvement in health and care quality. Learning from the project, summarised in the [project report](#), is informing our future approach to innovative care provision.
- Adapted our regulatory approach with a more flexible regulatory methodology that is better able to respond to changing provision, including implementing a new [regulatory platform](#) to produce better data and insight on areas of regulatory concern, thereby improving our flexibility and speed of response.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically?

We make sure that health and care services in England provide people with safe, effective, compassionate, high-quality care and we encourage services to improve. Before a provider can carry out any of the activities that we regulate, they must apply for registration and satisfy us that they can meet certain legal requirements. We assess applications and where relevant impose conditions. Through this system of registration and conditions we ensure that only those who are likely to provide and manage good quality care can do so.

In some cases, we have used conditions of registration to place controls on AI use, such as a requirement for diagnostic images to be reviewed by a GMC-registered clinician after an initial view has been given by AI. However, the development of health and care uses of AI does pose challenges to our regulation. For example, in some scenarios a provider would not need to notify us, or apply to us, to introduce a new AI element to their care delivery.

In all aspects of our regulation, our focus and role is to ensure that people receive high quality care from providers of a regulated activity. We regulate the quality of care provided, not the AI itself. Providers are required to demonstrate their use of AI in this context, showing that they have appropriate governance arrangements in place to ensure safe and effective use that improves the quality of care and delivers good experiences and outcomes for people, and reduced inequalities.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits?

AI is moving at a faster pace than legislation and regulators are likely to require support in responding quickly to new and emerging AI risks. Therefore, we would welcome a centrally facilitated industry or public service joint advisory group to ensure that the health and care sector and regulators can collaborate with access to the latest data and information.

We regulate the quality of health and adult social care, and not AI specifically. We welcome the ongoing development of appropriate regulation to ensure that AI that might be used by providers of health and care has been subject to appropriate trials, complies with ethical protocols, does not add or embed health inequalities and delivers the sensitivity and specificity it is expected to on an ongoing basis. This would help ensure that end users and relevant regulators with a role in assessing the use of AI in specific circumstances have access to appropriate assurance, understanding and information to carry out their roles effectively.

4. Do you have any other comments you would like to make?

High-quality, person-centred care must be at the core of any AI regulation in health and care. Regulation in the context of AI must consider transparency, explainability and informed consent for those receiving care to meet the requirements of the Health and Social Care Act 2008 (Regulated Activities) – Regulation 11. All transparency measures must reflect the information and accessibility requirements across population groups and allow people to make meaningful and informed decisions.

AI has the potential to create significant improvements in the quality of care provision and also carries significant risk to care quality. We have found that collaborating with other agencies and other regulators, e.g. via the AI & Digital Regulations Service is valuable in identifying regulatory issues, including those that place people at risk or that might deter innovators from launching high quality products in England. Enabling us and other regulators to continue to adapt with the pace of change in this space requires significant investment in skills, expertise and methodology. Therefore, we would like to see collaborations such as the AI and Digital Regulations Service on a sustained footing to facilitate the development and roll-out of a longer-term approach to regulating AI in health and care.

We are currently starting to discuss with other regulators how AI may move from being a 'tool' used by a human to being a 'co-pilot'/'job-share'. In our sector with professional regulation being done by one group of regulators and provider regulation done by us there is a likelihood that traditional roles and collaborations will change over time. We are keen, working with other regulators not to stand in the way of innovation, but we do need to understand how AI fits into the wider service architecture, and *who* is ultimately responsible for clinical/care decision making.

18 September 2023

Dear Lord Evans,

Artificial Intelligence and Public Standards Report Follow Up

Regulators Progress Update

Thank you for your letter of 4 July 2023.

I am responding on behalf of the Chief Executive of the Chartered Institute of Taxation (CIOT). The CIOT is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,900 members, and extensive volunteer network, in providing our response.

The objects of the CIOT include the requirements:

- (i) to prevent crime and
- (ii) to promote the sound administration of the law for the public benefit by promoting and enforcing standards of professional conduct amongst those engaged in the provision of advice and services in relation to taxation and monitoring and supervising their compliance with money laundering legislation.

We are also anti-money laundering supervisors.

We have set out the answers to the questions asked in your letter below.

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

a. AML Supervision

The only legal regulatory role which CIOT undertakes is in relation to anti-money laundering supervision of approximately 850 firms. Most of these firms are small firms of advisers providing tax advice and associated accountancy work.

Our responsibilities as supervisors are as set out in the Money Laundering Regulations (MLR). We are supervised by the Office for Professional Body AML Supervision and therefore we are required to meet the requirements of the [OPBAS Sourcebook](#)¹. OPBAS support and encourage the use of technology to maintain effective supervision as set out in section 5.7 of that sourcebook:

“A professional body supervisor should consider whether technology (with appropriate safeguards) can support effective, risk-based implementation of its supervisory approach. Such safeguards would include strong cybersecurity and adherence to relevant legislation (e.g. relating to privacy and data protection).”

The good practice case study on page 19 of the Sourcebook refers to use of AI by a supervisor to enhance the risk assessment process required in relation to our supervised population. We have not to date explored use of AI in our role as supervisors but OPBAS have promised to provide a TechSprint to the AML Supervisors and we are looking forward to hearing more about how technology (including AI) could enhance our supervisory work.

b. Membership Requirements

Independently of whether CIOT is their AML supervisor, all members are required to adhere to a number of [Professional Standards](#)² requirements.

In particular, they are required to adhere to:

- a. [Professional Conduct in Relation to Taxation](#)³ and
- b. [Professional Rules and Practice Guidelines](#)⁴

As set out in these documents members are required to adhere to five fundamental principles:

- **Integrity** - to be straightforward and honest in all professional and business relationships.
- **Objectivity** - to not allow bias, conflict of interest or undue influence of others to override professional or business judgements.
- **Professional competence and due care** - to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation, techniques and act diligently and in accordance with applicable technical and professional standards.
- **Confidentiality** - to respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of a member or third parties.
- **Professional behaviour** - to comply with relevant laws and regulations and avoid any action that discredits the profession.

¹ <https://www.fca.org.uk/publication/opbas/opbas-sourcebook.pdf>

² <https://www.tax.org.uk/ciot-professional-standards>

³ <https://www.tax.org.uk/professional-conduct-in-relation-to-taxation-pcrt>

⁴ <https://www.tax.org.uk/professional-rules-and-practice-guidelines>

These principles must be adhered to when dealing with the challenges posed by AI in our sector.

In relation to other requirements we would comment as follows:

- a. [Continuing Professional Development Regulations](#)⁵ require our members to assess and perform such CPD as is appropriate to their duties. Again, this is principles based and therefore if our members are involved with the provision of services using AI we would expect their CPD to cover aspects relating to appropriate use of that AI.
- b. [Professional Indemnity Insurance \(PII\) Regulations](#)⁶ require our members in practice to put in place PII which meets the requirements set out in the regulations. We have queried with the PII broker dealing with a number of our firms whether they expect AI to have any impact on PII provision. They have advised us that if a member uses AI in the provision of work to a client the member remains responsible for the advice provided and clients can claim against the policy whether the member has read books to research advice, checked online or used AI to assist them. The member therefore needs to check and ensure the advice being given is correct.

We update our regulations and guidance to reflect changes in our sector. At present we have received minimal enquiries from members in relation to challenges with AI as they relate to professional standards and regulation. However, we will continue to seek information on the extent of use of AI and the associated challenges through our Committees and working parties.

We will continue to liaise with the other PCRT author bodies so that we can prepare and issue topical guidance where needed. It will also be an agenda item for consideration by our Professional Standards Committee in the next quarter so we can consider where we should focus our updates to regulations and guidance. Our Spring 2024 Professional Standards webinar will also give us the opportunity to alert members about possible pitfalls and beartraps with their use of AI.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

At present we have no specific AI controls in place on CIOT members. We do however have regular interaction with members through our committees and working parties and guidance and education will respond as the challenges continue to develop and become clearer.

We see education as key and in response to the growing importance of software in the tax industry we have introduced the [Diploma in Tax Technology](#)⁷ which includes the following in its syllabus:

- Session 2.8: Artificial Intelligence and Machine Learning (including limitations in their use)
- Session 3.1: GDPR Compliance Requirements
- Session 3.2: Managing the Risks and Limitations of Technology and Technological Change
- Session 3.3: Data Security
- Session 3.4: Managing Cyber Risk
- Session 3.5: Data Ethics and Model Bias
- Session 3.6: Tax Technology Governance
- Session 8.5 Robotic Process Automation (including how to assess whether a given task is suitable for automation)

⁵ https://www.tax.org.uk/cpd_regs_guidance

⁶ <https://www.tax.org.uk/professional-indemnity-insurance-regulations>

⁷ <https://www.tax.org.uk/ditt>

All our members are required to comply with relevant laws and regulations as set out in the fundamental principles included. As set out in [Professional Rules and Practice Guidelines](#)⁸ members are required to report to us within 2 months if they are:

- Arrested on suspicion of; or
- Charged with; or
- Convicted of a criminal offence. A criminal offence includes an offence committed in the United Kingdom or abroad.
- On or after 1 January 2021 – convicted of Summary only road traffic offences
- On or after 1 January 2021 – (have) accepted a caution for a criminal offence.

A member must supply details of the nature of the allegation, conviction or caution and provide such relevant information in relation to it as is reasonably requested. If for example they were subject to arrest for illegal activity using AI they would therefore have to report that to us and for us to consider a referral for disciplinary action.

We can take disciplinary action where a member has potentially brought discredit to the profession so use of AI in a way which was not legitimate or risked bringing the profession into disrepute could also be subject to disciplinary action.

Disciplinary action is dealt with by our independent body the [Taxation Disciplinary Board](#)⁹. They have a range of sanctions available to them as set out on their website including the option to exclude a member. Exclusion of a member does not however stop them from operating as a tax adviser.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

We would expect OPBAS to provide guidance on issues in relation to AI as it impacts AML supervision and look forward to hearing more on this issue over time.

We liaise with other professional bodies and in particular the author bodies of Professional Conduct in Relation to Taxation (AAT, ACCA, ATT, ICAEW, ICAS and STEP). We regularly seek to address new challenges through discussions with them in various forums.

We also liaise regularly with HMRC on both tax technical issues but also issues in relation to tax technology and again look forward to engaging further with HMRC in relation to Professional Standards issues relating to agents using AI.

We also get involved with meetings, training, roundtables and research run by [Professional Associations Research Network](#)¹⁰ and are following their AI Consortium Project.

Any additional guidance on AI as it relates to regulation would be welcome.

4. Do you have any other comments you would like to make?

Our exams are currently held in exam centres and therefore use of AI during exam sittings is highly unlikely. We are however looking closely at work being done by our sister organisation the Association of Taxation Technicians in relation to AI and online exams.

We hope you find this information of assistance and are happy for our response to be published. If you would like to discuss matters further do get in touch with me.

⁸ <https://www.tax.org.uk/professional-rules-and-practice-guidelines>

⁹ <https://tax-board.org.uk/>

¹⁰ <https://www.parnglobal.com/Public/Public/Home.aspx>



The Chartered Institute of Taxation

The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

Lord Evans
[REDACTED]
[REDACTED]
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[REDACTED]

Date: 15 September 2023
Our ref: 18342

Dear Lord Evans

Re: Artificial Intelligence and Public Standards Report Follow Up

Thank you for your letter of 4 July 2023 regarding the challenges posed by AI. The safe adoption of AI – in all forms (data analysis, visual image processing and natural language processing/generative AI) is a central theme of our work to modernise our business processes and improve our work to regulate for the benefit of the environment and sustainable development.

The Environment Agency is aware of the possible benefits that AI could bring to the sector to improve compliance, best practice and improve the environment for all. However, we are also increasingly aware of the challenges and potential misuse of this technology. We are using our close relationships with industry partners to monitor their changing use of AI and adapt our regulatory approaches accordingly. I have included responses on three key areas of the business where we expect AI to have the greatest impact. These are: improving the way we currently regulate via our permitting regime; how future regulation via permitting might work and carbon emissions trading.

Current Regulation

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

As AI is relatively new in the water sector, we are not currently seeing AI as a challenge, however we will continue to work with industry to understand how AI is being used and the potential impacts this may have. There is the potential AI will bring companies (and us) opportunities to understand asset performance in a different way to now and this should lead to ultimately improved performance at a quicker pace than pre-AI. We are also expanding our use of large data monitoring systems (eg to monitor whether a storm overflow for sewage is being improperly used) and we think AI might help us spot anomalies and match different datasets so we can take action faster.

We have intelligence that a guide on the dark web suggested the using AI as part of fraudulent use of the Waste Producer Responsibility Regime, but having reviewed applications we currently have no evidence of actual use. We ran internal tests using Chat GPT to write a monitoring plan, and although the plan was superficially credible, it would not currently be good enough to subvert our processes. We will continue to monitor and adapt our processes as required.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

We currently do not prescribe any controls on the use of AI. Where we are the recipient of any reports or outputs generated by AI we ensure its use is adhering to the regulations we set out in permits. We will continue to monitor and review any use and adapt our regulations accordingly.

- 3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?**

The EA has created a central team in our Strategy Hub that is working with DEFRA partners to bring generative AI into safe use within the Agency. Intelligence is shared as it arises with our partner organisations but we are not currently aware of any cross-sectoral advice.

We would welcome clarity and guidance on the expectation of us as regulators.

- 4. Do you have any other comments you would like to make?**

AI is a developing tool across some industry sectors, e.g. water industry, and use will become mainstream and core to their business (if not already). It will be a significant shift in approach for some companies. Some companies are further ahead than others in adapting to this shift in approach to data, using it to better understand their asset performance and then how to operationally react. Ensuring best practice and sharing of experiences across industries will help ensure AI is used responsibly and for the benefit of the environment.

Future Regulation

- 1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?**

We are currently beginning to implement a maturity assessment of the use of AI at regulated facilities (such as industrial plants) to understand how new AI standards might impact our regulatory work.

Research to understand the potential future applications and impacts will be used as the basis for adaptation and development of future approaches, which utilise the power of AI technology, whilst mitigating the potential risks.

- 2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.**

In Regulated Industries, current use of AI is generally an evolution of previous automated processes. Our regulations are not prescriptive in techniques to be used; but it is the permit holder's responsibility to ensure they meet the regulations we set. Our regulation will continue to focus on the best available techniques and environmental protection delivered by operators. We will focus on understanding and assuring processes and outcomes, which will ensure appropriate use of AI.

Efforts are underway to explore potential uses, benefits and risks of AI by those we regulate and to revise where necessary regulatory approaches to accommodate the potential uses of AI. This includes considering specialised AI Compliance roles, scaling up work to understand AI impacts across sectors, establishing oversight

[REDACTED]

through maturity assessments and promoting good practices through guidance and information sharing.

- 3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?**

Knowledge is coalescing through working groups and internal forums. There is little in the way of external support beyond ad-hoc peer-to-peer support from partner organisations.

We are aware and working to the government guidance for internal AI application.

- 4. Do you have any other comments you would like to make?**

The Environment Agency and the Office for Nuclear Regulation (ONR) have recently been working in partnership to pilot the first use of a regulatory sandbox by UK nuclear regulators. The ONR and EA are working with experts from across industry to use the following two applications of Artificial Intelligence (AI) as the test topics:

- The use of AI to underpin safety and environmental cases and ensure appropriate and targeted plant maintenance.
- The real-time use of AI to facilitate the operability of robots in constrained spaces and provide an indication of machine stress.

This project has been undertaken with funding from the £12m Regulators' Pioneer Fund (RPF), awarded by the former Department for Business, Energy & Industrial Strategy (BEIS). Sandboxing offers regulators and industry a safe space to consider potential challenges and solutions, including areas where AI may be safely deployed, or where more work is required.

Climate Change and Emissions Trading

- 1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?**

Currently we have not needed to adapt any practices with regards to the use of AI. In the UK Emissions Trading Regime, there is a provision whereby organisations need to provide detail about their monitoring plans (underpinned by Monitoring and Reporting Regulations) which could require them to specify where AI has been used in their processes. This would then require third party verifiers to assess the veracity of the process and output of that AI operation. However, this has not been considered to date and would require new expertise and resource to be brought into the EA to lead and deliver this adaptation work. It would require a deeper understanding of what AI can do, where risks and issues would arise, and new processes to mitigate these risks.

- 2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.**

See previous answer – this is currently beyond our current technical capability.

- 3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do**

[REDACTED]

you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

The Agency has not seen or been aware of advice and guidance on this matter and these questions have prompted initial thinking only. We would need significant support to help understand the nature of AI (versus automation which we fully support), the risks and issues and reasonable ways to address this to enable effective regulation that keeps pace with the changes AI is bringing. While industry will drive the use of AI, and we will work closely with them to understand how it is being used, further support from government would be highly beneficial.

4. Do you have any other comments you would like to make?

No additional comments.

I hope the above responses provide the information you require but would be happy to discuss the use of AI in further detail.

We would also welcome further updates and support on dealing with the challenges and opportunities AI brings. We will work with industry, Defra – our parent body, and central government to share intelligence and insight on the use of AI in our sectors.

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

Lord Evans of Weardale, KCB DL
Chair of the Committee on Standards
in Public Life

By email only

[Redacted]
[Redacted]

Our ref: 2092Evans

Tuesday 12 September 2023

Dear Lord Evans,

Artificial Intelligence and Public Standards

Thank you for your letter of 4 July asking for a progress report on how the Equality and Human Rights Commission is adapting its regulatory approach to meet the challenges posed by AI. As you know, the Commission is Britain's independent equality regulator and a UN-recognised 'A' status National Human Rights Institution.

We recognise the many benefits that AI can bring to public service users and business customers across Britain, including to people with characteristics protected by the Equality Act 2010. But we also consider it to be crucial that robust safeguards are in place to support the safe innovation of AI tools and its use already by public services and businesses.

As such, one of the main priorities that we have put in our current [Strategic Plan](#) is to understand and address the equality and human rights impact of AI. More detail of specific activities we are undertaking is in our [business plan for 2023-](#)

24. For example, and partly in response to your 2020 recommendations, we have published [guidance for public authorities using AI on ensuring they comply with the Public Sector Equality Duty \(PSED\)](#). This sets out how public authorities must think about equality from the start when deciding to use AI, keep a clear record of how they consider the PSED and consider how an AI system can impact each protected characteristic. Public authorities must also consider the PSED someone else develops or provides an AI system and monitor the impact of the system and guard against any unlawful discrimination on an ongoing basis.

Other work that we are doing to ensure fairness in the use of digital technology and AI includes conducting roundtables with small and medium-sized businesses, trade unions, disabled people's organisations and disabled employees to hear experiences of making reasonable adjustments to support digital access to hybrid working. We are also the statutory regulator that enforces web accessibility regulations. Our work in this area has increased substantially over the last two years, and we are currently enforcing the regulations with almost 70 organisations.

We have also entered discussions with expert AI firms to review how we ourselves can use AI tools. We are supporting the Centre for Data Ethics and Innovation's Fairness Innovation Challenge that will bring together experts to develop novel solutions to address bias and discrimination in AI.

In respect of our policy activity, we have also [responded](#) to the Government's

consultation on the AI White Paper, highlighting the need for a more robust approach to protecting equality and human rights. Among other proposals, the Government suggested that the Commission take an active role in the regulation of AI. We have not been given additional resources to fulfil this role and we have raised this with Ministers so that we can play our role in helping to regulate AI effectively. We await a response from Government

This resource issue will apply to other regulators when regulating AI. Big technology firms, often with an international base outside the UK, are generally far bigger and better resourced than domestic regulators. This creates risk that a small regulator such as the EHRC with a declining real-terms budget will find it difficult in practice to take a hard line with tech companies where we have concerns about potential bias or discrimination. This might apply, for example, to the use of facial recognition software, where we are working with some police forces and, or the use of personal data, such as to target online recruitment through social media. In these and other cases, we have found it difficult to gain access to the algorithms and methodologies underpinning AI and other software in order to determine whether there is a risk of bias or discrimination.

I hope that this, and the information in **Annex A**, gives you a useful start in your work. You are welcome to follow up if you would like to discuss further.





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equalityhumanrights.com

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Annex A

Chair, Committee on Standards in Public Life

Regulators Progress Update

Name of organisation: Equality and Human Rights Commission

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

The Equality and Human Rights Commission has included a focus on AI in its 2022 – 2025 [Strategic Plan](#). We are early in our consideration of AI within our remit, and operate under restricted financial resources, which limits the speed and scale at which we are able to address the equality and human rights implications of AI. The Commission has received a flat cash settlement of £17.1 million a year for over 10 years. We have repeatedly communicated to the Government the need for extra resource to allow us to operate as an effective regulator in this space. Notwithstanding resource constraints, we have prioritised addressing the equality and human rights impact of AI in our strategic and business planning processes.

Our work is focused on ensuring:

- People understand how the Equality Act 2010 applies to the design and use of automated decision-making, and how discrimination that might arise through algorithmic biases can be identified and challenged.

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- There is improved understanding of how the Human Rights Act applies to the use of new technology in terms of privacy, surveillance and the use of data.
- The law is updated in line with the development of new technologies to protect people from discrimination and breaches of their rights.

We are doing this by:

- Working with expert organisations and regulators to identify and challenge discrimination in relation to artificial intelligence and emerging technology, and to embed fairness and equal treatment in the design and operation of systems and services. For example, we are currently working with the Centre for Data Ethics and Innovation (CDEI) and the Information Commissioner's Office (ICO) on a '[Fairness Innovation Challenge](#)'. This aims to support industry to develop novel solutions to address bias and discrimination across the AI lifecycle. We are working closely with the Digital Regulators' Cooperation Forum (DRCF, made up of the ICO, Ofcom, Financial Conduct Authority and Competition and Markets Authority) on how regulators consider fairness in AI.
- Providing guidance on how the Equality Act applies to the use of new technologies in automated decision-making. Working with employers to make sure that using artificial intelligence in recruitment does not embed biased decision-making in practice. Making rights and freedoms in the digital age clearer, including how the Human Rights Act applies to privacy, surveillance and the use of data. For example, we are currently exploring the equality and human rights implications of facial recognition

technology, and scoping work on the use of AI in recruitment and the workplace. In October 2022, we published [guidance for public organisations on how the Equality Act and Public Sector Equality Duty apply to AI](#).

- Identifying gaps in the law created by the development and use of new technologies and advising on how the law can be updated to provide protection from discrimination and breaches of rights. For example, we have provided advice to the Government and Parliament on changes to UK General Data Protection Regulations (UK GDPR) set out in the [Data Protection and Digital Information Bill](#) which have significant implications for the use of automated decision making, and how the [Online Safety Bill](#) could address some of the equality and human rights issues presented by the use of algorithms by online services.

We engaged with Government and other regulators during the development of the AI White Paper. In [our response](#) to the White Paper, we expressed concern that the approach set out only minimal equality and human rights considerations in the regulation of AI. We were clear that the Government must increase investment in the EHRC and other regulators to enable us to address the challenges presented by AI.

Our approach to AI is dictated by legal frameworks on equality and human rights. All employers and service providers are bound by the Equality Act 2010 to ensure people are not discriminated against because of the nine protected characteristics set out in the Act. Public organisations have additional obligations under the Public Sector Equality Duty to eliminate unlawful

discrimination, advance equality of opportunity and foster good relations between groups and are also bound by the Human Rights Act 1998.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

Unlike regulators that are responsible for organisations only in a specific sector, we are a ‘regulator with a broad remit, with a role to promote compliance with the Equality Act 2010 among every employer and public body in Britain. We also support public organisations to meet their obligations under the Human Rights Act 1998. We have a range of duties and powers to allow us to do this, from producing guidance and codes of practice, through to compliance powers to launch inquiries, investigations or support or bring legal action.

We want to support organisations to use AI in a way that prevents discrimination and respects and protects human rights. We do this through providing guidance, for example our guidance for public authorities, and working with other regulators and expert bodies. However, the scale of our work is limited by the resource constraints set out above.

We are also taking appropriate action to identify where organisations could improve their consideration of equality and human rights. We are working with the Government and Parliament to influence the development of regulatory and legislative frameworks to ensure these protect human rights and equality.

While the Commission is very effective at supporting compliance through

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guidance and other pre-enforcement work, we are also focused on using our more formal regulatory powers where necessary to support compliance with the Equality Act or take action against suspected breaches of the law. These include:

- An inquiry to find out more about equality, diversity or human rights within a particular sector or about a particular issue. Based on findings from an inquiry, we can make recommendations for change and improvement in policy, practice and legislation to any organisation, and they must have regard to our recommendations.
- An investigation to discover whether an organisation may have carried out or is carrying out an act which is unlawful under the Equality Act 2010. We can only start an investigation where we suspect that an organisation has committed an unlawful act. The Commission will make recommendations based on the findings and failure to act on recommendations can lead to the Commission issuing an unlawful act notice.
- Bringing or supporting legal action to provide legal assistance to victims of discrimination, to intervene in or institute legal proceedings, including judicial review, or to make applications to court for injunctions or, in Scotland, interdicts.

Given the challenges pose by AI are novel and emerging, much of our work is currently focused on gathering evidence and assessing risk. We are keen to explore how and when to use our formal powers to best effect in response to these challenges.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

In the AI White Paper, the Government set out its intention to provide some central support functions for regulators, including horizon scanning and monitoring and evaluation. We have discussed with officials about what these functions might be, including potential ‘sandboxes’. We do not have any further detail on these support functions or how they might be set up and funded, but we will continue to engage with the Government as these plans develop.

We have a good reciprocal relationship with the CDEI, as evidenced by the ‘Fairness Innovation Challenge’ where we are working with CDEI and ICO to support industry in identifying solutions to discrimination in AI. We gain valuable insights from our engagement with a range of expert bodies, including the Alan Turing Institute and the Ada Lovelace Institute.

We are committed to working together with other regulators to share learning and identify the best approach to tackling the risks presented by AI. We have signed a Memorandum of Understanding with the ICO specifically to support our respective work on AI. We engage with other regulators through the ICO AI Working Group network, and the DRCF wider regulators network, both of which support the sharing of intelligence across the regulatory community. We are also developing closer relations with the DRCF, working particularly on the principle of fairness in relation to AI.

The biggest challenge for the Commission in regulating AI is our limited

resources and the expanding nature of our potential responsibilities. We have a broad remit covering all public and private sector organisations and a far-reaching equality and human rights agenda. In order to regulate effectively, we must be funded to take on the additional responsibility envisaged in the AI White Paper and, more broadly, to meet the challenges posed by this rapidly developing technology.

02 October 2023

Our Ref: 230925A

Dear Lord Evans,

Regulators Progress Update

At the time of writing the review, the weight of evidence was that the UK did not need a specific AI regulator, which would inevitably overlap with existing regulators. As such, we recommended in 2020 that all regulators should consider and respond to the challenges posed by AI in the fields for which they have responsibility, with help from a regulatory assurance body to assist regulators on AI.

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

The FCA is a principles-based, outcomes-focused and technology-neutral regulator. Therefore, we do not regulate technology itself. Our core principles and regulations do not mandate or prohibit specific technologies. However, we monitor and mitigate technology risks as they may have adverse implications on our objectives. Our regulation holds firms accountable for consumer and market outcomes regardless of the means used to achieve them- including the use of AI. Firms should consider the risk of complex models on their operational resiliency and impact on consumers in line with existing and new regulations, including the SM&CR and Consumer Duty.

Since the previous publication of the Committee, the FCA has been working closely with the Bank of England and the Prudential Regulation Authority on the use of AI in UK financial markets. Jointly with the Bank of England and PRA, we published:

- The joint FCA-Bank of England [AI Discussion Paper](#) (AI DP) (2022),
- The AI Public-Private Forum (AIPPF) [Final Report](#) (2022), and
- The [2019](#) & [2022](#) machine learning surveys.

In the AI DP, we explored the potential benefits and risks of the use of AI in financial services in the context of our statutory objectives: promoting consumer protection, competition, and market integrity. We also have a new secondary objective which relates to the facilitation of the growth and competitiveness of the UK economy; our pro-innovation approach aligns with the Government's ambition to take a pro-innovation, safety first approach to the regulation of AI.

The AI DP also considers how existing regulatory requirements apply to the use of AI in financial services and invites responses on how we, as sectoral regulators, could further

promote the safe and responsible adoption of AI in financial services. We will be publishing the Feedback Statement, which will summarise the responses to the AI Discussion Paper, this year.

We are also working closely with other UK regulators through the [Digital Regulation Cooperation Forum](#) (DRCF), contributing to several publications in [2022](#) and [2023](#).

This work has been supported by a number of speeches and publications, such as:

- '[How AI and ML are shaping UK financial services](#)' (2023) by Nikhil Rathi ' (2023)
- '[Innovation, AI & the future of financial regulation](#)' (2023) by Jessica Rusu
- '[Building better foundations in AI](#)' (2023) by Jessica Rusu
- '[Our emerging regulatory approach to Big Tech and Artificial Intelligence](#)' (2023) by Nikhil Rathi

We have made several public and academic contributions on AI, synthetic data and quantum computing, including:

- '[Can synthetic data enable data sharing in financial services](#)', an OECD blog
- '[Is AI a wake-up call for financial services in the UK](#)', an OECD blog
- Contribution to a publication by The Alan Turing Institute, '[The AI revolution: opportunities and challenges for the finance sector](#)', 2023
- '[A quantum leap for financial services](#)', an FCA Insight paper
- '[Exploring synthetic data validation – privacy, utility and fidelity](#)', an FCA research note
- '[Quantum Technologies Insights Paper](#)', by the DRCF

Since the Committee's last report we have enhanced our focus on becoming a data-led regulator. Whilst we already had a strong Innovation offering, in 2021, the FCA appointed its first ever Chief Data, Information and Intelligence Officer – Jessica Rusu - to lead the newly created Data, Technology and Innovation (DTI) division. This division brings together our existing innovation and technology functions into one place, enhancing our ability to tackle challenges posed by emerging technology. Since 2021, headcount across the division has grown around 36%. More information on the Division is set out later in our response.

Continuing to improve how we use data and technology is helping us become a more innovative, assertive and adaptive regulator and will allow us to achieve the aims laid out in our [Data Strategy \(2022\)](#) towards becoming a digital and data-led regulator.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

Our approach to regulation is principles-based, technology-neutral and outcomes-focused. This approach to regulation enables us to adapt to technological changes in the way we supervise and enforce. It also provides effective frameworks to address many challenges and risks related to the use of AI in financial services. In the recent [speech on AI by the FCA CEO Nikhil Rathi](#), he highlighted that our outcomes and principles-based regulation, including the Senior Managers & Certification Regime (SM&CR) and the Consumer Duty, provides the guardrails for the safe and responsible adoption of AI in UK financial services.

Governance

The UK's regulatory regime for financial services includes a set of principles (FCA Handbook SYSC) that has a direct and important relevance to the governance arrangements of

technology (including AI). In turn, the SM&CR creates a system that holds senior managers to account for the products and services they deliver – including their use of technology (in so far as they impact on the regulated activities).

In the 2022 joint FCA-Bank of England AI Discussion Paper (AI DP), we emphasised that good governance is essential for supporting the safe and responsible adoption of AI in UK financial markets. This is because governance underpins proper procedures and effective risk management across the AI lifecycle, by putting in place the set of rules, controls, and policies for a firm's use of AI.

Putting governance and accountability at the heart of AI regulation was welcomed by almost all respondents to the AI DP. We are closely considering how our regulatory approaches could further support firms to ensure effective oversight across the AI lifecycle.

Consumer protection

The FCA's approach to consumer protection is based on a combination of the FCA's Principles for Businesses, other high-level rules, and detailed rules, and guidance. These include Principles and rules contained in the FCA Handbook. The Principles are general statements of the fundamental obligations of firms and other persons to whom they apply, who are liable to disciplinary sanctions if they breach one or more of the Principles. In the AI Discussion Paper, we explored the relevant FCA regulations to the consumer protection risks in the use of AI, such as:

- Principle 6: Customers' interests – '[a] firm must pay due regard to the interests of its customers and treat them fairly'.
- Principle 7: Communication with clients – '[a] firm must pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading'.
- Principle 9: Customers: relationships of trust – '[a] firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment'.
- Principle 12: Consumer Duty – '[a] firm must act to deliver good outcomes for retail customers'.

The Consumer Duty introduces a new Consumer Principle, which requires firms to play a greater and more positive role in delivering good outcomes for retail customers, including those who are not clients of the firm. The Consumer Duty also includes cross-cutting rules requiring firms to act in good faith towards retail customers, avoid causing foreseeable harm to retail customers, and enable and support retail customers to pursue their financial objectives. It also stipulates that firms must design products and services that aim to secure good consumer outcomes, and they have to demonstrate how all parts of their supply chain – from sales to after sales and distribution and digital infrastructure – deliver these.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

Like regulated firms, the FCA is competing in a global market for talent. To date we have been able to recruit teams with the required skills and know-how at the resource level needed.

The FCA's Data, Technology and Innovation (DTI) division leads our work in the disciplines of technology and data. This includes responding to external developments in the field, maintaining the FCA's own technological capabilities, carrying out advanced analytics, and delivering our

world-class innovation services, allowing firms to test ideas in a safe way before they go to market. Our Regulatory and Digital Sandboxes enhance innovation across financial services markets and are replicated across the globe.

The division also runs an [Emerging Technology Hub](#) which identifies critical and emerging technology trends affecting financial services over the medium and long term. This work supports our AI work, especially the adjacent technologies to AI (such as quantum computing where earlier this year, we published an [Insights Paper](#) on Quantum Technologies alongside other DRCF regulators earlier), ensuring our approach is holistic and can monitor their evolution over time, as well as their potential impact on consumers and markets.

Finally, our Advanced Analytics unit is also using AI and ML in providing us additional tools to protect consumers and markets. As well as our tools on scam website monitoring, the unit has also developed and delivered an in-house synthetic data tool for Sanctions Screening Testing, that transforms our assessment of firms' sanctions name screening systems. Built using the Office of Financial Sanctions Implementation (OFSI) official list of sanctioned individuals, the tool uses the list as well as generating synthetic names to test fuzzy matching capabilities, a critical component of robust sanctions screening systems by firms. Our adoption of a data-driven, proactive approach to test firms' sanctions screening solutions strengthened our supervisory work which previously relied on interviews, reviews of documents, and manual inspection of outcomes such as alerts. Now, we can identify how firms' screening solutions perform against known outcomes.

Continuing to improve how we use data and technology is helping us become a more innovative, assertive and adaptive regulator and will allow us to achieve the strategy laid out in our [Data Strategy \(2022\)](#) towards becoming a digital and data led regulator.

At the FCA, we also enhance our understanding of markets and consumers by using advanced analytical skills. For example:

- We have created **Data Science Units** across the organisation which work closely with sector experts to analyse risk, triage cases and automate processes. This will result in harm being detected more quickly to protect consumers.
- We have also built a supporting environment around our data science function to support and retain talent: we created a central data science division of approximately 70 people which ensures technical line management and support, and we upskilled the wider organisation on how to effectively utilise their skills through our Leadership Data Mindset programme and wider data fluency programme.
- We have combined **social media and information** that is available online to increase our understanding of how firms market products and services to consumers online.
- We have implemented **analytics tools**, including data visualisation applications, as well as reporting tools and dashboards which help us to identify trends and spot outliers.
- We have developed **data science tooling** which provides our data scientists with the right tools to become more self-sufficient, improve the effectiveness of their models, and accelerate the time to develop insights.

Our work is also built on strong stakeholder engagement – with other regulators, regulated firms, industry associations (e.g. UK Finance), academic institutions (e.g. the Alan Turing Institute), and Government. We are also working closely with other regulators through the Digital Regulation Cooperation Forum (DRCF), contributing to several publications in [2022](#) and [2023](#). In June 2023, the FCA participated in a DRCF workshop on generative AI to identify common risks, discuss promising interventions, and consider opportunities for joint research and cross-regulator initiatives. We recently published a [DRCF blog on generative AI](#).

International coordination is also of great importance to encourage the safe and responsible adoption of AI in Financial Services, especially as many firms in the UK operate on a multinational basis. Consequently, the FCA actively collaborates with our counterparts in other jurisdictions and international organisations. For example:

- In 2023, we hosted the Data Innovation for Future Regulation (DiFoR) conference, attended by 97 global regulators, including from the EU, US, Canada, Singapore and other key regulatory peers.
- In 2023, the Canada-UK AI regulatory roundtable was hosted by FCA and the Canadian Responsible AI Institute to explore the role of governments, regulators and standard bodies in regulating AI in the two jurisdictions. We recently published an [OECD blog](#) on our work with Canadian authorities.
- We actively contributed to the [IOSCO 2021 Report](#) on 'The use of artificial intelligence and machine learning by market intermediaries and asset managers'
- We participate in the IAIS AI working group on the safe, fair and ethical adoption of AI and ML and the use and governance of data in insurance, with a focus on model risk management.

4. Do you have any other comments you would like to make?

There is an increasingly urgent need to develop cross-border standards on technology (including AI but also data). We welcome the Government's approach in the AI White Paper, the Atlantic Declaration and the AI Safety Summit supporting close international cooperation on AI, to identify a common understanding of the risks, and appropriate mitigation strategies. While there is still debate on what level of risk is appropriate to be introduced to the frameworks around use of AI, this is a question for Government decision-making, to be balanced with the ability for firms to innovate using AI safely. The FCA currently has regulations around the use of technology in financial services, and our outcomes-based approach helps ensure that core consumer protection objectives are met.

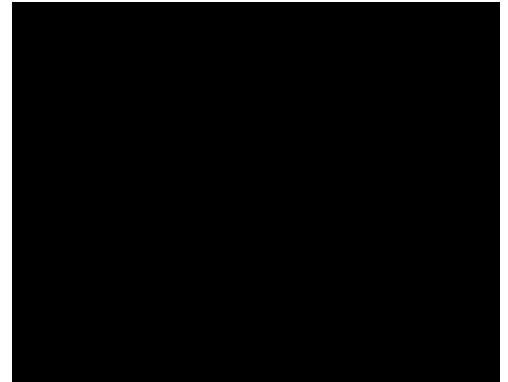
Our emerging approach to AI is also being developed in close alignment with other FCA work, as we look at how Big Tech firms impact AI adoption, as well as the role of critical third parties and the potentially systemically important part they will play as firms invest in AI solutions.

We stand ready to provide support to the Government on the summit and its wider approach and will continue to work with other regulators and our international counterparts to work to mitigate the risks and seize the opportunities of this rapidly changing technology. This will be critical for the UK's financial services industry and the consumers it serves.

I hope that this is helpful.

Yours sincerely,

[Redacted signature block]



Date: 12 September 2023
Our ref: MC2023/00174

Dear Lord Evans

Thank you for your letter of 4 July seeking an update on how the Food Standards Agency (FSA) is adapting to the regulatory challenges posed by Artificial Intelligence, following the Committee's report in 2020.

Please find attached the FSA's response to your questions in Annex A. The FSA's statutory responsibilities are in relation to food safety and standards so we would not seek to regulate the use of AI within food businesses, other than to consider the extent to which it changes risk within the food system. It is the responsibility of food businesses themselves to ensure that the food that they produce is safe, including how they might deploy new technology across their business.

To date, the adoption of AI across the food system has been limited and has been used in a largely positive way, often alongside other technologies such as more traditional modelling tools. We would consider the implications of the use of AI in a similar way to how we would consider other new technologies that may be adopted, assessing its impact on food safety and standards. Although we have not made any changes to our regulatory approach specifically in response to the use of AI, we are progressively modernising our regulatory regime to respond to a range of technology

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developments, making sure that it does not constrain innovation by food businesses whilst continuing to prioritise food safety.

However, we must not be complacent. Although the FSA is a small government department, we pride ourselves on the fact that we have been cautiously using innovative approaches ourselves to deliver our mission of food you can trust. For a number of years, we have used basic AI tools, such as natural language processing and optical character recognition to help with the identification of risks affecting food and feed. We have coupled those techniques with more complex data science solutions to ensure that the data the organisation collects is standardised and can be visualised effectively and appropriately shared. We like to proceed with caution when using AI tools and for that reason we have been implementing for the last three years an ethics framework to all our Artificial Intelligence (AI) activities, including Machine Learning.

I hope our full response in the annex provides you with the required assurance.

Yours sincerely,



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Annex A: Regulators Progress Update

Name of organisation: Food Standards Agency

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

The FSA's remit is to safeguard public health and protect the wider interests of consumers in relation to food. The FSA's mission is food we can trust, and our vision is that food that is safe, it is what it says it is and food that is healthier and more sustainable.

Our primary focus when considering emerging innovation across the food system, is its impact on the FSA's statutory role of food safety and standards, and we would treat emerging AI in a similar way. The execution of our role ranges from approving new or novel foods and feed to directly inspecting food and drink in certain types of business (e.g. meat in abattoirs and slaughterhouses; or Dairy, Wine and Eggs at their place of production). We also have oversight of the regulation of food business premises, via inspections undertaken by local authorities. There are over 500,000 food businesses in England, Wales and Northern Ireland encompassing small family run businesses up to large multi nationals. The development and adoption of new technologies such as AI will vary significantly across those different businesses.

We know that our regulatory system hasn't kept pace with changes in the food system, which include advances in technology. We have a programme of reform activity to design a smarter set of regulatory approaches that can adapt to future innovation (such as our [Novel Foods Regulatory Framework Review](#)) and improve and adapt our processes as required.

One potential use case for AI is in the development of novel foods, animal feed or packaging. Any new or novel product would have to be assessed for its safety and approved by us. Although our focus would be on the safety of the food or feed product itself, where AI may play an integral role in the development of these products, the FSA may need to assess the underlying AI, as part of our Regulated Products Approval Process. One further implication might be that a much larger volume of new or novel products could be created that would require an assessment for their safety. Equally, we could expect AI tools would be deployed by us to manage that volume.

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To date, we have not undertaken any specific changes to our regulatory practices in response to the challenges posed by the use of AI across the food system. We continue to monitor the use of AI as part of the FSA's horizon scanning and through our regular conversations with food businesses. The FSA's [Strategic Assessment](#) has identified how the use of innovative technology could start to impact on the food system in the future, for example through the use of robotics in industrial horticulture, however mass adoption of this technology is not likely in the short to medium term. As yet, the application of AI across the food system does not appear to have immediate implications for food safety, and in fact are likely to be positive. Examples include Ocado's robotic warehouse and AI use by digital food delivery platforms.

Alongside the challenges inherent in the adoption of new AI technology, the FSA is also mindful of the opportunities linked to this technology as it can enable better management of the whole of the food system. Potential benefits include greater traceability of food products, improved efficiency in responding to food incidents that could reduce their impact, reduction in greenhouse gases, improvements in efficiencies for food businesses, reduction in food waste or improved data analysis to target FSA and local authority resources to areas of greatest risk so improving efficiency in our regulatory processes.

As well as continuing to assess how AI may create risk across the food system the FSA needs to continue to ensure that our regulatory practices do not constrain innovation where it may drive benefits to consumers. The FSA will continue to monitor the development and adoption of AI across the food system and its impact on food safety and standards. The emergence and adoption of AI may be significant and occur at pace in the coming years, so the FSA cannot be complacent in our thinking, however, given the broad potential of its application across the food system we need to understand how and where it is being used to inform our response to its ongoing development.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

The FSA collaborates with a range of organisations to deliver our mission of food you can trust. As highlighted in our response to question 1, our focus around the regulation of new technologies such as AI, would be in the changing risk that they may pose to food safety and standards rather than the use of the technology itself. AI

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might be used by the food industry to create new products or, operate their supply chains differently. However, any resultant food, whether deemed novel or not, would still be subject to the existing regulation to prove that it is safe to eat.

As such, the FSA would not seek to directly regulate *how* food businesses are using AI specifically, instead we would focus on how AI and other innovation change risk across the food system and particularly where it may increase risk to either food safety or standards. In future, where we may need to regulate the underlying AI technology, rather than the food itself, this would likely focus on the safety of the production technique rather than any controls on wider considerations of the use of AI.

The FSA would look to other government departments for the regulatory approach of the use of AI and the requirements of business across the UK to act in a responsible and legal way. We do not believe that it is an effective use of regulators' resources, nor the most appropriate position for government or the most proportionate approach for business, for regulators in different sectors to develop their own approach to controlling use of AI or designing an approach to regulating AI. The FSA would look to departments such as the Department for Science Innovation and Technology (DSIT) to take the lead in designing effective and proportionate regulation to inform the use of AI.

Although we have limited opportunity to place controls on these organisations in their use of AI, we are absolute in the stance that the work we do with these bodies must comply with legal, ethical, and regulatory frameworks. Our own experience implementing AI has demonstrated the importance of addressing ethics early in the design process. Engaging in an ongoing dialogue with the organisations that we work with across the food system, around the use of AI is an important step in fostering a culture of learning and improvement in our sector.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

In our previous response to the committee, in 2020, the FSA highlighted the risk that the current landscape of AI guidance and advice was 'crowded, inconsistent and providing limited practical guidance'. Nearly three years later, our assessment is that progress has been made, learning is shared and guidance is developing. However, overall, the situation remains much the same largely because of the fast moving, wide ranging nature of the challenge and its potential impact on all of us.

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There are a plethora of comprehensive frameworks and guidance around approaching the use of AI in a compliant and ethical way, to the point that the landscape has become crowded, and is rapidly changing. These resources include the [Government's Data Ethics and AI Guidance landscape](#), as well as organisations such as the Alan Turing Institute, and many more. The guidance provided is generally exceptionally detailed and heavily theoretical, but with few practical examples. We hope that will be addressed as we learn and become experienced with these new tools.

We have - and continue to - utilise and adapt principles and guidance to be relevant and proportionate to the work we do at the FSA.

The bodies that we have accessed support from, or are aware of, include:

- Information Commissioner's Office: the [AI and data protection risk toolkit](#).
- Cabinet Office's [existing cross-government advice](#)
- Central Digital and Data Office's [Data Ethics Framework](#)
- The Alan Turing Institute's [Understanding artificial intelligence ethics and safety](#) (complementary to the aforementioned Data Ethics Framework)
- Central Digital and Data Office and Centre for Data Ethics and Innovation's [The Algorithmic Transparency Recording Standard](#)
- The Open Data Institute's [Data Ethics Canvas](#)

Although there are comprehensive and extensive frameworks for Data Ethics and AI, support for the adoption, adaptation, and implementation of these frameworks - along with practical grounded examples - would be beneficial to smaller Government Departments like the FSA.

4. Do you have any other comments you would like to make?

Food is global. Nearly half of what we eat in the UK comes from abroad. So we work with other regulators through Codex Alimentarius and others to ensure we can have confidence in the food coming to us from a wide range of countries as well as that produced within the UK. AI would be a topic we would engage on with our fellow regulators to drive for consistency and learn from best practice. However, we note that the UK is a world leader for harnessing the opportunities from technology innovation in the food sector.

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Gangmasters and Labour Abuse Authority

Date received: 19 September 2023

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

This would be assessed as low risk as we regulate business that supply temporary workers to the; agriculture, horticulture, shellfish sectors and the associated processing and packing of these products. Ultimately automation and AI combined could help reduce the risk of labour exploitation so it should be a positive thing for the risks we mitigate and government policy in our space supports these developments to remove reliance on low paid seasonal workers to support this work.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

This is not assessed as relevant as explained above.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

We are linked in through our sponsor department (Home Office) on developments in AI, as used in the department (show and tells) and less so in how they are responding to its wider use in society. We are also linked into wider civil service and for example my team and I will dial into a GDS Cabinet Office show and tell event coming up.

4. Do you have any other comments you would like to make?

No

General Optical Council's response (September 2023)

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

The General Optical Council (GOC) is the regulator for the optical professions in the UK and our mission is to protect and promote the health and safety of the public. We currently register around 33,000 optometrists, dispensing opticians, student optometrists, student dispensing opticians and optical businesses. We have four core functions:

- Setting standards for the performance and conduct of our registrants.
- Approving qualifications leading to registration.
- Maintaining a register of individuals who are fit to practise or train as optometrists or dispensing opticians, and bodies corporate who are fit to carry on business as optometrists or dispensing opticians.
- Investigating and acting where registrants' fitness to practise, train or carry on business may be impaired.

We think artificial intelligence (AI) has the potential to deliver huge benefits to patients across the healthcare sector, however, there are also significant challenges and risks in regulating developments effectively and protecting the public, without hindering innovation. In optics, AI is already challenging the way optical care is delivered. Over recent years, we have seen optical coherence tomography (OCT) machines become increasingly embedded within community practices which has led to significant benefits for patients as it allows clinicians to detect eye health conditions, such as glaucoma more easily at an early stage. We have also heard that the use of AI will increase diagnostic ability so eye diseases such as wet AMD and diabetic retinopathy, are found at an earlier stage. This could help to reduce the burden on secondary care as more conditions could be diagnosed in community settings. AI can also be used effectively in contact lens fitting, for example, to predict how well a lens will fit.

Last year, we undertook a comprehensive [review](#) of our governing legislation, the Opticians Act 1989. As part of this we asked stakeholders if there were any parts of the Act that could restrict AI (or technological advancements), and if there were any regulatory gaps that could pose a risk to patients. In response, we heard that stakeholders did not believe there were any areas of the Act that had restricted innovation in technology or prevented AI developments, as these developments have happened despite the Act being in place. No gaps in our legislation were put forward to suggest that there were risks to patients. Following our review, we do not intend, at this point, to recommend to government any changes to our Act to deal with the challenges posed by AI (and technology), as we believe the controls currently in place effectively protect the public.

We are, however, currently reviewing the professional standards and guidance we set for individual registrants. A review of our standards for business registrants is likely to follow the conclusion of this work. The conversations we have had with

stakeholders so far, including GOC registrants, have highlighted many benefits of AI but also some concerns about the use of AI in daily clinical practice. We have heard, for example, that there is a risk that the use of AI can potentially blur the boundaries of decision making and accountability which can confuse registrants. We need to be clear in our professional standards and guidance where responsibility lies for clinical decisions. Registrants have also told us that as AI involves a culture shift in current working practices, and they need to be competent in the use, interpretation and limitations of AI in order to deliver safe patient care.

In response, we are considering whether we need to make revisions to the standards to reinforce the need for optical professionals to be sufficiently trained and competent in the use of AI and new technologies. We will be launching a public consultation on changes to our standards in early 2024, with the aim of publishing new standards in late 2024.

Moving forwards, we will continue to review the GOC's regulatory approach to AI. From our conversations with external stakeholders, we recognise that we may in future need to adapt our regulatory practice to address emerging risks and issues, including the following:

- There is a risk that the optical workforce does not keep pace with developments in AI. As the regulator, we must ensure GOC registrants are appropriately trained and have the knowledge and skills necessary to work with AI safely and effectively in clinical practice. This could be achieved by setting appropriate standards for undergraduate education and postgraduate education (via our Continuing Professional Development (CPD) scheme).
- While AI presents an opportunity to transform how care is delivered to patients, we are also likely to see a significant impact on the current roles and responsibilities of our registrants. There is a risk, and fear, of AI replacing or displacing the roles of optometrists and dispensing opticians. We need to ensure that our legislation continues to allow clinical roles to evolve as scopes of practice change with the emergence of AI (and technology more widely).

To help mitigate these risks, the Department of Health and Social Care's (DHSC) regulatory reform agenda will mean that in future we will have greater flexibility to change our legal framework allowing us to adapt more quickly to any emerging risks from AI (and technology).

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

As mentioned in our response to question one, we can place regulatory controls through the standards and guidance we set for our individual registrants and optical businesses. In our standards for optical businesses we expect, for example, that when optical businesses introduce new technological interventions, including AI, patient care is not compromised and professional standards continue to be met. As AI is a fast moving, complex area to regulate effectively, we think the most agile response is to regulate via the standards and guidance we set, which provides

registrants with underlying principles that they must meet. However, we recognise that as AI develops, we need to be flexible in our approach in regulating it and will keep this under review.

We do not currently play a role in regulating AI devices, and this poses a challenge in terms of where the lines of accountability and liability lie, for example, between the manufacturer, the business, and the individual clinician. We are aware of the role of other regulators in regulating medical devices such as the Medicines and Healthcare products Regulatory Agency (MHRA). We understand that the MHRA has announced plans to strengthen the regulation of medical devices including medical devices that involve AI. We will continue to keep abreast of the work of other regulators in this area, to ensure that there is alignment with our policies and there is clarity for our registrants.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

Developments within AI are emerging rapidly and keeping abreast of developments, including the risks and benefits to patients, can be challenging. While we keep a watching brief over developments, we think that the optical sector would benefit from a shared understanding of the latest developments in technology and a mechanism to keep this knowledge up to date. This is a challenging area for smaller regulators who do not have staff or teams with specialist expertise, so we would encourage consideration of how smaller regulators can most effectively be supported.

As part of the actions from our Call for Evidence, we are planning to discuss with stakeholders how best to achieve this. Previously, sector bodies collaborated on producing a horizon scanning report to help ensure that the optical sector was better equipped to understand how technology and AI will impact the sector and delivery of care. We are involved in conversations amongst sector stakeholder bodies on plans to refresh our knowledge of developments.

The Professional Standards Authority (PSA) published their report *Safer Care for all - solutions from professional regulation* and beyond in 2022, which looked at the biggest challenges affecting the quality and safety of health and social care across the UK. This included looking at the emergence of technology on the delivery of care, and the potential risks to patients as well as the impact on healthcare professionals as the boundaries of accountability become increasingly blurred. They acknowledged the challenges that individual Governments and regulatory bodies have in being aware of developments and assessing the risks and benefits. They recommended developing reliable mechanisms for anticipating changes in service provision that open up public protection gaps across the sector, and identify ways to address them. We would support this initiative.

We are also launching a new strategic plan in 2025, which presents an opportunity for us as an organisation to outline how we will continue to manage our approach and regulation of AI and technological innovation moving forwards.

4. Do you have any other comments you would like to make?

In short, AI and technological developments pose a challenge to regulators in terms of keeping abreast of developments, understanding the risks and benefits, and regulating in a proportionate way that protects the public but does not stifle innovations that can benefit the public.

We are supportive of the work that the Committee on Standards in Public Life are carrying out on AI and welcome further engagement and collaboration with government agencies and other regulators to help ensure a consistent and safe framework for regulating AI within healthcare.

Lord Evans of Weardale, KCB DL
Chair, Committee on Standards in Public Life

7 September 2023

Dear Lord Evans

Artificial Intelligence and Public Standards

Thank you for your letter and invitation to share progress on how regulators are adapting to the challenges posed by artificial intelligence (AI). We were not part of the original group of regulators invited to comment in 2020, but we welcome the opportunity to provide an overview of our position at the current time.

As a starting point, we support the principle that AI should be used by the public sector in a way that upholds the Seven Principles of Public Life. We also support the recommendations in the Committee's original report that regulators must prepare for the changes AI will bring to public sector practice and adapt to the challenges that AI poses to their specific sectors. We have set out below how we have begun to do this through our work in pharmacy regulation.

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

The use of AI in our operations

We regulate pharmacists, pharmacy technicians and registered pharmacies in Great Britain. It's our role to make sure people receive safe and effective pharmacy care and have trust in pharmacy. Our work includes setting standards of education and training, setting standards and guidance for pharmacy professionals and pharmacies, inspecting pharmacies, and investigating concerns about the people and pharmacies we register.

It's important to highlight from the outset that we do not use any AI applications such as algorithmic systems in our regulatory decision-making. This is not something we have explored, or consulted on, and we recognise the significant public interest, human rights and equality challenges associated with AI in this context.

We do however use a mix of manual and automated processes in our operations. This includes processes within our back office (those supporting the day-to-day activities of our staff) and front office systems (those used by registrants and the public). Where we use automation currently, this is designed

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to support operational processes, minimising risk of human error and improving efficiency. They are not designed to replace human decision-making at key regulatory touchpoints.

Through the development of our business systems work, we are continuing to explore how we might innovate in the future. We recognise the benefits that AI and other technologies can bring, including improved efficiency, enhanced accuracy, streamlined workflows, and wider data and research capabilities. At the same time, we acknowledge the associated risks, including privacy and security implications, over-reliance and dependency on technology, and inequity (including the risks associated with AI data bias). We are also alive to the risks of AI being used by patients and professionals in other ways. For example, professionals using AI to generate mandatory reflective learning for revalidation submissions, or members of the public using AI to generate vexatious or malicious concerns. These raise important issues relating to accountability, integrity and responsibility.

Our ongoing exploration of these issues through our business systems initiatives is subject to scrutiny and oversight by our Audit and Risk Committee, to ensure that key risks in this context are identified, managed and mitigated.

Adapting to changes in the pharmacy sector

Pharmacy services are changing rapidly, bringing opportunities to deliver healthcare in new ways. This includes increased expectations from the public and service commissioners, advances in science and clinical care, as well as technology-enabled models of service delivery. As the regulator, we support and encourage responsible innovation provided that the people using these services receive safe, effective and person-centred care, in line with our regulatory standards and relevant law.

We expect pharmacists and pharmacy technicians to meet our **standards for pharmacy professionals**, including when they are using technology and other innovations in their practice. Pharmacy teams are now playing a much greater role in clinical care and supplying a wider range of clinical services, including independent prescribing. This means that their engagement with and use of technology is likely to increase in the future.

We also inspect registered pharmacies to assess if they are meeting our **standards for registered pharmacies**. The purpose of these 'outcome-focused' standards is to create and maintain the right environment for the safe and effective practice of pharmacy. Through the inspection process, we explore and consider how the pharmacy is using new technologies and whether these are compliant with our standards. This is supported by our '**Inspection decision-making framework**' and our '**Findings Framework**', which are designed to support consistency in decision-making.

We recently commissioned external consultancy support to help us to understand the range of technology and use of AI in the delivery of the broad range of pharmacy services in the various community pharmacy settings and the implications for the way we regulate. This was designed to provide an important knowledge baseline, to inform our regulatory approach and help us move forward at pace in the right direction with a focus on the right things.

The research involved a review of the use of digital technologies and automated systems to support the delivery of NHS and private services, in a range of community and distance selling pharmacies (online), system providers and desktop analysis. From the research, we have established there is a wide range of technologies available or in development in the pharmacy context. There are also variances across settings and jurisdictions. Examples include, but are not limited to:

- Patient medication record systems for use with electronic prescriptions.
- Digital dispensing applications, such as mobile applications to support patients with access to prescription management and pharmacy services.
- Digital workflow management systems, supporting management of patient and prescriber relationships and communication.
- Digital solutions for the receipt and management of private prescriptions.
- Dispensing robots, enabling the storage and dispensing of original packs of medicines (including automated pouch or tray/blister-pack dispensing, to support patients with adherence issues)
- Solutions for out-of-hours collection of dispensed medicines by patients using secure codes (medicines collection points).
- Technologies and devices to capture images and videos, to support the delivery of clinical services (for example, otoscopy and mole scanning).
- Personalised medicines and other testing services, such as pharmacogenomics tests designed to show if a person's genes affect how they respond to medicines.
- Chatbots (to answer basic questions from patients) and Coachbots (to support behavioural change in healthy lifestyle services).
- Digital marketing, for example, digital and touch screens to show patients various aspects of health and ill-health.

The research found that at this stage AI and machine learning are having limited impact on community pharmacy. We are starting to see it appear in patient medication record systems to support clinical checks, some workflow management systems, and some diagnostic systems. The potential impact, both positive and negative, will need to be monitored as we continue to regulate this sector.

Sharing good practice

We publish inspection reports on our website, which brings full transparency and enables anyone to see if a pharmacy has met all of our standards. Alongside individual [inspection reports](#), we also publish trend reports and learnings from inspections, as well as examples of excellent, good and poor practice through our [Knowledge Hub](#).

These resources enable us to share learnings with the public and the pharmacy sector on novel areas of pharmacy practice, including technology-enabled models and other innovations. Below are some Knowledge Hub examples, to highlight the types of innovation we see during inspections, across different pharmacy settings.

- **Example 1: Automation and digital technology used to deliver pharmacy services to a consistent level, with key controls in place at critical points to ensure the safety of medicines dispensed to patients.** In this case, a hospital pharmacy used a robot for dispensing, which was maintained on a quarterly basis. Stock put into the robot was entered with an expiry date of one year and short dated stock was recorded, so that it could be ejected from the robot at the start of the month. The system was able to monitor what stock had been used. Read more [here](#).
- **Example 2: New technologies and robots properly maintained, to ensure the safety of pharmacy services.** In this case, a community pharmacy used automation to enable efficient and accurate dispensing processes. Dispensing was highly automated using two robots, which were maintained and serviced regularly. There was range of high specification equipment for extended

services, calibrated and PAT tested annually. There was a clear business continuity plan in place and appropriate contingency arrangements in the event of robot malfunction. Read more [here](#).

- **Example 3: Well managed automation processes, to help support a safe and efficient dispensing process.** In this case, an online pharmacy invested in automation to support the pharmacy team to assemble medicines compliance packs. The team used barcodes to manage stock and support accuracy checking. The computer system that accompanied the robot contained photographs of the medicines and, if they were available, printed them onto the labels attached to the packs so that people could differentiate between medicines. The computer system used quick reader (QR) and barcode technology as an additional accuracy check throughout the process. Read more [here](#).

In October 2022, we published [an article](#) on 'Good clinical governance in online pharmacies', with examples identified through our inspection work.

We also place important focus on sharing learning internally and across teams, to ensure that we regulate fairly, consistently and effectively, in line with our Vision and Strategic Plan. We have hosted training events to update our inspection teams on innovation and technology developments in the sector and how those relate to our inspection approach.

We engage with other key stakeholders (including other systems regulators), to share learning and co-ordinate approaches to regulating new models and technologies. This includes keeping in touch with the pharmacy sector and other networks such as the Digital Clinical Excellence (DiCE) forum, which is designed to drive excellence and improve quality and safety in clinical healthcare.

We have also explored how we might use machine learning to identify themes and gain insights from our qualitative and unstructured data (for example inspection reports). This is not something that we use routinely, but it's likely to form part of future discussions on how we might evolve our use of AI applications in the future.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

As outlined above, pharmacy professionals and pharmacies are required to meet regulatory standards and guidance and the law. They are also expected to take account of relevant national policy and guidance relevant to their practice. To give one example, we have issued guidance for pharmacies providing services at a distance (including online pharmacies), which includes the use of technology in this context.

We keep our standards and guidance under review, and we will consider whether any further guidance in this area may be required in the future. We do not have the expertise to issue guidance on every development in this context or indeed on the range of emerging technologies, as there are other organisations best placed to do this. However, we can foresee the need for some future resources to help pharmacy innovators to understand regulatory requirements and support them to implement AI and other technologies ethically and professionally.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

We are aware of general sources of advice and guidance about artificial intelligence in the public sector, including resources from the Government Digital Service and the Office for Artificial Intelligence, and the Information Commissioner. We are also aware of health focussed resources from NHS Digital, as well as information from pharmacy specific bodies. Any further work to streamline national guidance (as recommended in the Committee's original report) and support regulators to access advice and information about best practice would be most welcome.

We will continue to work closely with stakeholders, to understand the risks and opportunities arising from the increasing use of AI and technology-based models in pharmacy and inform our regulatory approach. Nevertheless, this is a fast-moving area, and we need to evolve and continuously improve our knowledge and understanding, making use of subject-matter expertise, where possible. This will help us to deliver tailored regulatory responses driven by the context and issues presented, to secure the outcomes in the best and quickest way. We'll also engage with our colleagues across health and care regulation as we are likely to face similar issues and challenges.

We expect that technology and innovation will form an important part of our upcoming discussions on our next strategic plan, which will set out our commitments over the next few years. The Committee's report and associated work will be very helpful as we continue to evolve our approach in this area.

Please do not hesitate to get in touch if we can be of any further assistance to you or the Committee.

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]

ICO response to Lord Evans and the Committee on Standards in Public Life: Artificial Intelligence and Public Standards Report Follow Up

Thank you for the opportunity to provide an update on our progress in adapting to the challenges posed by AI. We have actively engaged with the Committee throughout its work on AI, providing evidence for the 2020 report¹ and a subsequent update in 2021.²

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

AI is a strategic priority for the ICO. The ICO25³ strategic plan highlights our current work in this area, including actions to tackle urgent and complex issues such as AI-driven discrimination.⁴

Providing guidance

We provide comprehensive guidance for organisations developing or using AI,⁵ which is regularly updated to address emerging risks and opportunities. We provide supplementary guidance where needed on specific issues, such as our guidance on Explaining Decisions Made with AI,⁶ which is co-badged with The Alan Turing Institute.

¹ [Artificial Intelligence and Public Standards Report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/90441/artificial-intelligence-and-public-standards-report)

² [AI survey responses updated.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/90441/ai-survey-responses-updated.pdf)

³ [ICO25 strategic plan | ICO](https://ico.org.uk/about-the-ico/ico25-strategic-plan/)

⁴ The ICO has updated the fairness component of the existing Guidance on AI and Data Protection with the aim of assisting organisations tackle such issues.

⁵ [How should we assess security and data minimisation in AI? | ICO](https://ico.org.uk/for-organisations/guide-to-data-protection/key-dp-themes/explaining-decisions-made-with-artificial-intelligence/)

⁶ <https://ico.org.uk/for-organisations/guide-to-data-protection/key-dp-themes/explaining-decisions-made-with-artificial-intelligence/>

In addition we have published an AI and Data Protection risk toolkit,⁷ to assist organisations in assessing the risks to individual rights and freedoms caused by AI systems. This won a Global Privacy and Data Protection Award in 2022.⁸

Where appropriate, we also provide guidance on specific classes or use cases of AI. Earlier this year we set out expectations for organisations looking to develop or deploy generative AI; we have previously issued Commissioner's Opinions on age assurance⁹ and the use of live facial recognition technology in public places.¹⁰

Supporting innovators

In addition to our portfolio of AI guidance, we provide bespoke advice to AI innovators through our Regulatory Sandbox, Innovation Advice and Innovation Hub.¹¹ For example, our Regulatory Sandbox has assisted organisations such as Onfido¹² to engineer privacy into the design of their services; our Innovation Advice service has provided rapid responses to organisations seeking to understand the data protection implications of adopting generative AI;¹³ and our Innovation Hub is partnering with the Centre for Data Ethics and Innovation on its Fairness Innovation Challenge to support the development of novel solutions to address bias and discrimination across the AI lifecycle.

Establishing and expanding cross-regulatory cooperation

We are actively engaging on AI issues with our partners in the Digital Regulation Cooperation Forum (DRCF) which we co-founded in 2020 alongside the Competition and Markets Authority, Ofcom, and the Financial Conduct Authority. Further, we have Memoranda of Understanding with these and other regulators including the Equalities and Human Rights Commission.

⁷ <https://ico.org.uk/for-organisations/guide-to-data-protection/key-dp-themes/guidance-on-ai-and-data-protection/ai-and-data-protection-risk-toolkit>

⁸ <https://globalprivacyassembly.org/news-events/gpa-awards/>

⁹ [Age Assurance for the Children's Code \(ico.org.uk\)](https://ico.org.uk/age-assurance-for-the-childrens-code)

¹⁰ [ico-opinion-the-use-of-lfr-in-public-places-20210618.pdf](https://ico.org.uk/ico-opinion-the-use-of-lfr-in-public-places-20210618.pdf)

¹¹ <https://ico.org.uk/about-the-ico/what-we-do/ico-innovation-services>

¹² Such as <https://ico.org.uk/media/for-organisations/documents/2618551/onfido-sandbox-report.pdf>

¹³ [Innovation advice service | ICO](https://ico.org.uk/innovation-advice-service)

As part of our work at the DRCF we have published two discussion papers on algorithmic harms and benefits,¹⁴ and the landscape of AI auditing.¹⁵ We have continued to build on that work through our 2022-2023 work programme,¹⁶ including the recent publication of the findings from workshops on transparency in the procurement of algorithmic systems,¹⁷ and a blog on a workshop we held on Generative AI.¹⁸

The ICO also chairs the Regulators and AI Working Group, which brings together regulators focusing on AI issues. The group was established based on the principles of information sharing, co-ordination and harmonisation. It acts as a forum for the development of a collaborative and multilateral approach to AI regulation by existing UK regulators.

The ICO also works with international counterparts and stakeholders, both bilaterally such as our joint investigation with the Office of the Australian Information Commissioner into Clearview AI,¹⁹ and through fora such as the Global Privacy Assembly (GPA),²⁰ the Global Partnership on AI (GPAI) and the G7 grouping.

At the GPA in particular, the ICO is a member of the Working Group on Ethics and Data Protection in AI, and is lead rapporteur and co-rapporteur on work in AI and employment and generative AI. At the G7 the ICO has worked with data protection and privacy authorities to produce a statement on generative AI.²¹ In addition, we provided input into the EU AI Act²² and the Council of Europe's legal framework on AI.²³

¹⁴ <https://www.gov.uk/government/publications/findings-from-the-drcf-algorithmic-processing-workstream-spring-2022/the-benefits-and-harms-of-algorithms-a-shared-perspective-from-the-four-digital-regulators>

¹⁵ <https://www.gov.uk/government/publications/findings-from-the-drcf-algorithmic-processing-workstream-spring-2022/auditing-algorithms-the-existing-landscape-role-of-regulators-and-future-outlook>

¹⁶ <https://www.gov.uk/government/publications/digital-regulation-cooperation-forum-workplan-2022-to-2023/digital-regulation-cooperation-forum-plan-of-work-for-2022-to-2023>

¹⁷ <https://www.gov.uk/government/publications/transparency-in-the-procurement-of-algorithmic-systems-findings-from-our-workshops>

¹⁸ [Maximising the benefits of Generative AI for the digital economy | DRCF](#)

¹⁹ [ICO fines facial recognition database company Clearview AI Inc more than £7.5m and orders UK data to be deleted | ICO](#)

²⁰ <https://globalprivacyassembly.org/>

²¹ [Roundtable of G7 Data Protection and Privacy Authorities Statement on Generative AI -Personal Information Protection Commission- \(ppc.go.jp\)](#)

²² <https://ico.org.uk/about-the-ico/consultations/eu-proposed-artificial-intelligence-act/>

²³ <https://ico.org.uk/about-the-ico/consultations/council-of-europe-ad-hoc-committee-on-artificial-intelligence-cahai-multi-stakeholder-consultation/>

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

Audits

Section 146 of the DPA18 provides the Commissioner with the power to conduct compulsory audits through the issue of assessment notices. Section 129 of the DPA18 allows the Commissioner to carry out consensual audits.

We see auditing as a constructive process with real benefits for organisations and aim to establish a participative approach. We have published guidance for organisations on our approach to AI audits²⁴ specifically, and are increasingly undertaking audits of AI companies such as those operating in the recruitment space.²⁵

Investigations and enforcement

Under Part 6, Section 149 of the Data Protection Act 2018 the Information Commissioner can issue an enforcement notice in relation to infringements of data protection law. The ICO also issues Information Notices, Assessment Notices and Penalty Notices under sections 142, 146 and 155 respectively of the Data Protection Act 2018.

We take robust action where we find harm arising from noncompliance. For example, we fined Clearview AI more than £7.5 million for using images of people in the UK collected from the web and social media to create a global online database that could be used for facial recognition, and issued an enforcement notice ordering the company to delete the data of UK residents from its systems. This followed a joint investigation with the Office of the Australian Information Commissioner (OAIC).²⁶

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

²⁴ [A Guide to ICO Audit Artificial Intelligence \(AI\) Audits](#)

²⁵ Such as https://ico.org.uk/media/action-weve-taken/audits-and-advisory-visits/4018998/mevitae-artificial-intelligence-ai-executive-summary-v1_0.pdf

²⁶ [Clearview AI Inc Enforcement Notice \(ico.org.uk\)](#)

We are building our in-house expertise on AI to advise both internal ICO teams and the organisations that we regulate; we anticipate that we will need to continue to do so to reflect the adoption of AI across the economy in the coming years.

We continue to track developments in AI to ensure that our positions reflect the latest technological opportunities and risks. We conduct horizon-scanning to detect new data protection risks and opportunities,²⁷ and run a programme of post-doctoral AI fellowships that research issues such as AI and dark patterns, and model inference attacks.

4. Do you have any other comments you would like to make?

We continue to engage widely with Government and Parliament on the regulation of AI. In addition to this response, we have contributed to the Government's White Paper on AI Regulation²⁸ and the Data Protection and Digital Information Bill.²⁹ We have also responded to the House of Lords consultation on AI governance,³⁰ provided input to the Department for Health and Social Care's call for evidence on equity in medical devices,³¹ the House of Lords Justice and Home Affairs Committee call for evidence on the use of new technologies in the application of the law,³² the Department for Education's call for evidence on generative AI in education,³³ and the House of Lords Communications and Digital Committee's call for evidence on Large Language Models.³⁴

²⁷ For example, we produced two reports on biometric technologies that highlight the risks of Emotion Recognition Technology: [Biometrics technologies | ICO](#)

²⁸ [Office for Artificial Intelligence white paper: AI regulation | ICO](#)

²⁹ [Data Protection and Digital Information \(No. 2\) Bill - Parliamentary Bills - UK Parliament](#)

³⁰ [UK Parliament consultation: Governance of artificial intelligence | ICO](#)

³¹ [Department of Health and Social Care call for views: Equity in medical devices independent review | ICO](#)

³² [House of Lords Justice and Home Affairs Committee call for evidence: the use of new technologies in the application of the law | ICO](#)

³³ [Department for Education's call for evidence on generative AI in education | ICO](#)

³⁴ [Lords Communications and Digital Committee's call for evidence on Large Language Models | ICO](#)

30 August 2023



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**Committee on Standards in Public Life: Artificial Intelligence
and Public Standards Report – follow up on regulators
progress update**

Response from the Legal Services Board

Thank you for your letter of 4 July 2023 - please find below our response to your questions. We would be happy to discuss any of this further with you.

About the Legal Services Board

1. The Legal Services Board (LSB) oversees the regulation of legal services in England and Wales. We are an independent body created by the [Legal Services Act 2007](#) (the Act). Our functions include overseeing the performance of the eight regulatory bodies (regulators) who carry out the direct regulation of legal services. In all our work, we have a duty to promote the eight statutory regulatory objectives set out in the Act, such as improving access to justice.

Background - technology and innovation in the legal sector

2. The LSB has a well-developed [workstream focused on the use of technology and innovation in the legal services sector](#). We recognise the increasing role of technology across the legal sector, with its significant potential to improve access to justice for consumers. We know from our own research that there are significant levels of unmet legal need in the legal services market, and we believe that the increased adoption of technology and innovation, including AI, can help to reduce this.
3. The LSB, and the regulators we oversee, operate within a statutory framework set by Parliament. The regulatory framework created by the Act was designed prior to developments in technology. For example, the focus of the Act on reserved legal activities and professional titles means that specific technologies and products, such as AI applications, may be excluded from its remit. Notably, unregulated providers of legal services (and their use of technology, including AI) are outside the scope of the existing regulatory framework for legal services. This means that those who develop AI technologies and applications do not necessarily fall within the legal services' regulatory framework. That being the case, our focus as oversight regulator is outcomes-based rather than technology-specific.

Q1: How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

4. In our sector-wide strategy, [Reshaping Legal Services](#), we identify two challenges facing the legal sector that are directly relevant to the growth and development of technology, including AI: the need to ‘*foster innovation that designs services around consumer needs*’; and to ‘*support the responsible use of technology that commands public trust*’. To help overcome these challenges, and to ensure that legal services can better meet society’s needs, [we are in the process of consulting on new statutory guidance](#) for the regulators we oversee on [promoting the use of technology and innovation to improve access to legal services](#). **This guidance will set three outcomes that we expect regulators to pursue when developing their own regulatory approaches to technology and innovation, including AI.** This will help to address the barriers that consumers, technology providers and legal services providers currently face, as well as helping to promote the use of technology and innovation that increases access to justice. The three proposed outcomes are:
 - **Outcome 1: Technology and innovation is used to support consumers to better access legal services and address unmet need.** This outcome is driven by evidence that the adoption of technology and innovation based around the needs of consumers is already having a positive impact in the legal services sector, and that the promotion of technology and innovation could further enable consumers to better access legal services now and in the future.
 - **Outcome 2: Regulation balances the benefits and risks, and the opportunities and costs, of technology and innovation for the greater benefit of consumers.** This outcome focuses on the need for regulators to understand, and balance, the benefits and risks to consumers related to the use of technology and innovation in the provision of legal services, without being unduly risk averse.
 - **Outcome 3: The legal services sector is open to technology providers and innovators and barriers to entry are lowered.** This outcome is driven by evidence about the barriers faced by technology providers and innovators who wish to enter the legal services sector and the need for ongoing, proactive collaboration to help reduce barriers to entry and promote consumer choice.
5. This outcomes-based approach is intended to provide a flexible framework so that the regulatory approaches adopted by legal services regulators can continue to develop in response to technological developments both now and in the future, including in relation to AI. We know, for example, from [our research on technology and innovation](#) that the use of AI technologies in the regulated legal sector is still relatively immature and that AI technologies are being used to varying degrees to provide legal services; but that their use seems likely to increase, possibly quite substantially, over the next three years. This means there is scope for the ethical use of AI to benefit the users of legal services and wider society, and for regulation to enable and support that use.

6. Our proposed guidance is technology-neutral – this is important to ensure that, as well as enabling the management of developments in technologies over time, **our guidance is complementary to potential requirements from other regulatory frameworks related to technology such as AI** (eg [proposals from the Office for Artificial Intelligence](#) (Office for AI) related to a UK regulatory framework for AI) **and it doesn't preclude regulators developing specific approaches to the use of individual technologies** (eg the publication of guidance), such as AI, if necessary.

Q2: To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically?

7. The LSB's functions as oversight regulator are conferred on it by the Act, which, amongst other duties and powers, gives us the power to issue statements of policy, under [s49](#), and statutory guidance under [s162](#), to set expectations of the regulators.
8. As noted above, we are in the process of consulting on new statutory guidance which is intended to promote the use of technology and innovation in the legal services sector. The provision of statutory guidance provides a clear and transparent way to set out the LSB's expectations on the promotion of the use of technology in the sector, and the outcomes we encourage regulators to pursue when developing their regulatory frameworks. This includes our expectation that regulators should assess, and balance, the risks and benefits related to the use of AI in the provision of legal services.
9. We will monitor and assess how the regulators have regard to the guidance by seeking assurances that they are implementing plans to meet the outcomes set out in the guidance via our annual [Regulatory Performance Assessment Framework](#), which we use to monitor and assess regulator performance. In our view, individual regulators will be best placed to determine how to manage the benefits and risks of the use of AI, including in relation to its safe and ethical use - in line with the outcomes in our proposed guidance. However, as oversight regulator, we are prepared to take further action if there is evidence that the regulators we oversee are not effectively managing the benefits and risks of AI.

Q3: Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

10. As oversight regulator, the LSB does not directly regulate the use of technology in the legal services sector.
11. In addition to having regard to guidance published by the LSB, our expectation is that regulators, as well-led, evidence-based regulators, will keep abreast of wider work and developments on the regulation of technology and innovation – for example, the government's Office for AI's proposals for a new regulatory framework for the regulation of AI. Regulators should also be aware of good practice in the regulation of technology – for example, [the LawtechUK discussion paper on the responsible adoption of AI in legal services](#) and information available from the Centre for Data Ethics and Innovation (CDEI).

12. The [Office for AI's recent White Paper](#) sets out an expectation that regulators will publish guidance on how cross-sectoral AI principles apply within their regulatory remit. As set out in [our response to the White Paper](#), we broadly support an approach where the decision to provide guidance rests with individual regulators based on their expertise and knowledge of the market they regulate. For example, it may not be necessary for regulators to issue AI-specific guidance if they can provide assurance that the regulation of AI is already accounted for in their regulatory approach.
13. We note that the Office for AI proposes to issue new guidance and an AI regulation roadmap for regulators in relation to the implementation of its proposed regulatory framework for AI. We are happy to signpost legal services regulators to this, and any other, centrally issued guidance or relevant advice.

Q4: Do you have any other comments you would like to make?

14. Any framework for the regulation of AI should be flexible and proportionate to allow for differences between sectors/within regulated communities, within which the risks and benefits to consumers will vary. Legal services regulators are best placed to determine how their own regulatory arrangements may be impacted by an increased use of technology, including AI, and where specific guidance may be needed in this sector.
15. A key principle underpinning the use of technology in the provision of services is accountability and it is essential that regulatory frameworks for technology provide clarity on who is accountable should something go wrong – for example, in the legal services sector, consumers of unregulated legal services do not have the same redress protections as consumers of regulated legal services. This is particularly important in the context of AI as those who develop AI-related products and tools are unlikely to fall within the scope of the legal services' regulatory framework (although those who use those products and tools to provide legal services may).
16. Hand-in-hand with accountability is the principle of transparency. As the adoption of technology increases, particularly technology such as AI that creates the perception of human interaction, the need for transparency about its deployment becomes greater. In legal services, this may mean a regulatory requirement to be clear with consumers when AI has been used to produce advice.
17. It is also important to recognise that frameworks for the regulation of AI may need to consider issues beyond the direct regulation of AI tools/products and how, and by whom, they are used – for example, in the legal services sector, AI has the potential to change the fundamental nature of what it means to be a legal professional and may therefore have an impact on how legal professionals are trained, and how they are required to meet their professional and ethical obligations over the course of their careers. We will be considering how to understand and respond to this challenge alongside the regulators.

Local Government & Social Care OMBUDSMAN

30 August 2023

Lord Evans of Weardale KCB DL
Chair, Committee on Standards in Public Life
Room G07
1 Horse Guards Road
London
SW1A 2HQ

Re: Artificial Intelligence and Public Standards Report follow up

Dear Lord Evans

Thank you for your letter of 4 July 2023 regarding your 2020 Artificial Intelligence and Public Standards report and asking for an update on our adaptation to the challenges of AI. As you know we responded to your request for information in 2020 and I am pleased to provide you with an update on how the Local Government and Social Care Ombudsman (LGSCO) is responding to the rapid progress of artificial intelligence and its very real presence in public life.

As you noted in your published responses in 2020, the Local Government and Social Care Ombudsman is not a regulator. Our role is to investigate complaints from the public about the actions of councils, social care providers and some other public bodies. In 2020 you stated that we may at some stage receive a complaint or need to challenge a decision made through the use of AI: whilst we do not currently believe that the use of AI in decision making by councils and other public bodies is common or widespread – although it is in use in some authorities for customer service (chatbots) and programmatic advertising (most commonly bought in from suppliers as part of communication campaigns) - the arrival of Chat GPT and other AI powered language models makes it entirely possible that we are already receiving complaints from members of the public that have been written with the assistance of AI.

In response to the specific questions posed in your letter:

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

As noted above, LGSCO is not a regulator: we are the last port of call for complaints about the actions of councils and social care providers and make judgements as to whether individuals have suffered injustice. Our investigations involve looking at the individual circumstances of each case and considering if and where injustice has occurred, which may involve the inappropriate use of AI within an organisation. This has not, as yet, been a significant factor in the cases we have investigated to date but may

become one, and as such where it occurs we will look at how AI has been used, at what stage of the service provision and whether its use has put people (individually or collectively) at a disadvantage.

We can and do recommend process and procedure changes to improve public services for the wider population, which could in the future see recommendations made about the use of AI by an organisation where it has been triggered by an individual case.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI ethically and safely? For example to ensure they are using AI in ways that are legal and legitimate?

As above, we are not a regulator and as such do not have the power to require the bodies within our jurisdiction to comply with particular recommendations. However, if we investigate cases where the use of AI has caused injustice then we will challenge it and recommend improvements.

Local government does not have a regulator as a whole (although social housing functions are regulated by the Regulator of Social Housing and social care is regulated by the Care Quality Commission (CQC)) and the emerging Office for Local Government (Oflog) will act as a performance improvement body, not a regulator. As such, the sector is reliant on local democratic accountability to ensure its practices are ethical and safe, and obviously local councils are required to act within the law. The Local Government Association has issued [policy guidance](#) on the [National AI Strategy](#) and the [Information Commissioner's Office issued advice](#) for local authorities on the use of AI when handling data in January 2023.

Social care, both that provided by local authorities and by private providers, is regulated by the CQC who are best placed to comment on this area specifically.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

We are aware of the Government's [National AI Strategy](#) (Pillar 3: Governing AI effectively) and the Office for Artificial Intelligence's 2023 [policy paper on AI regulation](#). Whilst these set a broad framework, the lack of specific regulation at this stage over the bodies within our jurisdiction creates a challenge in the application of our remit. Pending the development of regulation - and recognising the significant improvements to local government and social care services that AI may bring – we will need to look to the guidance existing in other areas like UK GDPR and the Equality Act 2010 to support our assessment of the use of AI.

Further guidance would certainly be welcomed to support local government and social care in its application of AI and as such to support our assessment of potential injustice and poor practice.

4. Do you have any other comments you would like to make?

AI is a fast developing field and the public sector is neither currently well placed nor well resourced to understand and address the ethical and technological opportunities and challenges it brings. We would welcome further guidance and support for the bodies in our jurisdiction and for our own implementation of AI to ensure that the public we serve benefits from the potential of AI but that exposure to risk and poor practice is minimised.

We will recognise AI as an area for development in our forthcoming Three Year Plan 2024 – 27 and hope that more guidance will emerge to support our endeavours.

Thank you again for the opportunity to comment on this important area and I look forward to seeing your update on progress later this year.

Yours sincerely





Medicines & Healthcare products
Regulatory Agency

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[gov.uk/mhra](https://www.gov.uk/mhra)

Lord Evans
Chair

Reference: CEO 19679

2 October 2023

Dear Lord Evans,

Artificial Intelligence and Public Standards

Thank you for your email of 4 July 2023 regarding the Standards in Public Life Committee report entitled Artificial Intelligence and Public Standards. I am sorry for the delay in responding.

I am pleased to enclose the MHRA response aligned with the Regulators Progress Update template. The regulatory approach to the fast-moving field of Artificial Intelligence, is an agency priority, and we are ready to provide further information or clarification at any time.

Should you have any further questions, please contact my office:

[Redacted contact information]

Regulators Progress Update

Name of organisation: Medicines and Healthcare products Regulatory Agency (MHRA)

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

Under The Medical Devices Regulations 2002 (as amended) and The Human Medicines Regulations 2012, the MHRA is the designated authority that administers and enforces the law on medicines and medical devices in the UK. For medical devices, we are taking forward a programme of regulatory reform based on the [government response to the MHRA consultation on the future regulation of medical devices in the UK](#).

Existing legislative frameworks for the regulation of both medical devices and medicines enable the assessment of the safety and efficacy of products that use AI in the same fashion as products that do not use AI. Following our departure from the EU, the MHRA is taking the opportunity to reform many of those regulations including those covering AI as a Medical Device. This is being informed by the [Software and AI as a Medical Device Change Programme](#) and via wider government policy discussions on regulating Artificial Intelligence beyond medical products and through international partnerships and regulator forums (see below).

Regulatory Practices in relation to the approval of medical devices

The MHRA audits and regulates Approved Bodies, that in turn assess and authorise medical devices. We have a [list of UK Approved Bodies](#) designated to authorise medical devices, and a regulated process through which an organisation can become an Approved Body. This is described within the [latest consultation on the future regulation of medical devices](#). <https://www.gov.uk/government/consultations/consultation-on-the-future-regulation-of-medical-devices-in-the-united-kingdom/outcome/chapter-5-approved-bodies>

We are collaborating through the [AI and Digital Regulations Service for health and social care](#) to provide support for both developers and adopters of AI technology within healthcare. This service will allow for easy signposting towards future regulatory requirements within this rapidly changing environment, to better enable innovation.

The '[Software and AI as a Medical Device Change Programme](#)' will lead ambitious reform to ensure regulatory requirements for software and AI are clear and patients are protected. For AI in particular, this programme includes work to ensure that software is appropriately designed to minimise bias, and that support from these devices is transparent and explainable to patients, with safeguards to detect and mitigate drift of data within the lifecycle of a device. We are encapsulating new aspects and considerations around AI within this change programme. The fundamental regulatory process for software and AI as a medical device will remain within the overall framework already in place.

We collaborate globally via the [International Medical Device Regulatory Forum](#) to promote and codify regulatory alignment. Software and AI are a particular focus area for the forum given their relative ease for global deployment. We are member of the Software as a Medical Device (SaMD) working group and co-chairing the AI and Machine Learning working group alongside USA Food and Drug Administration.

Regulatory practices in relation to vigilance of medicinal products

Since 2020, we have made extensive efforts both to engage the pharmaceutical industry in their use of AI for vigilance purposes and to optimise our own systems using the technology. There is a robust legal framework for pharmacovigilance activities and whilst there is no specific reference to AI within the regulations, there are requirements around quality management systems to provide assurance about the standards under which data is processed.

We have adopted AI solutions as part of its own vigilance systems, initially for COVID-19 vaccine suspected adverse reaction reports, as an additional quality assurance step to ensure that information in free text is coded to the structured fields used for signal detection. In excess of 100,000 previous vaccine reports were used for training and validation, with rules applied over the top of the technology to ensure adequate control of the system.

We use the Yellow Card reporting website to collate reports of suspected adverse reactions to medications, and this process also extends to medical device incidents. Since 2020 we have added new reporting forms to the Yellow Card website for reporting of adverse incidents arising from SaMD, including AI.

We are also collaborating with international regulatory bodies and pharmaceutical industry through the Council for International Organizations of Medical Sciences to develop best practice in use of AI across organisations, with a view to international alignment of expectations to avoid burden on both industry and regulators.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

Our duty is to protect patients and the public and facilitate access for UK patients to the latest advances the pharmaceutical and MedTech sectors can offer. We assess safety based on an appropriate level of evidence through premarket assessment, and post market surveillance. This is challenging as harm from digital products is often not direct. Medicines and medical devices must be assessed within a robust research framework by ethical review bodies, prior to use in MHRA approved clinical trials or with patients. Unethical application of AI is therefore outside of our remit and stewarded by the Health Research Authority and research funding institutions as well as individual research ethics committees.

The five regulatory principles outlined in the Office for AI's (OAI) [whitepaper](#) extend beyond our core remit of safety and ask regulators to consider broad ethical principles. We are working closely with OAI and other regulators across healthcare to ensure these principles are met within the sector.

Ethical use of AI in relation to medical devices

Organisations assigned as Approved Bodies by the MHRA are assessed and monitored to ensure they meet the relevant requirements to be able to ensure medical devices are safe for use.

We acknowledge that 'bias' can have a significantly negative impact on healthcare. We are working with academic partners, including the '[STANDING Together](#)' team who are developing standards to ensure AI healthcare technologies are supported by adequately representative data, relating to how AI datasets should be composed and transparency around the data composition. Involvement in projects such as this is influential in managing safety and ethical considerations when producing guidance as per the [Software and AI as a Medical Device Change Programme](#).

Ethical use of AI in relation to the pharmaceutical industry

The Pharmacovigilance legislation sets clear expectations for the quality of outputs of vigilance systems, requiring organisations to be able to demonstrate overall system performance within their quality management system.

The pharmaceutical industry is highly regulated and has been cautious in adopting novel approaches without clear regulatory guidance. We have looked to facilitate research into the use of AI by working collaboratively with industry and international regulators and offering meetings to discuss approaches. Informal guidance has emphasised that quality requirements are against the system as a whole rather than individual components to facilitate research activities.

We have a long established and robust pharmacovigilance inspections programme to provide assurance about the overall quality of industry systems, including any AI component. In line with the above, our inspectors seek to understand an AI component and ensure that the system as a whole is delivering high quality and compliant outputs as required to comply with pharmacovigilance and quality management system requirements. Assessment of the safe use of AI is therefore already integrated into the existing pharmacovigilance inspections programme.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

Regulation of the fast-moving innovative areas of medical devices and medicines is guided by capturing the consensus from the clinical, academic and technological communities, and applying this to the regulatory framework to ensure the best advances across the industry are available to improve the lives of patients as soon as they are safe to do so. Appropriate resources to be able to facilitate this collaboration, and to attract and retain those with enhanced skills relevant to this area are an ongoing challenge which we meet through partnership working with academia and other regulators. Continuing to do this is essential to enable us to progress with regulatory reform in the future.

Advice and guidance on AI in relation to the regulation of medical devices

We oversee the framework in place to regulate medical devices on the UK market. Many AI products used in health and social care fall within these regulations, and the MHRA is responsible for generating associated regulatory guidance. To operate effectively, the MHRA works collaboratively on AI regulation with many organisations within the health sector both domestically and internationally and across government. These interactions have proven valuable in shaping our healthcare policy work. We also continue to work with academic partners and the [AI and Digital Regulations Service](#) to try to advance the forefront of knowledge in this space to improve the regulatory landscape.

Advice and guidance on AI in relation to the vigilance of medicinal products

We regulate product safety through premarket assessment, post-market surveillance and inspection of the pharmaceutical industry and approved body activities. Further, the shared experience from national and international collaboration has been valuable in assessing opportunities, constraints, and ongoing research into the regulation of medicines and modern AI that can support this. However, in such a fast-moving field, further resources outlining the strengths and limitations of different types of AI would be of use. We agree with the findings of Lord Evans' 2020 report that a central unification of ethical guidance for the application of AI in public life would be helpful.

4. Do you have any other comments you would like to make?

Thank you for the opportunity to provide responses to this survey. The survey is an important review of progress following the original report. We recognise there is a spectrum of maturity of the regulatory remits for AI. We continue to work to address the nuances and challenges that AI poses in relation to the regulation of medicines and medical devices and remain confident that we have robust frameworks in place to regulate both medicines and medical devices.

As the AI sector innovates rapidly, we continue to take an agile regulatory approach to tackling emerging safety risks, which we recognise may be novel or from unforeseen limitations of our current plans. Many challenges of AI are felt across the healthcare sector and beyond, for example infrastructural capabilities, data access and liability, that largely fall outside of our remit. We are committed to continuing to work with other agencies and are grateful for any support and enablement in managing remit-spanning or multifactorial problems.

There has been discussion by vendors and the pharmaceutical industry about whether 'standard' training datasets can be used to reduce the regulatory burden of implementation of AI systems. However, based on current MHRA experience algorithms can perform outside expected parameters when applied against different datasets against which they have been trained. As such, we seek to work with the pharmaceutical industry to ensure that algorithms are appropriately tuned to the datasets they are applied against, and to understand the value and limitations of 'standardised' validation sets.



National Audit Office

The UK's independent public spending watchdog

Switchboard [REDACTED]
Email [REDACTED]

Lord Evans
Chair
Committee on Standards in Public Life
1 Horseguards Road
London
SW1A 2HQ

Reference Artificial Intelligence and Public
Standards Report Follow Up
Date 25 August 2023

Dear Lord Evans

Thank you for your request for a progress update on how the National Audit Office (NAO) is responding to the challenges posed by artificial intelligence (AI).

We scrutinise public spending for Parliament and are independent of government and the civil service. We help Parliament hold government to account and we use our insights to help people who manage and govern public bodies improve public services. We audit the financial accounts of all government departments and many other public sector bodies (including regulators) and examine and report on the value for money of how public money has been spent.

As such, we are not a regulator, nor part of government. We are, however, an important source of assurance to Parliament and the public on how government is using its resources, including on technology, information and AI. We have therefore begun specific work to better understand how government is addressing the risks and opportunities of AI. We are also collaborating with our equivalent organisations in other countries to share emerging practice and develop relevant audit approaches and considering our own use of AI to enhance our audit work. The following paragraphs provide more detail on each of these developments.

NAO study on the use of AI in government

We have commenced a value for money study on the [use of AI in government](#). This seeks to examine how well government is set up to maximise the opportunities and mitigate the risks of AI in the provision of public services. It will assess clarity of objectives and roles at the centre of government, how government is currently using AI, and whether government has put in place appropriate mechanisms and support to maximise the opportunities and mitigate the risks. We intend to publish this study in Spring 2024.

International collaboration on the audit of governments' use of AI

We are collaborating internationally with a small group of Supreme Audit Institutions (national audit offices) on approaches to auditing machine learning algorithms that have been applied by government agencies. We have produced a white paper for public auditors on the audit of machine learning algorithms, available at [Auditing machine learning algorithms \(auditingalgorithms.net\)](#), as well as an accompanying Excel helper tool that guides auditors through different parts of the audit. Our financial audits already examine adapt these tools to help us examine audited bodies' use of AI. For example, our recently concluded audit of DWP's accounts for 2022-23 included findings and recommendations in relation to the Department's use of machine learning to tackle benefit fraud. See [Report on Accounts - Department for Work & Pensions \(nao.org.uk\)](#).

Using AI ourselves to improve the audit of government accounts

We are looking at opportunities for using AI to improve the quality and efficiency of our audit work. This includes assessing the potential for machine learning approaches to support anomaly detection in our financial audit work, as well as opportunities to use generative AI tools in areas such as enhanced search and retrieval of documents for audit purposes.

We would welcome the opportunity to compare notes on our respective work in this field. Please let [REDACTED]

[REDACTED] know if this would be useful.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lord Evans of Weardale
Chair, Committee on Standards in Public Life

[Redacted Address]

14 September 2023

Dear Lord Evans

Artificial Intelligence and Public Standards Report Follow Up

Thank you for your letter and questions to Chief Executive of the Nursing and Midwifery Council, Andrea Sutcliffe, about how we are considering and responding to the challenges posed by AI following your 2020 report, [Artificial Intelligence and Public Standards](#). We welcome the opportunity to update you on our current thinking around the use and regulation of AI in health and care.

About Us

Our vision is safe, effective and kind nursing and midwifery practice that improves everyone's health and wellbeing. As the independent regulator of more than 788,000 nursing and midwifery professionals, we have an important role to play in making this a reality.

Our core role is to **regulate**. First, we promote high education and professional standards for nurses and midwives across the UK, and nursing associates in England. Second, we maintain the register of professionals eligible to practise. Third, we investigate concerns about nurses, midwives and nursing associates – something that affects a tiny minority of professionals each year. We believe in giving professionals the chance to address concerns, but we'll always take action when needed.

To regulate well, we **support** our professions and the public. We create resources and guidance that are useful throughout people's careers, helping them to deliver our standards in practice and address new challenges. We also support people involved in our investigations, and we're increasing our visibility so people feel engaged and empowered to shape our work.

Regulating and supporting our professions allows us to **influence** health and social care. We share intelligence from our regulatory activities and work with our partners to support workforce planning and sector-wide decision making. We use our voice to speak up for a healthy and inclusive working environment for our professions.

23 Portland Place, London W1B 1PZ
020 7637 7181
www.nmc.org.uk

We're the independent regulator for nurses and midwives in the UK, and nursing associates in England. Our vision is safe, effective and kind nursing and midwifery practice that improves everyone's health and wellbeing.

Registered charity in England and Wales (1091434) and in Scotland (SC038362)

How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

In the coming years, we expect to see a rapid expansion in the use of AI in health and care settings. Although it is unlikely we will be involved in the direct regulation of AI, we have a key role to play. We need to be alert to the changing demands AI and new technologies place on the professionals we regulate and aware of any new skills, competencies and behaviours they require to ensure the provision of safe, kind and effective care.

As part of ensuring we are adapting our practices across all our regulatory tools appropriately, we are considering the potential of AI in health and care in more depth as part of the development of our 2025-30 strategy, alongside the rapidly changing nature of technology, digital and data in how professionals work and people access care. We have identified the impact of AI on regulation as an area that we will be considering more specifically in the review of our [Code](#) which is planned for 2025.

In the meantime, we have begun considering how to adapt our regulatory practices to deal with the challenges posed by AI and can provide two examples.

Firstly, we were prompted by a recent survey from the PSA, which asked us to consider the steps that can be taken to ensure that registrants are not relying on AI to help produce their reflective statements when they revalidate. While this is an issue that we will have to consider further, we will provide training and guidance for case examiners on what AI is and how to recognise if it has been used to produce reflective and other statements.

We have also been asked about our approach to the use of AI and tools such as ChatGPT in nursing and midwifery education. Our current position is that we would expect NMC approved education institutions (AEIs) to have robust local policies on this area, given that it goes beyond nursing and midwifery education. We would expect AEIs to address this as part of their overall policies on plagiarism and responsible use of technology, which are part of their responsibility being in Higher Education. We recognise that this is an area that needs close watching and we will consider it as part of our horizon scanning work to shape the future review of the Code.

As AI is used more and as a new regulatory framework is implemented, more thought will need to be given to the interaction between professional regulation and technology regulation, as AI has the potential to blur the boundary between these in a way that previous technological developments have not. This may especially be the case where AI plays a part in diagnosing, triaging or providing advice to patients who have previously been or are later cared for by a regulated professional and where mistakes are made or conflicting advice is provided. We would expect health and care professionals to make the final decision following any AI recommendation but ensuring everyone has confidence in and an understanding of how AI decisions and recommendations have been reached will make this easier and safer and help to maintain public trust in services and professionals.

To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate?

We set out our expectations for the knowledge, competencies and behaviours for nurses and midwives in our [standards](#) framework and our [Code](#). While we aim to embed core principles throughout our standards and Code, including expectations around adapting to new technologies, health and care professionals may need ongoing education and training to understand how to use them effectively and ethically in relation to AI as its use grows. We will need to consider in more detail how we and the professionals on our register keep pace with this change.

One of the challenges we foresee with the growth of AI in healthcare is the rapid pace of change and therefore the evolving skillset that will be required of healthcare professionals. It may not be possible for regulators to respond to every development, or to issue specific guidance on the use of each type of AI or how we expect it to be reflected in curricula.

The principles set out in our standards and the Code continue to be relevant to how our professionals engage with AI. We expect all nurses, midwives and nursing associates to have the digital and technological literacy skills needed to ensure safe and effective practice. Additionally, we expect all our professionals to keep their knowledge and skills up to date, taking part in appropriate and regular learning and professional development activities to maintain and develop their competence.

We need to think more ourselves about how AI could cause harm, what we expect from our registrants, stakeholders and of ourselves to mitigate against these risks, and how we want to address the situation when something does go wrong due to AI. This will in turn shape how we might look to learn, improve, and set things right if AI has either directly or indirectly caused harm.

We also need to be conscious that the use of AI is likely to be highly variable, with some health and care settings making use of it rapidly, while others, particularly small rural settings, are likely to make use of it at a much slower pace. This means that our approach to regulation and the standards and expectations that we have of people on our register needs to be flexible enough to accommodate different use cases.

Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

In [response](#) to the Government's consultation on the regulation of AI earlier this year, we pointed out that as AI becomes more integrated into the health and care system, professional regulators may need more ready access to AI expertise to assess the role that AI has played and determine accountability during fitness to practice proceedings. It may not be possible for each regulator to have in-house experts on all AI systems in

use by those we regulate, and so we stated that support in accessing these, potentially through the suggested pooled team of experts, would be valuable. However, it is difficult to say at this point how much we would need to rely on such a resource.

Regardless of this we will need to develop internal expertise to ensure the AI we implement for our corporate use is right for our needs. There is guidance available to help us achieve this. In terms of making use of AI as part of our own IT processes we have the option to consult with Microsoft directly, as well as with companies such as Gartner, on how best to exploit AI. However, this has not yet been undertaken.

Do you have any other comments you would like to make?

AI is still an emerging trend in the health and care sector and the full scope of possibilities needs further consideration before more widespread use. We are in the early stages of conversations with other UK and international regulators to develop our thinking on AI and determine areas where more collaboration is possible.

We meet regularly with NHS England and DHSC to discuss issues around the future use of technology, including the implementation of the Philip Ives review. While currently much of this thinking is around the use of AI in diagnostics, where people on our register are less likely to be involved, we have begun thinking about how this may change and what involvement they may have in the future. We are also aware that some people have concerns about using new technology and we have begun thinking about how we can alleviate that.

In addition to considering the use of AI by our registrants, in collaboration with academic researchers at Royal Holloway University, we have investigated the potential uses of AI in the regulatory field. The research culminated in the publication of peer-reviewed papers, which provide in-depth insights into the development and implications of AI tools in nursing regulation. The papers were published in the *Journal of Nursing Regulation*¹.

One output of the research was the development of a prototype AI-powered tool that assists in the decision-making process for managing nursing complaints. This tool, built on data from thousands of anonymised cases across the UK, US, and Australia, performs three tasks: risk prediction of a complaint, comparison with previous similar complaints, and cross-referencing to relevant regulatory standards. Notably, this AI tool is not intended to replace human judgment but rather to enhance it by offering insights from a vast repository of historical cases. While we are encouraged by the potential of AI in supporting regulatory decision-making, we recognise the associated challenges, including potential bias, ensuring privacy, fairness, and transparency. We are committed to upholding high data protection standards and ethical principles in the future deployment of AI technologies. We have not made a decision to proceed with further

¹ Use of Artificial Intelligence in Regulatory Decision-Making, Volume 12/ Issue 3, October 2021; Artificial Intelligence in Health Professions Regulation: An Exploratory Qualitative Study of Nurse Regulators in Three Jurisdictions, Volume 14/ Issue 2, July 2023

development of the prototype tool until we work through some of the technical and ethical considerations.

We believe that AI can provide significant benefits in regulatory processes, improving efficiency, consistency, and insight. As we continue to explore AI tools, we remain steadfast in our mission to uphold the highest standards of nursing regulation and enhance the quality of healthcare for all.

Thank you once again for the opportunity to provide an update on our approach to regulating AI. Please do get in touch if you have any questions about our response.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lord Evans of Weardale, KCB DL
Chair, Committee on Standards in Public Life
By email

15 January 2024

Dear Lord Evans,

Thank you for your letter of 4 July 2023 about how Ofcom is responding to artificial intelligence (AI) developments. In response, my colleagues met your committee's staff on 19 September to discuss the best way for Ofcom to support your work.

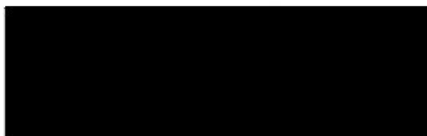
The communications sector has long been at the centre of technological developments and change. Ofcom is seeing a rapid expansion of new uses and applications of AI across the sectors we regulate – including broadcasting and telecoms as well as online services such as social media and search.

This presents both risks and opportunities for UK consumers. We continue to invest in understanding how we can respond to this, including by working closely with our fellow digital regulators (the CMA, ICO and FCA) through the Digital Regulation Cooperation Forum. We are also working with the Government as it takes forward its proposed AI regulatory framework. We are also moving fast to implement the Online Safety Act, publishing two consultations in November and December within weeks of Royal Assent.

On 15 September we [wrote to the House of Commons Science, Innovation and Technology Committee](#), to support their inquiry into AI governance. Following our meeting we sent this report to your staff and it remains an up-to-date summary of our perspective and the actions we are taking.

I hope that this report, and my oral evidence to the Science, Innovation and Technology Committee on 25 October, have been helpful for your own Committee's review. We would be happy to address any further queries you may have.

Yours sincerely,

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Lord Evans of Weardale, Chair
Committee on Standards in Public Life
House of Lords
SW1A 0PW

07 September 2023

Dear Lord Evans,

I write in response to your letter of 4 July 2023, following the Committee on Standards in Public Life's report, '*Artificial Intelligence and Public Standards*'¹. Your questions have been answered in turn below.

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

In July 2020, the Office for Statistics Regulation (OSR) published its 5-year strategic business plan which emphasises the importance of statistical producers across the UK statistical system upholding the pillars of trustworthiness, quality and value (TQV) when producing and releasing statistics.

The principles of the Code of Practice for Statistics², TQV, are relevant and can support data and analysis beyond official statistics too. In August 2022, OSR published, '*Guidance for Models*'³, which outlines how the pillars of TQV can be applied to designing, developing, and deploying a range of models. This guidance covers both traditional statistical models as well as machine learning (ML) models.

The guidance focusses on the importance of considerations around user needs and social context as well as transparency, accountability, ethical and legal issues. The principles outlined in the guidance broadly align with the cross-sectoral principles set out in the policy paper published by the Department for Science, Innovation and Technology in March 2023, '*A pro-innovation approach to AI regulation*'⁴.

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/868284/Web_Version_AI_and_Public_Standards.PDF

² <https://code.statisticsauthority.gov.uk/>

³ <https://osr.statisticsauthority.gov.uk/publication/guidance-for-models-trustworthiness-quality-and-value/>

⁴ <https://www.gov.uk/government/publications/ai-regulation-a-pro-innovation-approach/white-paper>

In March 2021, OSR published the report of our review of the statistical models designed for awarding grades in 2020⁵. Although these models were not based on any form of AI, we identified lessons for those designing and commissioning models and for wider government which we believe will be relevant to the development and use of models that do use AI.

Furthermore, OSR periodically updates its Code of Practice for Statistics to ensure it considers the latest tools and methods being used by producers of statistics: we are planning a review of the Code in autumn 2023. This is an opportunity to consider with those working inside and beyond government how the Code can remain relevant in a world where the methods for producing statistics/analysis are changing, and whether the Code should be strengthened in areas relating to AI.

Recently, since summer 2023, we have begun having conversations with producers of official statistics, to understand how they are considering the use of AI in the production of their statistical outputs. It may also be informative to speak to AI developers to form a more complete picture of how AI could be used in the production of statistics in the near future.

Along with our review of the Code, we will use this information to help decide what guidance beyond that we already provide, could support producers to use AI in a way that supports TQV, and ultimately public confidence in statistics.

OSR are also actively researching how latest advancements in AI can assist our own regulatory work. For instance, we are looking at the potential of large language models (LLMs) in aiding our understanding of the dynamics of misinformation and how AI may be able to assist us in casework and performing compliance checks.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

Under the Statistics and Registration Service Act 2007, our primary regulatory powers are focused on awarding or removing the National Statistics designation.

While OSR is limited in the degree to which we can place controls over the bodies we regulate, we do consider the impact of a producer's use of AI. For example, as mentioned above, OSR have been starting conversations to understand how producers of statistics are using GPT and other LLMs, with a view to providing greater support on this going forward.

Although we do not regulate use of AI and cannot place controls on its use, we can use our soft powers to influence producers of official statistics to support public confidence in use of statistics and statistical models.

⁵https://osr.statisticsauthority.gov.uk/wpcontent/uploads/2021/03/Ensuring_statistical_models_command_public_confidence.pdf

Our review of the statistical models designed to award exam results in 2020⁶ highlighted several lessons around the ethical use of data in models that support decision making about individuals. These included being clear about the social inequalities that exist in the underlying data and how they are treated. Our review also highlighted the importance of identifying relevant guidance around the ethical use of data and models to ensure that both legal and ethical issues are considered.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

Having a regulatory assurance body (as suggested previously by the Committee) to assist on AI could help OSR in regulating statistics in line with our principles of trustworthiness, quality, and value. We don't currently have access to guidance on AI from any specific governmental body, however the Pro-innovation AI regulation policy paper did suggest a central function may be established to assist with such issues.

An agreed process for passing cases between us and other regulators or governmental bodies could also help resolve issues that can arise when coordinating across regulatory remits.

In our report, '*Ensuring statistical models command public confidence*'⁷, we identified lessons for the centre of government which included recommendations for better support. We found that for statistical models used to support decisions in the public sector to command public confidence, the public bodies developing them need guidance and support to be available, accessible and coherent. The deployment of models to support decisions on services is a multi-disciplinary endeavour.

Our review also found that there is a fast-emerging community that can provide support and guidance in statistical models, algorithms, AI and machine learning. However, it is not always clear what is relevant and where public bodies can turn for support - the landscape is confusing, particularly for those new to model development and implementation.

Although there is an emerging body of practice, there is only limited guidance and practical case studies on public acceptability and transparency of models. More needs to be done to ensure there is sufficient access to accessible and coherent guidance on developing statistical models. Professional oversight support should be available to provide support to public bodies developing models and AI. This should include a clear place to go for technical expertise and ethics expertise.

⁶ <https://osr.statisticsauthority.gov.uk/our-regulatory-work/osr-review-of-approach-to-developing-statistical-models-designed-for-awarding-2020-exam-results/>

⁷ <https://osr.statisticsauthority.gov.uk/publication/ensuring-statistical-models-command-public-confidence/#:~:text=The%20development%20of%20a%20statistical,and%20meets%20the%20intended%20need.>

Having a clear place to direct statistical producers to when developing machine learning or AI models would support us in our regulatory activities and reduce the risk of damage to confidence in public sector use of statistical models, algorithms, AI and machine learning.

4. Do you have any other comments you would like to make?

Rapid advancements in AI have enabled new methods for analysing data and generating statistics. While this can help produce timely insights, it also risks undermining our principles of trustworthiness, quality and value.

OSR will continue to look at how it can evolve its regulatory approach to provide oversight for AI systems, while striking a balance between innovation and integrity. An independent regulatory assurance body focused specifically on AI could help regulators like OSR. By working with such a body, and other regulators considering AI issues, OSR may be better positioned to proactively address the emerging challenges posed by AI and ensure these new technologies are used to produce statistics for the public good.

Please do not hesitate to let us know if we can answer any further questions.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Lord Evans of Weardale, KCB DL
Chair, Committee on Standards in Public
Life

Westward House
Lime Kiln Close
Stoke Gifford
BRISTOL
BS34 8SR

17 August 2023

Dear Lord Evans

Thank you for your letter of 4 July 2023, following up on the Committee on Standards in Public Life's 2020 report on Artificial Intelligence and Public Standards. I am pleased to provide an update in this letter about how the Office for Students (OfS) has considered our regulatory approach to ensure we are meeting the challenges and opportunities posed by AI in the English higher education sector.

The OfS is the independent regulator of higher education in England. Our mission is to ensure that every student, whatever their background, has a fulfilling experience of higher education that enriches their lives and careers. The OfS has a principles-based regulatory approach, which allows us and the sector we regulate to respond to changes such as the development of artificial intelligence (AI).

At the most recent meeting of the OfS board in July 2023, the board discussed the potential implications of AI for our regulatory approach. The board concluded that our current approach will remain appropriate for at least the next 18 months as technologies continue to develop; and that we should continue to review the implications of the development of AI, including through further discussion with the board in early 2024.

Our current regulatory approach

The OfS's regulatory framework¹ sets out how we ensure a minimum baseline of protection for all students and taxpayers, through setting and enforcing conditions of registration in relation to

¹ <https://www.officeforstudents.org.uk/advice-and-guidance/regulation/the-regulatory-framework-for-higher-education-in-england/>

equality of opportunity, academic quality, financial viability and sustainability, and other areas within our remit as set out in the Higher Education and Research Act 2017.

Our conditions of registration are designed with the diversity and autonomy of the sector in mind. The more than 400 higher education providers on our Register have different missions, course provision, sizes, and local contexts in which they operate. By establishing principles-based requirements, we ensure providers are able to comply with regulatory obligations and respond to developments such as AI in a way appropriate to their context.

The way this operates in practice can be seen through our conditions of registration relating to quality and standards. We recently updated these conditions² in May 2022. The principles set out in these conditions already cover risks to course quality posed by AI, giving providers the flexibility to respond to new developments whilst allowing us to take regulatory action should we identify concerns. For example:

- Condition B2 requires a provider to take all reasonable steps to ensure that students have the resources and support to ensure a high quality academic experience. This includes ensuring that students are supported to understand, avoid and report academic misconduct.
Within the requirements of this condition, providers are able to design approaches to make sure their students are aware of the role AI can play in academic misconduct, in a way that is appropriate to the course they study. Where appropriate resources and support are not available, we can take regulatory action.
- Condition B4 requires a provider to ensure students are assessed effectively. This includes through designing assessments in a way that minimises opportunities for academic misconduct and facilitates the detection of such misconduct where it does occur.
AI tools create the possibility that students are submitting work for assessment that is not their own, but in different courses at different providers this would present differently. The framing of this condition allows providers to respond to this risk in a way that is appropriate with their context, but would allow us to take action if we were to have concerns that assessment was not effective.

Developing our knowledge and understand of the potential impacts of AI

Recognising the developing nature of AI technologies, the OfS is actively building our knowledge of the potential impact of AI and considering how this may affect our future work. This includes significant engagement with the Department for Education (DfE), for example:

- Meeting with DfE to inform its response to the Department for Science, Innovation and Technology's recent consultation on a pro-innovation approach to AI regulation,³ which sets out proposed principles for regulators in relation to AI.
- Attending roundtables organised by DfE for groups of regulators to discuss AI.

² <https://www.officeforstudents.org.uk/media/084f719f-5344-4717-a71b-a7ea00b9f53f/quality-and-standards-conditions.pdf>

³ <https://www.gov.uk/government/publications/ai-regulation-a-pro-innovation-approach/white-paper>

Additionally, we are exploring the impact of AI on equality matters in higher education. We are reviewing current research and discussions on AI in higher education and analysing the potential impact on students with protected characteristics and those from underrepresented groups. This work will act as a resource to support informed decisions on future OfS work related to equality issues where AI may be relevant, in particular our work on regulating quality.

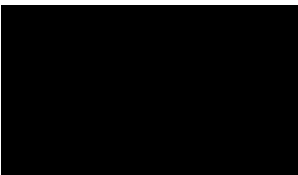
Promoting diversity and reducing skills shortages in the AI and data science sector

The OfS also carries out work to address national skills shortages and ensure a diverse AI and data science sector. We operate a funding competition to provide scholarships for post-graduate conversion courses in data science and AI to students with protected characteristics and from disadvantaged backgrounds.

In our first funding round from 2019-2023, we allocated £13.5 million to support providers to develop courses and to fund scholarships. The evaluation of this work⁴ has indicated the funding competition has increased diversity in the student population in these fields, and that most students are securing graduate jobs using AI and data skills. Following the success of the first round, we are now allocating further funding for academic years 2023-24 and 2024-25.

The OfS will continue to review our regulatory approach in relation to AI, ensuring that the interests of students and taxpayers are protected in a diverse sector through a principles-based approach.

Yours sincerely



⁴ <https://www.officeforstudents.org.uk/publications/evaluation-of-new-data-science-and-artificial-intelligence-conversion-masters-courses/>

The Office of Rail and Road (ORR) has provided information below rather than in the attached spreadsheet. The first half of the responses are from an ORR internal standpoint (IT & Systems) and the final paragraph reflects comments from a rail safety regulation viewpoint.

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

No. ORR has not been privy to any formal guidance or notice from our wider stakeholders on the use of AI. Therefore, ORR does not have the in-house skillset or wider government contacts to leverage support from and is currently seeking support from known existing forums (such as regulatory body networks)

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

At present there are no controls or guidance for the bodies regulated by ORR on the use of AI.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

Preliminary draft guidance from CDDO has been shared with ORR via another regulatory body, however there is no definitive guidance or working groups to assist ORR in the effective regulation of the technology.

4. Do you have any other comments you would like to make?

Support and training on this area should be ramped up and working groups to be formed as soon as possible to ensure consistency across government.

On the Rail Safety aspect of our regulatory function, we have done very little work on the impact of AI on Rail Safety, and to date we are not aware of any use of AI in a process/system that might affect rail safety. However, the wider Health & Safety regulatory regime has started to think about such things under the auspices of The Hazards Forum - [The Hazards Forum - hazardsforum.org](https://hazardsforum.org) In particular both the health & Safety Executive (HSE) and the Office of Nuclear Regulation (ONR) are engaging on this topic. ORR is a member of the Hazard Forum and we have regular interaction with HSE and ONR, we will be keeping an eye on this topic.



Lord Evans of Weardale, KCB DL
Chair
Committee on Standards in Public Life
Room G07
1 Horse Guards Road
London
SW1A 2HQ

8 September 2023

Dear Lord Evans,

Thank you for seeking Ofqual's views on how regulation is adapting in light of the growing challenges posed by artificial intelligence (AI). Ofqual recognises that AI technologies offer rich opportunities for those we regulate to operate differently, and one of the key priorities as set out in our [Corporate Plan 2022-2025](#) is that we play a key role in "leading, influencing and enabling innovation and transformation in assessment and qualifications". Ofqual's work in this area has accelerated over the last year in response to the growing prevalence of AI in different aspects of society, and building on the increasing regulatory expectations set out by the government's recent White Paper. Ofqual's position is set out in response to each of your committee's questions below.

How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

Ofqual has already observed how the rapid emergence of new AI technologies could impact the qualifications sector and has taken steps to secure safe delivery of exams and assessments in England and protect students. Given the high-stakes nature of decisions made in the awarding sector, Ofqual is adopting a precautionary approach to the use of AI – this will guard against inappropriate use of the technology in the most critical processes, while remaining open to new innovative approaches that may emerge.

Ahead of the 2023 exam season, Ofqual supported production of AI-related [guidance](#) from the Joint Council for Qualifications (JCQ) to give clarity to schools and colleges about the role they play in securing the authenticity of students' work. This example of close cooperation on AI with others in the sector has continued, including working alongside qualifications regulators in other UK jurisdictions, and in our engagement with the awarding organisations

we regulate. Ofqual is intentionally adopting a co-regulatory approach on this topic, with multiple events on the horizon for our regulated community, supplementing correspondence we have sent to awarding organisations highlighting particular challenges that could emerge from the use of AI in the context of assessment delivery.

With new applications increasingly feasible, Ofqual is keen to support the sector's exploration of new uses of this technology. Ofqual will be launching its Innovation Service later in the year to support those we regulate in exploring the risks and opportunities of the adoption of novel practices, and we fully anticipate AI to feature in ideas we liaise on with awarding organisations.

To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

Securing safe and appropriate use of AI is fundamental to how Ofqual regulates its use now and will remain so into the future. Ofqual's strategic priorities in relation to the use of AI in the sector include ensuring fairness for all students, maintaining qualification validity, protecting security of assessment materials and personal information, and maintaining public confidence.

Ofqual's regulatory requirements already guard against many threats to these objectives that could emerge from the use of AI, though additional steps have been taken to reinforce those that are most relevant for awarding organisations. This includes imminent communications to the regulated sector to reiterate that it is not within our rules for AI to be used as a sole marker of students' work.

Following the government's "[A pro-innovation approach to AI regulation](#)" White Paper, Ofqual anticipates producing further guidance for the sector where it deems appropriate. Wider rule changes will be considered where necessary, and Ofqual benefits from rule-making regulatory powers that would enable the introduction of such requirements.

Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

The growing attention given to AI during 2023 has led to an increase in Ofqual's cross government liaison and opportunity to develop a shared understanding about how the technology could be regulated in different contexts. Outside of sector-specific discussions, Ofqual has engaged with the Office for AI, Institute of Regulation, the Alan Turing Institute, the Department for Education and other regulators. Further, Ofqual has made public statements on AI including in [speeches](#) and on platform at sector conferences – such conferences and academic events also provide insight for the sector more widely to develop and share its understanding of the risks and opportunities presented by AI.

In practice, Ofqual has created a technology in assessment team to support work in this area, alongside other technology-centric policy areas. While this team is small, it draws on wider assessment and research expertise in the

organisation. Blending such capabilities to understand the implications of the technology within the qualifications sector is an important part of regulating AI's use in a context-appropriate manner. As more definite requirements on regulators are confirmed following the White Paper consultation, we will further review the most appropriate resourcing mix for this work – including requirements for AI experts – and anticipate this will be a component of future spending review plans.

One area - highlighted in our White Paper response - where further support will be required is in understanding and applying AI regulation in an international context. With differing positions potentially taking effect in different jurisdictions, at a national level as well as in the specifics of qualification regulation, the consequences of differentiated regulation of AI will be important to understand. This is particularly relevant for Ofqual where a significant number of entities we regulate also operate in other countries.

Do you have any other comments you would like to make?

While there may be rich opportunities for regulators to use AI in their own work, Ofqual's priority to date has been to understand the role of the technology in the regulated market. However, we will look forward to applications of this technology in our work, while placing the utmost emphasis on security and ethical use of information that Ofqual holds and uses.

Ofqual was unable to respond to the Committee on Standards in Public Life request in 2020, though had it done so attention would have been drawn to the innovative steps that had been pursued prior to the pandemic. In particular, [Ofqual was exploring](#) the possible involvement of AI in supporting the marking process as a form of quality assurance for human based marking. This work was paused in early 2020, though options are being considered for how aspects of this research could be adjusted and play an informative role for the future of the sector.

Yours sincerely,

A large black rectangular box redacting the signature of the official.Two horizontal black bars redacting the name and title of the official.

Chair, Committee on Standards in Public Life

Regulators Progress Update

Name of organisation: Solicitors Regulation Authority

At the time of writing the review, the weight of evidence was that the UK did not need a specific AI regulator, which would inevitably overlap with existing regulators. As such, we recommended in 2020 that all regulators should consider and respond to the challenges posed by AI in the fields for which they have responsibility, with help from a regulatory assurance body to assist regulators on AI.

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

The Solicitors Regulation Authority (SRA)¹ is the regulator for solicitors and law firms in England and Wales. We work to protect members of the public and support the rule of law and the administration of justice. We do this by overseeing all education and training requirements necessary to practise as a solicitor, licensing individuals and firms to practise, setting the standards of the profession and regulating and enforcing compliance against these standards. We are the largest regulator of legal services in England and Wales, covering around 80% of the regulated market. We oversee over 220,000 practising solicitors and around 9,500 law firms in England and Wales.

The legal sector's use of AI is growing rapidly, and since we responded in 2020, there has been a significant rise in usage. In 2019, 40 per cent of large firms had introduced the use of some form of AI. By December 2022, three quarters of large firms had invested in AI². Its availability and use continue to grow and is becoming more widespread across the sector. We see our role to highlight the potential beneficial uses and benefits of using legal technology as a way of improving access to justice for consumers.

Increasing the adoption of technology in legal services is a key priority for us. We have continued to refine our role since our last response, both to target where we can help increase adoption and to reflect AI issues in how we regulate.

We are proposing to maintain innovation and technology as a key strategic priority for our next three-year strategy from November 2023. This means keeping up to date and actively supporting innovation and technology that improves the delivery of legal services and access to them. This includes identifying risks and helping to protect against them. We will have a focus on the use of AI and large language models across the range of legal services providers, as they develop and become

¹ sra.org.uk

² [LegalEx 2022: The future of technology in the Legal Sector | Today's Conveyancer \(todayconveyancer.co.uk\)](https://todayconveyancer.co.uk)

more accessible. This will include dedicated support for smaller law firms, with limited resources and know how, to use technology effectively.

To deliver our strategic objective, we draw on a mixture of our own internal expertise plus some additional external expertise, as well as engaging with industry and consumer groups. We are currently developing our strategic approach to the regulation of the use of AI by our regulated community alongside the framework proposed by Government. We recognise that this is a delicate balance between developing our ability to regulate the use of AI effectively, without unnecessarily hindering firms in adopting beneficial systems.

We have a principles-based approach to regulation but we have a range of horizon scanning activities to keep the approach under review. We have adjusted our offer to potential innovators, so that we are an accessible regulator that is tuned into developments and open to testing and adapting our approach as appropriate.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

We are principles based and take a tech product neutral approach, recognising that firms use technology in different ways to deliver services, manage client engagement and achieve regulatory compliance. We support the proposed approach in the Government's white paper that sector regulators should have due regard to centrally established principles and flexibility to apply these as most appropriate given their unique sectors and contexts.

The solicitors' profession spans single-solicitor practices to huge firms with a global presence and thousands of lawyers. Solicitors also work in the justice system, in government and within companies. All solicitors and law firms follow the same professional principles and code of conduct. Our regulation is based on the outcomes firms achieve, not on the tools that they use to achieve it. The Principles and Code of Conduct still apply to firms using AI. We are confident that our principles-based approach allows for regulated firms and individuals to explore innovative ways of delivering legal services through the use of technology, while enabling us to address and respond to emerging regulatory risks.

We are alert to different threats and recognise that this may become more challenging given the increasing complexity and capability of AI, as well as its increasing integration within processes, systems, and software. In terms of safety and security of AI systems used in law firms there are potential hazards to confidentiality (including legal privilege) and client money. These could arise either if data is accessed directly, or if confidential information can be deduced from the model's activity. This could happen unintentionally as part of the activity to train the AI that is linked to the original source. The revealing of the data would not be dissimilar to a cyber-attack.

We are also alert to the potential issues to consumers and the public interest that

come from poorly chosen or operated AI, while being clear on our own regulatory position. This includes not only AI using inaccurate or out of date data, but criminals applying it for malicious intent. This includes phishing and the use of fake voices or fake imagery.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

We have access to data science technical expertise already within the SRA. As we develop our approach to regulating the use of AI, we are also thinking about the skillset that we will need to evolve our regulatory approach and the support we provide to the lawtech ecosystem.

We have made the regulated population aware of the changes resulting from AI and other technology and the [risks](#) and [challenges](#) it presents. We have published supportive guidance and helpful tips. We also rely, wherever possible, on existing standards, for example the ICO's standards on data protection. This approach ensures regulatory clarity is retained and does not add further complexity.

The SRA has an [Expert Panel](#), made up of a number of contributors who have expertise in the legal sector and other relevant fields. This includes experience of running lawtech startups, academia, law firms, in-house legal counsel, and government advice services. We meet with the panel quarterly for their counsel on our policy and technology work, including for example to discuss the implications of AI for the sector and proposed framework.

We have a strong collaboration network and already benefit from system-wide cooperation across the legal sector and other relevant sectors. We already work extensively with the Information Commissioner's Office (ICO) and Financial Conduct Authority (FCA), as well as other legal regulators like the Bar Standards Board. Linking up different regulatory regimes is one of the most common types of support that we provide to innovators through our SRA Innovate advice function.

We are a founding member of the LawtechUK programme and continue to provide support via the Regulatory Response Unit (RRU) that draws together different regulators advising their sandbox cohort on regulatory matters. The RRU offers an opportunity for startups coming into the legal sector to gain access to the expertise of a range of regulators who can advise and offer practical guidance. It is also a useful mechanism for regulators to collectively see what type of technology is entering the market. We partnered with Lawtech UK on a paper around the adoption of AI to aid the responsible adoption and development of AI in legal services for the benefit of society and the economy and to develop a regulatory navigation tool for startups.

We are actively involved in a range of government-led programmes, including the BEIS' Regulators Innovation Network, Regulators Pioneer Fund, Agile Nations, and HM Land Registry's Action Group. Each offers opportunities to access wider

industry work in technology. We have also recently participated in the AI Standards Forum for UK Regulators facilitated by the Turing Institute and continue to engage with the Office of AI.

Given the global nature of the development of AI, we would especially welcome the Government taking a lead in promoting interoperability and coordinating developments across jurisdictions. Our own experience from leading the inaugural Government Agile Nations lawtech programme saw benefits from shared learning and signposting lawtechs to relevant people in different jurisdictions but also showed the challenges in securing interoperability of regulations.

4. Do you have any other comments you would like to make?

Within the Committee's report (February 2020) and the government's white paper there was reference to the need to identify gaps in regulation. As we have highlighted to government, the Committee may wish to note that most legal advice is not regulated activity unless undertaken by a provider with a protected title. The biggest area of innovation in legal services is in the unregulated sector (currently comprising an estimated 3,800 unregulated providers offering unreserved legal advice in England and Wales, equating to an estimated 6-8 per cent by turnover of the overall legal sector) and this needs to be factored into any monitoring or regulatory approach. We offer support to unregulated innovators via our SRA Innovate service and have also facilitated introductions to other regulators (such as the ICO or FCA) as appropriate.

If there are particular risks to consumers of legal services from AI, it will be important that we consider the need for a regulatory approach covering all consumers. As a result, it will be important to consider the importance of how general consumer law protects consumers in relation to any AI threats alongside any consideration of sector regulations.

CSPL AI Report

1. How have you adapted your regulatory practices to deal with the challenges posed by AI in your sectors?

Although not a regulatory body, NICE evaluates medical technologies including AI and data-driven technologies. NICE has embedded a programme of work which aims to determine whether existing technology evaluation methods are applicable to AI and is involved in the development of new frameworks for assessing digital health technologies. NICE has published the Evidence Standards Framework to guide developers and adopters of digital health technologies to ensure clinical and cost considerations are included in the product development and deployment cycle, among other important features.

2. To what extent can or do you place controls on the bodies you regulate to ensure they are using AI safely and ethically? For example, to ensure they are using AI in ways that are legal and legitimate.

NICE does not hold any regulatory powers, nonetheless has played a leading role in the development of the AI and Digital Regulations Service (AIDRS) providing information and guidance to developers and adopters of AI and digital technologies to promote safe and effective AI use in health and social care. This service includes guidance on the ethical use and ongoing monitoring of AI technologies for health and social care.

NICE's evaluation programmes make recommendations on AI technologies that are appropriately regulated by the MHRA, hence should accordingly be deemed safe for use.

3. Do you have access to sufficient advice and guidance on AI to help you regulate AI effectively within your sectors and remits? From which bodies do you get that support? Could more be done to help you regulate AI effectively in your sectors and remits?

NICE has direct links with the necessary regulatory bodies for advice and guidance, such as MHRA, CQC, and HRA. Also, NICE works with these agencies on the AI and -Digital Regulations Service to map current advice and guidance on AI for health and social care, for which NICE provides the secretariat. AIDRS consists of the information platform for regulatory guidance, an advice service and the Pathway Coordination Forum (PCF). The PCF engages with a wide range of stakeholders including other regulatory bodies, academia, developers and adopters to share learning and explore solutions to regulatory challenges. Via the advice service we receive regular enquiries from stakeholders which provides a useful way to sense check the issues and blocks for developers. It also gives us the opportunity to Horizon Scan for potential regulatory requirements in response to new technologies. This service has the potential to be an influential hub to support AI innovation in the health sector but does require more stable funding for the future. The NHS AI Lab has produced a

‘roadmap’ which identifies key activities from the various regulatory bodies for advice on the safe, effective and ethical use of AI in health and care.

4. Do you have any other comments you would like to make?

Work by the PCF indicates that clarity regarding the governance of deployed AI tools within the health sector has several regulatory gaps with poor guidance currently available regarding governance processes fit for purpose for AI systems. Challenges also exist with regards to accountability and liability, particularly in public health and social care where multiple stakeholders may be involved (e.g. virtual wards). This creates challenges regarding uptake and confidence. Hence, risks exist in ensuring these systems remain safe and effective during their full life cycle. There is also a requirement to consider how current practice and regulations address legacy systems which also pose a risk.