Protecting consumers and access to justice in the age of AI

Mapping the emerging policy, regulatory and advocacy landscape around the use of Generative AI Applications and case outcome predictive technologies in legal services

A landscape analysis prepared for The Law Society of England and Wales by Dr Natalie Byrom

Summary

About this paper [see Section 1]

1   The following paper was commissioned by The Law Society to support the development of their 21st Century Justice Project. The aim of this project is to "find solutions that will deliver greater access to justice in the modern world". The 21st Century Justice Project Team ("the project team"), identified five key areas of focus for this work, including big data and access to justice.

2   Within the big data and access to justice stream, the prospect of an expanded role for generative AI applications based on foundation models and case outcome predictive technologies in the delivery of legal services to individuals was identified as a potential source of consumer benefit, and consumer detriment. The following paper provides an overview of these technologies, their benefits and risks, and the emerging policy, regulatory and advocacy landscape around their use.

Defining "generative AI applications based on foundation models" and "case outcome predictive technologies" and understanding their current use in the delivery of legal information and advice across England and Wales [see Section 2 and 3]

3   Generative AI is a type of AI system that can create a wide variety of data, such as images, videos, audio texts and 3D models. Generative AI tools such as ChatGPT and Bing Chat by Microsoft are powered by foundation models, augmented with fine tuning to create applications that perform a range of tasks, including answering complex questions and summarising information. Foundation models are general-purpose technologies that function as platforms for a wave of AI applications, including Generative AI. They are typically trained on broad data at scale and can be adapted to a wide range of tasks. The term "foundation model" is often used interchangeably with "General Purpose AI" (Jones, 2023).

4   Use cases for Generative AI applications based on foundation models ("Gen AI applications") in the context of the delivery of legal services include using these tools to draft legal documents, undertake legal research, prepare emails, and conduct other knowledge management tasks. Gen AI applications can also be deployed by firms and organisations to support the delivery of customer service chatbots and internal reporting (Thomson Reuters Legal Insights Europe, 2023).

5   In broad terms, case outcome predictive technologies are: "statistical or machine learning methods used to forecast the outcome of a civil litigation event or case" (Alexander, 2023:157). They use statistical or machine learning models to detect patters in past civil litigation data and exploit these those patterns to predict outcomes. Sources of data can include both legal documents (judgments and submissions) and other data, for example, biographical data on the judge or legal professional, appearance rate, judicial caseload and local economic data (Ashley, 2023:157).

6   Use cases for these tools in the context of legal services include: a.) improving intake process by firms, through speeding up the process of identifying successful cases, b.) informing litigation strategy, through supporting lawyers to understand which approaches are favoured by opponents and judges (e.g. Lex Machina, Co-Counsel, Solomonic). More speculatively, it has been proposed that these tools might: "obviate the need for legal representation entirely, by allowing potential and actual litigants to estimate their own chances for success" (Alexander, 2023:158). Further use cases for these tools include

supporting the investment strategies of litigation funders and assisting bulk users of the civil justice system (such as insurance firms) to identify which claims to settle (e.g. Sprout AI).

7   Mapping where and how Gen AI applications and case outcome predictive technologies are currently used in the delivery of legal services across England and Wales is rendered difficult by the lack of publicly available, authoritative data (see Section 3). The problem is particularly acute when attempting to assess where and how these technologies are used by parts of the legal services sector that are not regulated under the Legal Services Act 2007 ("LSA 2007") framework.

8   Some evidence suggests that adoption and use of these tools is growing- recent survey data published by the Legal Services Board ("LSB") in 2023 found that whilst "complex technologies that were more likely to be based on artificial intelligence"[1] were not widely in use, these technologies likely to see: "the highest relative increase" in adoption: "as between 12% and 15% of firms plan to use them in the next three years" (LSB, 2023:36)

Opportunities and risks for consumers [see Sections 4 & 5]

9   Advocates for the potential of Gen AI applications to increase access to justice for consumers point to the potential for these tools to generate efficiency savings that will be passed on to consumers of legal services in the form of lower costs. They also argue that free to access Gen AI applications like ChatGPT can assist unrepresented consumers to better navigate the online legal information landscape. In particular, it is argued that tools such as ChatGPT can diminish barriers to accessing legal knowledge as they do not require users to identify the problem they are experiencing as "legal" or define the problem in legal terms to access information. Users can insert plain language prompts and in return, receive seemingly authoritative, clear and comprehensible information about what to do next, at no cost.

10 However, the use of free to access Gen AI applications like ChatGPT also generates risks for consumers, particularly those with low levels of legal knowledge or who are unable to access legal advice and representation. Unrepresented consumers who rely on free to access Gen AI applications (e.g. ChatGPT) to access legal information are particularly at risk of receiving in return inaccurate or fictional responses that they rely on to their detriment. This is because free to access Gen AI applications based on large language models have not been trained specifically on legal data. In this context, these tools are more likely to "hallucinate" cases or return non-jurisdictionally relevant or otherwise inaccurate information.

11 Proponents of an expanded role for case outcome predictive technologies in the delivery of legal services argue that the widespread adoption of these tools will benefit consumers by: a.) reducing the cost of legal advice, b.) helping consumers to make better informed decisions about their dispute resolution strategy and c.) encouraging law firms to identify new areas of practice or d.) helping consumers to avoid litigation in the first place by improving initial decision making. These proposed benefits are at present, both speculative and highly contested.

12 Researchers have also identified a number of risks for consumers created by the use of these tools. Inadequacies in existing models or data may lead to predictions that are incorrect or imprecise. There is an absence of agreed transparency standards to support consumers to compare and verify the performance of different tools. Lack of data, funding

---

[1] Defined in the survey as "Technology Assisted Review, Predictive Technology, Robotic Process Automation and Blockchain or Distributed Ledger Technology" (LSB, 2023:37).

and business models for PeopleLaw[2] mean that these are more likely to develop in favour of large law firms and repeat players (e.g. insurance companies). The fact that these tools derive their predictions from historic data mean that the information they provide may service to perpetuate and entrench existing biases within the legal system. Finally, an expanded role for data driven tools in legal services may, over time, alter the nature of the justice system, undermining consumer confidence in the justice system as a whole.

Existing legal and regulatory frameworks and their adequacy [see Section 6]

13   Existing legal and regulatory frameworks covering the development and deployment of Gen AI applications and case outcome predictive tools include the UK GDPR, consumer protection law and the LSA 2007. However, the focus and structure of the regime created by the LSA 2007 creates gaps in protection and redress for consumers. The lack of regulation of third-party providers of technology, or the tools that they build, exposes consumers to harm. Further, both existing and contemplated regulation fails to adequately deal with harms created by out of jurisdiction providers of legal services.

14   Where tools are provided by organisations that are not subject to regulation by legal regulators, the risk to consumers is particularly acute. Consumer protection and data protection law does not effectively respond to either the nature of harm or the detriment created. There is an absence of both accessible redress mechanisms and adequate forms of redress under existing legal and policy frameworks beyond those created by the Legal Services Act 2007.

15   Whilst the Information Commissioner's Office is currently considering its position on Gen AI, case outcome predictive tools may not be covered by UK GDPR restrictions on automated decisions and profiling, thereby reducing protections for consumers. Existing transparency requirements are inadequate, and regulators are under-resourced to provide ex-ante protections.

Policy and advocacy landscape in England and Wales [see Sections 7 & 8]

16   At present, discussion surrounding the regulation of Gen AI applications and case outcome predictive technologies is overly dominated by a focus on their implications for lawyers and legal professionals. Much of the debate about the benefits and risks of these technologies proceeds on the assumption that the primary users of these tools will be regulated providers of legal services and that as such, consumers will be able to access protections afforded to them under the LSA 2007 regime. This assumption is unsafe and fails to account for the provision of legal services by unregulated providers, including those who are based overseas. Protecting consumers may require significant reforms to the regulatory regime created by the LSA 2007 – expanding the list of reserved activities and bringing currently unregulated providers under the purview of legal services regulation. It might also necessitate putting in place infrastructure to ensure that tools and technologies developed by third party providers are accurate and meet agreed performance standards.

17   Regulators and government tend to focus their research and analysis on a broad definition of legal technology, rather than specific tools and use cases- this has the potential to obscure harms. In addition, policy makers and regulators have paid insufficient attention to the need to address the ecosystem factors (in terms of access to data, funding and business models) that drive the potential for these tools to lead to consumer detriment. The current emphasis on "promoting innovation" in AI policy more broadly, and the lack of engagement

---

[2] Law firms that serve individuals, rather than corporate clients.

with civil society groups and impacted communities, may limit opportunities to identify and proactively address potential risks to consumers.

18   Civil society engagement, to the extent that it has focussed on the deployment of AI tools in a justice context, has tended to focus on decision making tools deployed by public sector agencies (e.g. Home Office, criminal justice agencies) where the legal frameworks for redress are stronger. Standards proposed or applied to the use of tools within the justice system e.g. by judges, administrators, and law enforcement (see the EU AI Act) are not being applied when tools are deployed in the context of legal service delivery, despite the commensurate potential for harm. The field of organisations representing users of the civil justice system may require additional resource to engage on these issues – due to multiple and competing demands on their time. The field of specialist civil society organisation with expertise in digital and data rights has been focussed on broader policy developments e.g. the Data Protection and Digital Information Bill, the Digital Markets Bill, the AI Summit and the publication of the AI White Paper, and lacks the resources to engage on the issues raised by an expanded role for outcome predictive tools in legal services.

19   Despite the need for evidence, little attention or resources are being dedicated to putting in place the infrastructure needed to gather empirical data to demonstrate the impact of Gen AI applications or case outcome predictive tools on either consumers or the justice system more broadly. Further investment is needed in mechanisms to support policy makers to understand changes in public attitudes to the use of these tools over time, and the impact of their adoption on public confidence in both legal services and the justice system.

.

Contents

8   COMMENTARY ON THE LANDSCAPE..31

9   BIBLIOGRAPHY 35

1 Background

1.1 In March 2023 The Law Society of England and Wales ("TLS") launched their "21st Century Justice Project" which aims to: "find solutions that will deliver greater access to justice in the modern world. The project is focussed on the civil justice system and will run for three years.

1.2 The project will initially focus on five key areas of the civil justice system:
- power imbalances in alternative dispute resolution
- help for small businesses and those not eligible for legal aid to meet legal costs
- solicitors' role in the digitisation of the justice system
- big data and access to justice
- civil legal aid

1.3 The aim of this project is to understand the strategic risks and opportunities the justice system faces and to: "lead the debate and identify systemic improvements that will serve society now and far into the future". Across the project, there is a substantive focus on approaching issues from the perspective of consumers of legal services, including small businesses. Accordingly, the project is particularly interested in identifying, exploring and proposing policy solutions that address issues with the potential to lead to consumer detriment.

1.4 Through a literature review and engagement with external stakeholders, the TLS 21st Century Justice Project Team ("the project team") identified expansion in the use of generative AI applications based on large language models and case outcome predictive technologies as a potential area of consumer detriment that the big data and access to justice strand of the 21st Century Justice Project could address.

1.5 In October 2023 the 21st Century Justice Project published a Green Paper which set out an initial set of policy proposals developed in collaboration with stakeholders. This committed to explore the role of AI in increasing access to justice in Year 2 of the project.

Scope of this paper

1.6 To inform the development of this strand of work, the project team commissioned an independent researcher, Dr Natalie Byrom, to prepare a briefing paper. The report, presented below, is based on desk research augmented by interviews with business owners, researchers, regulators and key stakeholders. The following report:

- Offers a definition of what is meant by "generative AI applications based on large language models" and "case outcome predictive technologies";
- Describes, at a high level, what is known about where and how these tools are currently used to deliver legal services across England and Wales;
- Explains the benefits and risks that these tools create for consumers and access to justice;
- Outlines the existing legal and regulatory frameworks that apply to the use of these tools in the context of delivering legal services, with a focus on the regime created by the Legal Services Act 2007.
- Explains how policy makers, regulators and advocacy groups are responding to the development and use of these tools;
- Analyses the existing landscape with a view to identifying gaps and opportunities for further work;

2 Defining the technologies of interest

Generative AI applications based on large language models ("Gen AI applications")

2.1 The Ada Lovelace Institute defines "Generative AI" as a type of AI system that can create a wide variety of data, such as images, videos, audio texts and 3D models. Generative AI tools such as ChatGPT and Bing Chat by Microsoft are powered by foundation models, augmented with fine tuning to create applications that perform a range of tasks, including answering complex questions and summarising information. Foundation models are general-purpose technologies that function as platforms for a wave of AI applications including Generative AI (See Figure 2.1 below). They are typically trained on broad data at scale and can be adapted to a wide range of tasks. The term "foundation model" is often used interchangeably with "General Purpose AI" (Jones, 2023).
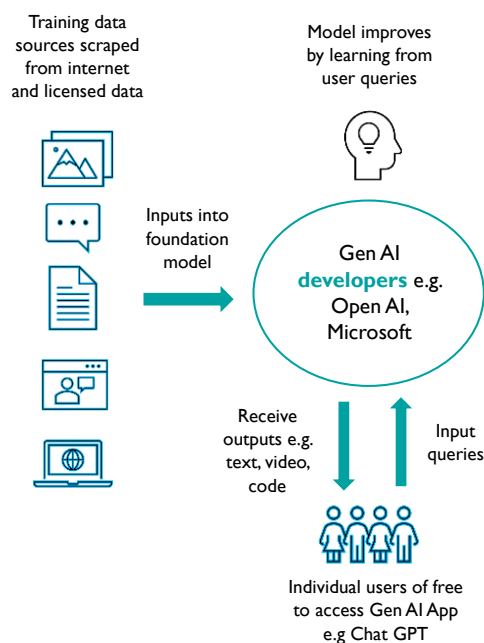
Figure 2-1 Overview of Gen AI Application (developed from a slide presented by Steve Wood, PrivacyX Consulting)

2.2 Use cases for Gen AI applications in the context of the delivery of legal services include using tools to draft legal documents, undertake legal research, prepare emails, and conduct other knowledge management tasks. Gen AI applications can also be deployed by firms and organisations to support the delivery of customer service chatbots and internal reporting (Thomson Reuters Legal Insights Europe, 2023).

2.3 Emerging evidence suggests that some consumers are using free to access Gen AI applications such as ChatGPT and Bing Chat to access legal information and undertake legal research. In England and Wales, examples have emerged of cases where parties without access to legal representation have relied on information provided by generative AI applications in litigating their case- information that has proven to be incorrect[3]. Studies in the US led by the Professor Margaret Hagan, Director of the Stanford Legal Design Lab, have identified strong consumer

---

[3] See for example *Harber v Commissioners for His Majesty's Revenue & Customs* as reported here: https://www.lawgazette.co.uk/news/ai-hallucinates-nine-helpful-case-authorities/5118179.article and a case involving a litigant in person in the county court, reported here: https://www.lawgazette.co.uk/news/lip-presents-false-citations-to-court-after-asking-chatgpt/5116143.article

appetite for using these tools that only increases once people have tried them. The free, instantaneous, cleanly formatted and seemingly authoritative nature of the information provided is enough to command confidence – even when the information proves not to be accurate (Hagan, 2024). The findings of this research have led Professor Hagan to conclude that when it comes to people using these tools to resolve legal problems: "the genie is out of the bottle".

Case outcome predictive technologies

2.4   For the purposes of this report, case outcome predictive technologies are defined as: "statistical or machine learning methods used to forecast the outcome of a civil litigation event, claim or case" (Alexander, 2023:157). These technologies use statistical or machine learning models to detect patterns in past civil litigation data and exploit those patterns to predict future outcomes.

2.5   In broad terms, these tools: "take as their inputs a set of characteristics, also known as predictors, independent variables or features that describe the facts, legal claims, arguments, and authority, the people (judge, lawyers, litigants, expert witnesses), and the setting (location, court) of a case" (Alexander, 2023, 157). This data is usually extracted, either automatically or manually, from the unstructured text of legal documents (e.g. judgments and submissions). In some tools, this can be combined with other data, for example, biographical data on the judge or legal professional, appearance rate, judicial caseload and local economic data (Ashley, 2023:157). Whilst some technologies use data that capture features relevant to the legal merits of the case to produce predictions, others rely only on non-legal factors e.g. judges' names, law firm names and type of case.

2.6   Aims proposed for these tools in the context of legal services include: i.) improving intake process by firms, through speeding up the process of identifying successful cases, and ii.) informing litigation strategy, through supporting lawyers to understand which approaches are favoured by opponents and judges (e.g. Lex Machina, Co-Counsel, Solomonic). More speculatively, it has been proposed that these tools might: "obviate the need for legal representation entirely, by allowing potential and actual litigants to estimate their own chances for success" (Alexander, 2023:158).

2.7   Further use cases for these tools include supporting the investment strategies of litigation funders and assisting bulk users of the civil justice system (such as insurance firms) to identify which claims to settle (e.g. Sprout AI).

2.8   Some tools based on case outcome predictive technologies forecast judgment outcomes directly, while others provide outcome prediction support through producing insights about the behaviour of courts, lawyers, parties and judges that can then be used by lawyers to predict outcomes.

3 Where and how are these tools currently used to deliver legal services across England and Wales?

3.1 Mapping precisely how and where Gen AI applications and case outcome predictive technologies are currently used to deliver legal services across England and Wales is rendered difficult by the lack of up-to-date, publicly available data. There are significant gaps in data to understand who is developing Gen AI applications and case outcome predictive tools to support the delivery of legal services. This contrasts with developments in the public sector, where calls for greater transparency around the use of AI in general (Brennan, 2021) have led to the creation of an algorithmic transparency standard, which provides detailed information about both tools and developers.

3.2 Assessing where and how tools are currently used is further complicated by the complex landscape of regulated versus unregulated providers created by the Legal Services Act 2007 ("LSA 2007"). The regulatory framework created by the LSA 2007 is based on a combination of professional titles and reserved activities. The LSA 2007 defines both what is meant by 'legal activity' and sets out restrictions on who may provide that activity.

3.3 Section 12(3) of the Legal Services Act 2007 defines "legal activity" as:
a.) an activity which is a "reserved legal activity" within the meaning of this Act as originally enacted;
b.) any other activity which consists of one or both of the following:
i.) the provision of legal advice and assistance in connection with the application of the law or with any form of legal disputes; and
ii.) the provision of representation in connection with the application of the law or with any form of legal disputes.

3.4 The six reserved legal activities are: "exercising rights of audience and rights to conduct litigation; preparing documents that relate principally to the transfer or registration of land and applications for probate; carrying out notarial functions; and administering oaths" (ICAEW, 2017).

3.5 Under the LSA 2007, only persons (individuals or entities) who are appropriately qualified and authorised by one of the approved legal services regulators[4] may conduct reserved legal activities.

3.6 Beyond the six reserved activities, there are no restrictions under the Legal Services Act 2007 on undertaking other legal activities i.e. providing legal services including information, advice and representation in connection with the application of the law or with any form of legal dispute[5]. Existing case law establishes that advising on the merits of starting proceedings or drafting particulars of claim does not constitute the conduct of litigation – a reserved activity under the LSA 2007[6]. As the Legal Services Board has noted, this creates: "potential scope for unregulated businesses to serve many of the most common legal issues that individuals and businesses encounter from writing a will to getting divorced to forming a company to chasing a late payment" (LSB, 2022:8).

---

[4] the Solicitors Regulation Authority, the Bar Standards Board, CILEX Regulation, the Master of the Faculties, the Council for Licensed Conveyancers, the Intellectual Property Regulation Board, the Costs Lawyers Standards Board, the Institute of Chartered Accountants in England & Wales, the Institute of Chartered Accountants in Scotland, and the Association of Chartered Certified Accountants
[5] With the exception of immigration advisers, who are regulated by the Office of the Immigration Services Commissioner and claims management companies, acting in certain defined areas, who are regulated by the Financial Conduct Authority
[6] Heron Bros Ltd v Central Bedfordshire Council (No 2) [2015] EWHC 1009 (TCC) (obiter)

3.7 In 2022, the Legal Services Board published research setting out the different categories of provider delivering legal services in England and Wales (LSB 2022:10). This is reproduced below:

Table 4-1 Categories of legal service provider

CATEGORY OF PROVIDER	(A.) LSA 2007 REGULATED PROVIDERS	(B.) NON- LSA 2007 REGULATED PROVIDERS	(C.) NOT-FOR-PROFIT UNREGULATED PROVIDERS	(D.) ANCILLARY SERVICE PROVIDERS	(E.) FOR PROFIT UNREGULATED PROVIDERS
DESCRIPTION	All "authorised persons" under the LSA 2007. These are individuals and entities authorised by one of the approved regulators	Individuals and entities that provide legal services as a significant focus of their activity and are authorised and regulated by a regulator that is not an approved regulator under the LSA 2007	Charities, public bodies, membership bodies and trade unions. Some will offer free advice to the public whereas others e.g. trade unions and membership bodies will provide advice to members.	Advisers whose function is not primarily as a legal adviser but who may occasionally provide some legal advice or other non-reserved legal services ancillary to their primary business.	Providers that are not authorised and regulated under any legal sector specific legislation, provide legal services as a significant focus of their work and seek to make a profit
EXAMPLES	*Solicitors, Barristers, Legal Executives*	*Authorised Claims Management providers*	*Most Citizens Advice Bureau, Unison*	*Accountants, architects, insurers, surveyors*	*Will writers, conveyancers, some LawTech companies, legal publishers*

3.8 The problem of identifying where and how Gen AI applications and case outcome predictive tools are being used is particularly acute when attempting to assess their development and deployment by organisations that are not regulated under the LSA 2007 or by other statutory bodies (categories C. to E. in Table 4.1 above). In particular, successive reviews have highlighted the paucity of reliable data on for-profit unregulated providers of legal services (Category E, Table 4.1 above) and the problems this creates for developing proportionate and risk-based regulation capable of protecting consumers and access to justice (Competition and Markets Authority, 2016:16). The LawTech UK ecosystem tracker[7] does not categorise companies by use case or the underlying technology they deploy, and international research websites e.g. Legaltech Hub publish little data on the UK. These issues are discussed further in Sections 7 and 9 below.

Use of Generative AI applications by firms and businesses regulated under the LSA 2007

3.9 Market research published by LexisNexis, based on a survey of 1,225 UK lawyers and legal support workers, has attempted to capture the scale of use of Gen AI applications across the part of the sector regulated under the LSA 2007. Respondents were recruited from large, medium-sized and small law firms, in-house legal teams, the Bar and academia. (Lexis Nexis, 2024)

3.10 The research found that: "more than a third (39%) of all respondents said their organisation had made a change to their day-to-day operations as a result of generative AI." The most common changes included: "launching a Gen AI-powered product for internal use (15%), carrying out AI-related training for staff (11%) and developing policies on the use of generative AI (11%)" (Lexis Nexis 2024).

3.11 The study further reported that large-sized firms were the most likely to have made some sort of change in response to developments in the availability of Gen-AI based applications, with:

---

[7] https://lawtechuk.io/ecosystem/

"*62% of respondents revealing their firm had made some sort of change.*" However: "*only 5% of respondents reported that their firm had launched an AI product for client use*". (Lexis Nexis, 2024)

3.12   Whilst little authoritative data exists to track *how* Gen AI applications are being developed and deployed by providers regulated under the LSA 2007, existing published information suggest that there are broadly three models. Some large, well-resourced firms (e.g. Allen and Overy), are building their own applications, deploying foundation models developed by companies including OpenAI (GPT 3, 3.5 and 4), Google (BERT) and Microsoft on their own data or legal data acquired from other sources. These models are then tailored to improve their accuracy and reliability (see Figure 3.1 – Model A below).

3.13   Other firms are partnering with LawTech companies who have developed bespoke tools and products built on Large Language Models trained on legal data e.g. CaseText.

3.14   Finally, some firms are providing training and guidance to their staff on the use of free to access applications built on general purpose models e.g. ChatGPT and Bing Chat for legal research and drafting (see Figure 3.1- Model B below). Recent research from the Thomson Reuters Institute, based on survey data from a range of countries including the UK, suggests that the number of lawyers are who are using free to access Gen AI applications for their own work is greater than the number of people who report that their organisations are considering or already deploying Gen AI applications (Thomson Reuters Institute, 2024:13).

3.15   Irrespective of which model is adopted by entities or individuals regulated under the LSA 2007, any outputs from Gen AI applications that are incorporated into the delivery of legal services to clients are regulated in the same way as other legal services.
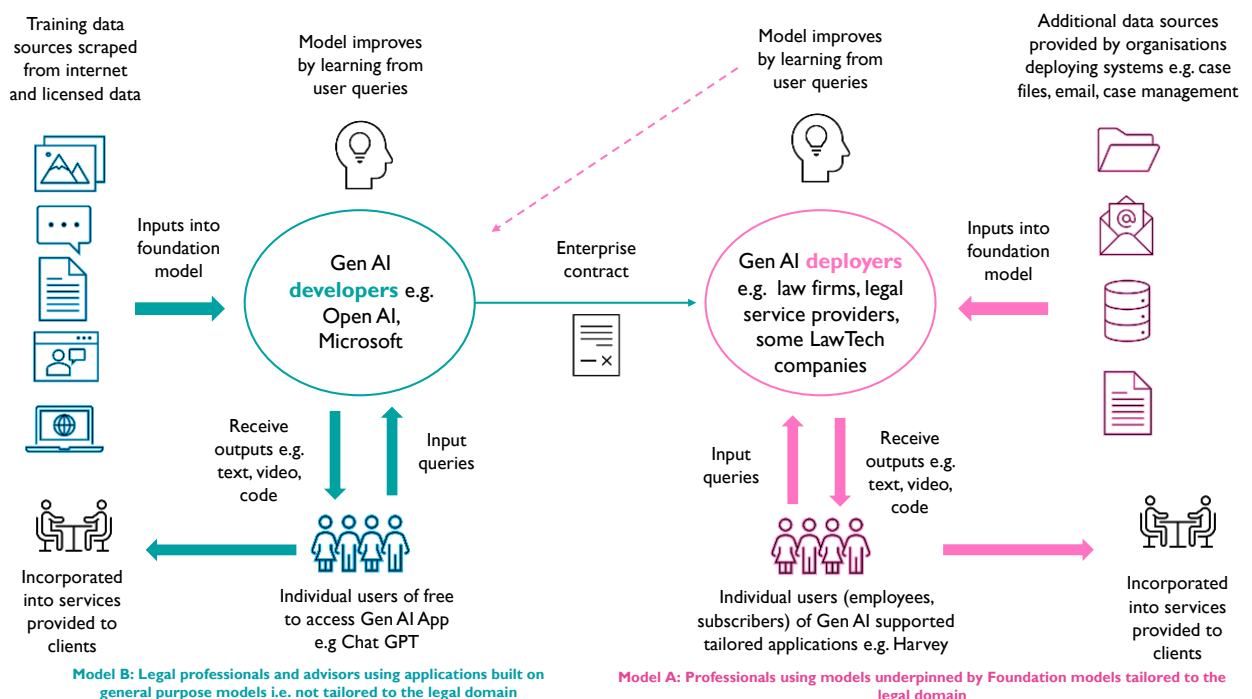
Figure 3-1: Use of Gen AI applications by organisations regulated under the Legal Services Act 2007

Use of Gen AI applications to deliver legal services by the unregulated legal services sector

3.16   As noted above, there is little data on the use of Gen AI applications to deliver legal services by the unregulated legal services sector. The findings of survey research exploring technology and

innovation in the legal services sector, published by the Legal Services Board ("LSB") in 2023, did not report on the use of Gen AI applications specifically. However it did note that unregulated firms were more likely than firms overall to be using technology that might incorporate Gen AI applications- such as custom-built apps or virtual assistants (LSB, 2023:9). The same research also reported that unregulated firms and solicitor firms are more likely to partner with lawtech companies than barristers chambers or other regulated firms (LSB, 2023:12).

Use of case outcome predictive technologies by organisations regulated under the Legal Services Act 2007

3.17   Research conducted by the LSB (2018) found that only 5% of providers of legal services in England and Wales were currently using case outcome predictive technologies, with a further 5% planning to adopt these tools over the next 3 years (LSB, 2018:17). Of those businesses and firms using case outcome predictive technologies, the majority were larger (reporting 50 or more employees) and providing services to small or large businesses. Interestingly however, the research reports that 8% (of the 5% of businesses and firms that stated that they were using predictive technologies), described their main client group as "legal aid" or "individuals" (LSB, 2018:13).

3.18   Whilst the findings are not directly comparable, due to the methodology adopted, subsequent research suggests that the proportion of firms planning to adopt predictive technologies over the next three years may increase (LSB, 2023:37). By 2023, LSB research found that whilst only 3% of firms were currently using predictive technology[8] (fewer than suggested in the 2018 survey cited at para 3.17 above), a further 15% were planning to use this technology over the next three years. Firms focussing on consumer issues were reported as being more likely to either already use predictive technology, or be planning to use predictive tools over the next three years (36% of firms focussing on consumer issues) (LSB, 2023:42). Overall, the study found that whilst "complex technologies that were more likely to be based on artificial intelligence"[9] were not widely in use, these technologies are likely to see: "the highest relative increase" in adoption "as between 12% and 15% of firms plan to use them in the next three years" (LSB, 2023:36). Longitudinal research is needed to accurately monitor changes in adoption over time.

3.19   Published studies have suggested that providers regulated by the Solicitors Regulation Authority ("SRA") were twice as likely to use predictive technologies as providers with other regulatory status (LSB, 2018:37). Research conducted by Parnham and Sako (2021) for the SRA found that of the 891 solicitors firms surveyed, only 45 (5.1%) were currently using data analytics with AI to "support, supplement or replace traditional methods for delivering legal services" with 92 firms (10.3%) planning to use in the future (Parnham and Sako, 2021:23). LSB research published in 2023 supports these findings- stating that solicitor firms were more likely to be using predictive technologies than other type of legal service provider (LSB, 2023:39)

3.20   In 2023, LawtechUK published a report consisting of 12 case studies on the use of machine learning in the delivery of legal services. Of the tools featured, two are described as providing case outcome prediction in relation to insurance claims (Weightmans and Kennedys IQ). The Weightman's tool is intended to support insurance companies and Kennedy's IQ report that their tool is intended for use by both individual claimants and corporates. Solomonic, a leading provider of litigation analytics focussing on litigation in the High Court of England and Wales was not featured in the LawtechUK report but is well-known in the UK context.

---

[8] Defined as "data which forecasts data patterns" rather than tied to a particular use case (LSB, 2023:35)
[9] Defined in the survey as "Technology Assisted Review, Predictive Technology, Robotic Process Automation and Blockchain or Distributed Ledger Technology" (LSB, 2023:37).

Use of case outcome predictive applications to deliver legal services across the unregulated legal services sector

3.21 As noted above, there is no comprehensive data to understand the use of case outcome predictive applications by organisations operating in the unregulated legal services sector. LSB research published in 2023, which did examine the development and use of predictive technologies specifically, does not report their use by survey respondents working in organisations in the unregulated sector, perhaps due to the small sample size of unregulated providers included in the study.

4   Opportunities for consumers

4.1   Proponents of an expanded role for Gen AI applications and case outcome predictive technologies in the provision of legal services point speculatively to three categories of opportunity for consumers. These are:

Gen AI applications deployed by providers of legal services will lead to lower costs that will be passed on to consumers

4.2   Advocates for the use of Gen AI applications by law firms and legal services providers argue that adoption of these tools will increase access to justice by creating efficiency gains that will be passed on to consumers in the form of lower prices. As noted above, key use cases for Gen AI applications include drafting documents, researching matters, communications and document analysis (Lexis Nexis, 2024). Market research published by Lexis Nexis suggests that the widespread adoption and use of Gen AI models may lead firms to move away from their current "bottom-heavy pyramid" and reduce the "need and demand for associates" (Lexis Nexis, 2024). One interviewee quoted by Lexis Nexis suggested that the adoption Gen AI applications may result in a reassessment of: "the whole economic underpinnings of law firms and how clients are charged" (Lexis Nexis, 2024).

4.3   However, it is far from clear that improvements in efficiency and reductions in the cost of delivering legal services will be passed on to clients in the form of lower fees. The Lexis Nexis research cited above found that: "only 18% of law firms said they will make changes to billing practices – despite 42% believing it will reduce overall costs for the firm and 30% believing it will increase hours billed" (Lexis Nexis, 2024).

Use of free to access Gen AI applications like ChatGPT by consumers seeking legal information will address key barriers to accessing online legal information

4.4   In terms of increasing access to justice, proponents argue that applications such as ChatGPT offer crucial benefits for consumers over traditional online resources which are hosted on legal information and consumer rights specific sites (e.g. Citizens Advice and Shelter). Existing research has demonstrated that many people who experience legal issues fail to recognise that the problem they are experiencing is legal in nature, or might admit of a legal solution (Pleasence, P et al, 2015). As such, they fail to access online (or indeed offline) information, advice and support that might help them. Consumers using tools such as ChatGPT do not need to identify the problem they are experiencing as "legal" or define the problem in legal terms to access information. Users can insert plain language prompts and in return, receive seemingly authoritative, clear and comprehensible information about what to do next, at no cost.

4.5   Studies in the US led by Professor Margaret Hagan, Director of the Stanford Legal Design Lab, have identified strong consumer appetite for using these tools that only increases once people have tried them (Hagan, 2024). The free, instantaneous, cleanly formatted and seemingly credible nature of the information provided is enough to command confidence – even when the information proves not to be accurate (see Section 5- Risks for Consumers below). The findings of this research have led Professor Hagan to conclude that when it comes to people using these tools to resolve legal problems: "the genie is out of the bottle".

Case outcome predictive technologies may reduce the cost of accessing legal advice, or obviate the need for access to legal services entirely

4.6   Advocates for these tools argue that, in the future, given large enough, relevant training sets, case outcome predictive technologies could reduce the cost of legal services either through i.)

reducing the cost of providing legal services by allowing tasks normally delivered by senior lawyers to be delegated to more junior staff, or making tasks easier and quicker, allowing lawyers to serve more clients (Yoon, 2016); ii.) helping law firms to allocate their resources more effectively, adjusting their intake procedures to focus on cases with a greater prospect of success and reducing cost (Alexander, 2023:158) or iii.) substituting the relational expertise that is currently provided by lawyers entirely, allowing litigants to estimate their own chances of success and bring cases unrepresented.

4.7   These purported benefits are, at present, both speculative and highly contested (see discussion at Section 5 below). A review of existing evidence found that only five of the 28 papers published between 2015 and 2022 claiming to predict the outcomes of court cases using machine learning were forecasting future outcomes (as opposed to identifying the outcome from the text of judgments or categorising different judgments according to their verdicts) (Medvedeva et al., 2023a:196). A review published in 2023 by Dr Masha Medvedeva and Dr Pauline McBride found 171 papers that claimed to be reporting on tools capable of predicting court judgments based on the facts available to parties prior to litigation. However, upon further analysis , Medvedeva and McBride found that tools in only 7% of these papers were doing what they set out to do. The remainder were predicting outcomes based on the facts contained in the text of the judgment- which would not necessarily be available to the parties prior to commencing proceedings. Medvedeva and McBride conclude that: "*a lack of attention to the identity and needs of end-users has fostered the misconception that legal judgment prediction is a near solved challenge, suitable for practical application*" (Medvedeva and McBride, 2023b:73).

4.8   Further to this, the notion that case outcome predictive tools could remove the need for legal representation entirely relies on a particular understanding of both *why* consumers seek legal advice and representation, and the benefits that legal advice confers in terms of access to justice. Byrom (2018) writes that legal advice confers several important benefits beyond providing information about the prospects of success in an individual case, including: legal education, dispute transformation (helping individuals to identify the legally relevant elements of their issue, and articulate them effectively), empowerment (through both providing psychological support and conferring social capital), helping to navigate procedural complexity, and finally, ensuring that courts abide by their own procedures (Byrom, 2018:92). Sandefur (2015), writing in the US context, found that knowledge of substantive law and ability to apply it to cases to predict outcomes accounts for surprisingly little of a lawyer's advantage compared to laypeople appearing unrepresented. Instead, Sandefur found that: "lawyers' impact is greatest when they assist in navigating relatively simple (to lawyers) procedures and where their relational expertise helps courts to follow their own rules" (Sandefur, 2015:909).

Case outcome predictive technologies may in the future help consumers make better informed decisions about their dispute resolution strategy

4.9   Case outcome predictive technologies may help consumers to evaluate their prospects of success in a.) pursuing particular litigation strategies e.g appealing decisions within a case or b.) selecting dispute resolution forums.

4.10   In the US, technology is being developed that aims to identify winning arguments before the appellate courts in Pennsylvania in relation to child custody cases and build this information into a user interface that supports unrepresented litigants to understand their prospects of success when filing a notice of appeal (Norton, 2020:96). The researchers developing this tool report that this is a particularly important use case in terms of access to justice because there are significant delays in hearing cases before the appeal court in Pennsylvania, and that while appeals are pending, no modifications can be made to the child custody order. This can: "make an appeal unwise when evaluating it against the needs of the family and the factual scenario of the case.

4.11 A further application of case outcome prediction technologies could be to support consumers to make better informed decisions about their dispute resolution strategy. If, in the future for example outcome predictions were available to compare prospects of success between mediation and courts, or the level of award between different dispute resolution versus cost, this could support consumers to make more informed choices.

Case outcome predictive tools encourage law firms to identify new areas of practice

4.12 More speculatively, academics have proposed that an expanded role for case outcome prediction tools might help lawyers to identify new areas of practice or new types of claims that conventional wisdom would advise against (Alexander, 2023:158). This may open up the provision of legal services to currently under-represented consumers.

Case outcome predictive tools help consumers to avoid litigation in the first place by improving initial decision-making

4.13 Case outcome predictive technologies, when deployed by bulk or repeat consumers e.g. insurance companies, may help these firms to make better decisions, reducing inconsistency and avoiding the need for litigation (see for example Kennedys IQ cited in LawTech UK:12)

5   Risks for consumers

5.1   Researchers and academics have highlighted a number of potential risks for consumers posed by the widespread use of Gen AI applications and case outcome predictive technologies in the context of the delivery of legal services to consumers.

Free to access GenAI tools not trained on legal data return incorrect information

5.2   Unrepresented consumers who rely on free to access Gen AI applications (e.g. ChatGPT) to access legal information are particularly at risk of receiving in return inaccurate or fictional responses that they rely on to their detriment. This is because free to access Gen AI applications based on large language models have not been trained specifically on legal data. In this context, these tools are more likely to "hallucinate" cases or return non-jurisdictionally relevant or otherwise inaccurate information. In England and Wales, examples have emerged of cases where parties who were unable to access legal advice representation have relied on information provided by generative AI applications in litigating their case- information that has proven to be inaccurate[10].

5.3   A recent study published by the StanfordReg Lab in 2024 has raised wider concerns about the reliability of Large Language Models in legal contexts, finding that the risks of using applications like ChatGPT for legal research are especially high for: i.) litigants in lower courts or less prominent jurisdictions, ii.) individuals seeking detailed or complex legal information, iii.) users formulating questions based on incorrect premises, and iv.) those uncertain about the reliability of responses. The study's authors conclude that "the users who would benefit the most from legal large language models and precisely those who the large language models are least well-equipped to serve" (Dahl et al. 2024).

5.4   Experts in legal technology are clear that that training generative AI on relevant documents, such judgments and court decisions, can dramatically improve the accuracy of the responses that applications like ChatGPT provide[11]. However, in England and Wales, access to judgments and decisions is hard to come by- the most comprehensive collections of judgments and decisions belong to commercial publishers, such as Thomson Reuters, LexisNexis and Justis, who charge substantial large fees for access. The content held behind a paywall by these companies vastly outstrips that which is available to the public- a study in 2022 reported that only half of judicial review judgments are available on BAILLI, a free website (Hoadley, 2022). Whilst the government has now invested in a service to make judgments available online[12], the decision to publish only those cases that judges deem to be legally significant has led to issues with coverage. Research published in January 2023 by legal publisher ICLR found that only three-quarters of judgments given between May and July 2022 were available on the new, free to access website (Magrath, 2023). Unless urgent action is taken to address this situation, the asymmetry between the information that is available to those who can pay for it, and those who cannot, is likely to persist indefinitely. In parallel to taking action to address inequalities in access to legal data, better evidence is needed to understand the risks and benefits of increased public reliance on these tools in the context of England and Wales. Such research is vital to support the development of both quality standards and effective regulation (Byrom, 2023b).

---

[10] See for example *Harber v Commissioners for His Majesty's Revenue & Customs* as reported here: https://www.lawgazette.co.uk/news/ai-hallucinates-nine-helpful-case-authorities/5118179.article and a case involving a litigant in person in the county court, reported here: https://www.lawgazette.co.uk/news/lip-presents-false-citations-to-court-after-asking-chatgpt/5116143.article
[11] Prompt Engineering Guide: https://www.promptingguide.ai/techniques/rag
[12] See: https://www.gov.uk/government/news/court-judgments-made-accessible-to-all-at-the-national-archives

Case outcome predictive tools produce predictions that are inaccurate

5.5   The accuracy of case outcome predictive tools depends on the ability to train these tools on accurate data. However, in England and Wales, the civil justice system, particularly in so called "high volume low value" areas of law, has been described by the Civil Justice Council as a "data desert", particularly in relation to vulnerable litigants. Judgments in the county courts and decisions from the employment tribunal are not routinely published (Vols, 2019:726). The Registry Trust, the body responsible for maintaining the official statutory Register of Judgments, Orders and Fines, is prohibited by law from publishing the details of claimants[13].

5.6   Even in the higher courts, the lack of availability of a complete record of judgments and decisions poses a problem for the development of accurate and reliable case outcome predictive tools (see para 5.4 above).

5.7   As serious in the context of civil justice is the absence of data on the number and characteristics of cases and claims that settle before they reach court. In England and Wales, most cases in the civil justice system settle pre-trial- research published in 2019 found that across the years 2000-2018, on average only 3% of cases issues went to trial (Grosvenor Law, 2019). The absence of data on the contents of settlement agreements is further likely to undermine the accuracy of case outcome predictive tools.

5.8   Missing or inadequate data can also lead to erroneous or incorrect advice to consumers. For example, case outcome predictive tools that use the identity of an individual lawyer as a feature, but exclude data on the merits of the case (e.g. LexMachina) may lead consumers to conclude that the skill of the lawyer is predictive of success, when in fact this is attributable to the firm's intake procedures and/or the ability of the lawyer to pick meritorious cases (Alexander, 2023:165). This could distort the market for legal services unfairly.

Consumers are unable to compare and verify the performance of different tools

5.9   At present, it is difficult, even for expert researchers to assess how well any of the tools claiming to predict case outcomes perform. In many cases: "access is expensive or unavailable, the feature sets used are not always clear and the algorithms that power the predictions are hidden" (Alexander, 2023:196).

5.10   As a subfield of automatic legal analysis, applying Natural Language Processing techniques to court decisions and documents with the aim of predicting case outcomes has rapidly expanded in the last six years (Medvedeva, 2023:196). The growth of the field has outpaced attempts to ensure definitional clarity and transparency around: i.) the methods and models used to conduct analysis, ii.) the data that is being analysed, and iii.) the purpose for which it is used (Medvedeva, 2022:196) - a recent review of studies reporting on tools or technologies that claimed to predict court decisions found that: "while researchers may believe they are 'predicting court decisions' very infrequently this involves actually being able to predict the outcome of future judgments" (Medvedeva, 2022:207).

5.11   While informed consumers may be able to sense check the outputs of case outcome predictive technologies against their own relational experience, consumers without legal expertise are ill-placed to assess the performance of these technologies. In the absence of transparency, it is impossible to provide lay consumers with assurance as to the veracity of the output of these

---

[13] https://registry-trust.org.uk/blog/credit-week-awareness-week-2022-why-creditors-should-back-call-inclusion-claimant-data-register-judgments-orders-and-fines/

tools. As a consequence, consumers may be misled into taking decisions that have an adverse impact on their legal rights.

The most accurate tools develop in favour of large law firms and repeat players

5.12   Experts have asserted that: "legal tech tools will arrive sooner, and advance most rapidly, in areas where data is abundant, regulated conduct takes repetitive and stereotypical forms, legal rules are inherently stable and case volumes are such that a repeat player stands to gain financially by investing" (Engstrom & Gelbach, 2020:1029). Consequently, these tools are likely to develop in the interests of repeat players (e.g. insurance companies), who have access to their own large repositories of data, and the types of case volume that justifies investment in these tools. Armour and Sako (2023) seeking to explain why legal technology has failed to impact law firms operating in PeopleLaw (with individual and small business clients) versus BigLaw (with large clients) echo this, stating that: "*PeopleLaw Firms are generally much smaller than their BigLaw counterparts, limiting their ability to invest fixed costs necessary to deliver automation.*" (Armour & Sako, 2023:53). The findings of market research published by LexisNexis in 2024 seem to broadly confirm this assertion- larger UK law firms were the most likely to have made changes to their day-to-day operations as a result of generative AI. (Lexis Nexis, 2024) Larger law firms and repeat players already have an advantage in terms of their ability to access and navigate the justice system over both their smaller counterparts and individual consumers. Accordingly, these tools could exacerbate inequality of arms.

Proponents of case outcome predictive tools as a substitute for legal advice misunderstand the nature of the access to justice challenge

5.13   Further, experts interviewed in preparing this paper raised concerns that those interested in case outcome prediction tools as an access to justice intervention in the PeopleLaw space may misunderstand the nature of the access to justice challenge. Whilst case outcome predictions may be extremely useful for repeat players or large law firms, they do little to address the access to justice issues experienced by law consumers and small businesses, who face key barriers in relation to dispute transformation[14] and procedural complexity. One interviewee stated: "*I wonder if these technologies really add much value at all in terms of mapping facts to a legal ontology… the key issue here is the ability to translate legalese into plain English or vice-versa for the purposes of generating a pleading*". This point is echoed by Armour and Sako (2023) who state that: "PeopleLaw clients are not usually versed in the law (unlike the in-house counsel who typically purchase BigLaw services, this mean that technical solutions substituting for lawyers must also perform a lay-to-legal (and vice versa) translation function" (Armour & Sako, 2023:53). Whilst combining Gen AI applications with case outcome predictive tools may assist with this, there are still numerous methodological challenges and complexities that must be overcome to make these tools relevant to the access to justice challenge in the PeopleLaw space.

Case outcome predictive tools serve to entrench and perpetuate existing biases

5.14   Case outcome predictive tools are based on historical data – as a result they predict the outcome of cases based on what has previously been decided. As one interviewee explained, the adoption of these systems means that: "*you are basically ruling the future by the past, and that is exactly not what the law is meant to do*". This may result in consumers who have historically been under-served by the justice system in the past, being dissuaded from accessing the justice system in the future. It may also mean that cases that raise important novel points of law, and are therefore given a low prospect of success, do not appear before the courts, leading to the "ossification" of the law at a particular point in time (Alexander, 2023).

---

[14] The ability to recognise a given dispute as admitting of a legal solution and distill the facts of the dispute into legally relevant arguments

5.15   The propensity for case outcome prediction tools to perpetuate the decisions of the past may result in consumers who have historically received worse outcomes on account of discrimination or bias, continuing to receive these outcomes into the future. As a consequence of this, interviewees consulted during the preparation of this paper warned against case outcome predictive tools ever being used in areas of the civil justice system that are characterised by historic imbalances between parties. As one interviewee stated: "*in the case of the small claims court, where it's mainly individuals trying to claim things from large organisations, or employment, or family, where there is an imbalance of power you are perpetrating a historic injustice onto future generations. You are reproducing the biased behaviour patterns of the past, which is extremely serious*".

5.16   Research published by the LSB and SRA in 2022 aimed to explore the social acceptability of the use of technology in legal services- comparing the attitudes of legal professionals to those of the public[15] (LSB & SRA, 2022). The findings of this research indicated that a significant minority of consumers are concerned about the potential for the adoption of legal technology to lead to discrimination – 30% of respondents to a survey of 1020 members of the public said that they were concerned about this (LSB & SRA, 2022:31). When asked what aspect of the use of technology they were most concerned about, 12% of respondents said they were "most concerned" about the potential for technology to lead to discrimination, compared to only 2% of legal professionals who were surveyed as part of the research.

Case outcome predictive technologies alter the nature of the justice system, undermining consumer confidence.

5.17   Academics have noted the potential for case outcome predictive technologies to "shape what law is" by altering the way in which legal services are provided (Diver & McBride, 2022). Pasquale and Cashwell have observed that outcome predictive tools are not just "a camera trained on the judicial system" but rather an "engine of influence" (Cited in Engstrom, 2020). Concerns have been raised that the adoption of these tools may progressively drain the system of "its flexibility, its adaptive capacity, and its dialogic core" (Engstrom, 2020) delivering fast and cheap resolution, at the expense of democratic legitimacy.

5.18   Research commissioned by Justice Lab UK conducted by Ipsos Mori suggests that concerns about the impact of an expanded role for case outcome predictive tools in legal services on public confidence may be well founded. The research, conducted in 2022, explored public attitudes to the use of data from judgments and decisions for a range of purposes, including to support the development of case outcome predictive tools for people on low incomes. The research combined nationally representative polling with a mini public deliberation exercise. Half of respondents to a nationally representative polling exercise stated that they were comfortable with data from court records being used: "To help people on lower incomes to reach quick resolution of their disputes without embarking on lengthy legal proceedings which may be unaffordable to them". However, there were marked differences in levels of comfort between respondents from higher and lower socio-economic groups. Only 44% of those on low incomes (up to £19,999) were comfortable with data from court records being used in this way, compared to 66% of respondents who earned over £55,000 per annum (Ipsos Mori, 2022:19).

5.19   In the public deliberation exercise participants expressed strong concern that the growth in products to predict case outcomes might be used to encourage people on low incomes not to pursue their cases in court- exacerbating existing concerns about a "two-tier" justice system

---

[15] Note- it is unclear from the methodology whether this sample was representative – the research states only that the sample of members of the public was "designed to be as nationally representative as possible" (LSB & SRA, 2022:10)

(Ipsos Mori, 2022:32). A further concern was that these services would routinely advise specific groups or case-types to settle out of court, which would have a circular effect of removing such cases from the statistics used to inform future clients about outcomes:

"*If it says you've got a 90% chance of losing the case, nobody takes any of those cases to court. So, that data stays the same.*" - *Workshop 2, Group 2.*

5.20   As such, participants worried that diverting a high volume of lower chance cases from the courts would stop judicial precedents from progressing, with future outcomes heavily influenced by a stagnant set of previous cases. (Ipsos Mori, 2022:31)

5.21   Some participants felt that proponents of these approach misunderstood the motivations that brought people to the justice system in the first place. Participants, including those with previous experience of proceedings argued that people want to have their day in court because they feel strongly that they have been wronged and want this wrong addressed (Ipsos Mori, 2022:31). As such, having access to the predicted outcome or detailed information about the financial impact of the case is unlikely to be determinative:

"*If I feel like I have been wronged in a way so badly that I need to take it to court, then I would take it to court. Why would the fact that someone had lost or won in the past be determining whether I go or not?* " – *Workshop 1, Group 3*

5.22   Participants also raised concerns that consistently advising those on low incomes to avoid court would support unethical organisations or individuals with wealth to be able to routinely pay their way out of trouble and keep patterns of misconduct out of public knowledge (Ipsos Mori, 2022:32).

6 Gaps in existing legal and regulatory frameworks

6.1 Existing legal and regulatory frameworks that potential cover the development and deployment of Gen AI applications and case outcome predictive tools include:

- Legal Services Act 2007 – where tools are deployed in the context of the delivery of regulated legal services (see paras 3.2-3.8 above).
- Data protection legislation – including the UK GDPR and the Data Protection Act 2018
- Consumer protection law – e.g. the Consumer Rights Act 2015, Consumer Protection from Unfair Trading Regulations

6.2 Recent research published by digital rights agency AWO states that the likelihood of AI harms being prevented or redressed depends on four factors:

- The existence of regulations, whether sector specific or cross-cutting, which prevent harmful AI tools from being used or requires decision makers to consider and address the harms that might arise;
- The presence of regulators with the power and resources to enforce those regulatory requirements;
- A private right to redress for individuals who suffer harm, and accessible forums through which to enforce them; and
- Mandated, meaningful and in-context transparency to ensure individuals become aware of and can evidence how they have been harmed, as a precursor to obtaining redress

6.3 The government's own assessment of the adequacy of existing arrangements for regulating AI highlighted the existence of a "patchwork of legal frameworks" that: "may not sufficiently address the risks that AI can pose" (DSIT, 2023).

6.4 Interviews and desk research conducted in support of this paper revealed the inadequacy of existing regulatory and legislative frameworks for addressing the forms of consumer and societal detriment that are potentially created by an expansion in the use of Gen AI applications and case outcome predictive technologies in the delivery of legal services. Gaps in the regime created by the Legal Services Act 2007 were strongly implicated as generating risks for consumers. As such, the following discussion focusses primarily on the gaps in this regime. Detailed analysis of the adequacy of data protection law and consumer protection law is beyond the scope of this paper.

The focus and structure of the Legal Services Act 2007 creates gaps in protection and redress for consumers

6.5 The regulatory framework created by the Legal Services Act 2007 is arguably well-placed to address the potential areas of consumer detriment created by the widespread adoption of Gen AI applications and case outcome predictive technologies. In particular, the regulatory objectives to promote access to justice, uphold the rule of law and protect consumers seem particularly useful considering the areas of potential harm identified above, which extend to collective and societal, as well as individual harms[16] (Smuha, 2021). However, and as noted above (see paras

---

[16] It has been argued that UK GDPR in particular and procedural law more generally places too great an emphasis on private enforcement, relying on individuals to identify harms that have accrued to their private interests – such as the right to data protection or non-discrimination, and initiate challenges. (Smuha 2021:4)

3.2-3.8), at present this regime does not apply to large segments of the legal services sector. The LSB response to the government's AI White paper confirmed this, stating that:

> *"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. Unregulated providers of legal services (and their use of technology, including AI) is outside the scope of the existing regulatory framework. This means that those who develop AI technologies and applications do not necessarily fall within the legal services' regulatory framework."* (LSB, 2023).

6.6 Issues with the scope and structure of the regulatory regime put in place by the Legal Services Act 2007 have been raised in successive reviews undertaken over the past eight years. In 2016, a review of the Legal Services Act led by the Competition and Markets Authority ("CMA") raised concerns that the framework enshrined in the Legal Services Act 2007 was: "insufficiently flexible to apply proportionate, risk-based regulation which reflects differences across legal services areas over time" (CMA, 2016:5). This was a function, the CMA argued, of the emphasis of the framework on professional titles and reserved activities. The CMA criticised the selection and scope of reserved activities, noting that the activities were: "poorly aligned with the risks of providing legal services to consumers" (CMA, 2016,13).

6.7 On this basis, the CMA recommended that the Ministry of Justice should undertake a review of the regulatory framework, with four aims including: i.) increasing the flexibility of regulation though replacing the existing reserved activities and creating: "an ability for the regulator to introduce or remove regulation directly in those legal service areas which it considers pose the highest risk to consumers" (CMA, 2016:17) and ii.) restructuring the regulatory framework around activities and risks to consumers, with the implication that this might bring some activities of currently unregulated providers into the scope of legal services regulation. As an immediate step, the CMA recommended that the Ministry of Justice should consider the case for extending existing redress mechanisms to consumers using unregulated providers, and work with others to address evidence gaps around the nature and scale of the unregulated sector (CMA, 2016:11).

6.8 Whilst the government initially acknowledged the case for a review of the Legal Services Act 2007 no further action was taken. When the CMA revisited progress in implementing the recommendations of their 2016 review they found that the case for reform had been strengthened by developments in lawtech (CMA, 2020:12) which had the potential to accelerate the growth of the unregulated sector.

Lack of regulation of technology created by third party providers under the Legal Services Act 2007 exposes consumers to harm

6.9 Research commissioned by the LSB, published in 2019, noted that the Legal Services Act 2007 regime does not directly apply to the technologies that providers use, or to the third parties who create those technologies. Instead, the framework established by the LSA 2007 assumes: "that it is sufficient to hold the provider responsible for any deficiencies in the technology deployed" (Semple, 2019:13). It is increasingly clear that this assumption does not hold, in the face of growing acknowledgement that many providers of legal services to consumers operate outside of the LSA 2007 regime. In the absence of access to protections under the LSA 2007, consumers are reliant on consumer protection legislation and tort law to protect them from harm and provide redress. However, the remedies available under consumer protection legislation is inadequate to address the nature of the harm posed by reliance on information and advice from products and tools that are found to be defective.

Existing and contemplated regulation fails to adequately deal with harms created by out of jurisdiction providers of legal services

6.10 As noted by Semple (2019), the LSA 2007 regime only applies to legal service providers within England and Wales. It does not: "protect domestic consumers from deficient legal services that are imported from abroad." (Semple, 2019:7). As such the regime established under the LSA 2007 is distinguished from other consumer protection regimes, like food safety: "…which applies to all goods or services of a certain type that are consumed within the jurisdiction, and makes explicit provision for imports". (Semple, 2019:7).

6.11 The present government has indicated that this position is unlikely to change as a consequence of the new framework for AI regulation described in their 2023 white paper. The white paper states that:
"While we expect our principles-based approach to influence the global conversation on AI governance, we are not currently proposing the introduction of new legal requirements. Our framework will not therefore change the territorial applicability of existing legislation relevant to AI (including, for example, data protection legislation)."

Existing transparency requirements are inadequate to protect consumers

6.12 At present, there are no common transparency requirements for legal service providers who are deploying case outcome predictive technologies, or agreed rules to ensure that consumers are able to scrutinise and compared the performance of particular Gen AI applications or case outcome predictive tools and products. Researchers have observed that to date: "the field has yet to converge on a single set of explain ability practices and commercial approaches vary widely" (Alexander, 2023:165). However, the absence of these standards risks consumer detriment, especially where existing mechanisms for harm prevention and redress are predicated on individual users identifying that their rights have been infringed and seeking redress under data protection or consumer protection law.

The ICO is still considering its position on Generative AI

6.13 At time of writing, the Information Commissioner's Office is still considering how it will respond to the rapid expansion in the use of Gen AI applications[17], whilst allowing existing companies to continue to operate. This is in contrast to other jurisdictions, where temporary bans have been put in place to protect consumers whilst appropriate regulatory responses are developed.

Case outcome predictive tools may not be covered by UK GDPR restrictions on automated decision making and profiling- reducing protections for consumers

6.14 Existing providers of case outcome predictive technologies often state that the insights and predictions provided by their tools should be considered information only- describing their services as providing "decision scaffolding" (e.g. Kennedy's IQ) or legal analysis that can be used by legal professionals to inform their predictions and decision making. This distinction avoids these tools being subject to Article 22 of the UK GDPR, which restricts firms from: "making solely automated decisions, including those based on profiling, that have legal or similarly significant effects on individuals".

---

[17] See: https://ico.org.uk/about-the-ico/ico-and-stakeholder-consultations/ico-consultation-series-on-generative-ai-and-data-protection/

6.15   The fact that these tools are not captured by Article 22 of UK GDPR means that the explicit consent of individual data subjects is not required. It also means that companies providing these tools are exempt from enhanced requirements to increase individual's understanding of how their personal data is being used, conduct regular checks, and introduce simple ways for them to request human intervention or challenge a decision.

Existing data specialist regulators are under-resourced to provide ex-ante protection to consumers

6.16   As AWO, a leading digital rights agency has observed, the ICO's resources are greatly outweighed by its extensive remit, reducing the prospect of effective, ex-ante harm reduction. Whilst the ICO in theory has strong powers to enforce the UK GDPR, it relies for compliance on proactive investigations and complaints, rather than compulsory auditing or reporting by data controllers.

6.17   Resource constraints mean that the ICO focusses on areas or fields of activity which at present do not include case outcome predictive tools (AWO, 2023:12). More saliently, where Article 22 is not engaged, it is not clear that UK GDPR speaks to the potential harms created for consumers by the deployment of case outcome predictive technologies.

There is an absence of both accessible redress mechanisms and adequate forms of redress under existing legal and regulatory frameworks outside of the Legal Services Act 2007

6.18   Current legal frameworks do not provide accessible redress mechanisms. Whilst the ICO is required to facilitate the making of and respond to complaints by data subjects about infringements of the UK GDPR, the Commissioners obligations are limited (AWO, 2023:23). To enforce rights under the UK GDPR, consumers must bring claims through the courts to secure compensation, injunctive or declaratory relief. The inaccessibility of legal advice, threat of costs, and long delays places access to redress outside beyond the reach of the majority of consumers.

6.19   Further to this, whilst consumer rights law may protect consumers where they have entered into a sales contract for AI-based tools and products, it is unclear that the mechanisms for redress, or the forms of redress available, are adequate to address the nature of the potential harm created by reliance on outputs from AI tools that are inaccurate e.g. filing the wrong claim, missing opportunities to vindicate rights. The government's own AI white paper acknowledges these issues, stating that:

"*It is not yet clear whether consumer rights law will provide the right level of protection in the context of products that include integrated AI or services based on AI, or how tort law may apply to fill any gap in consumer rights law protection.*" (DSIT, 2023)

7 Policy and advocacy landscape in England and Wales

7.1   In contrast to Europe and the USA, policy and advocacy activity around the use Gen AI applications and case outcome predictive technologies in legal services is underdeveloped, particularly in relation to civil justice.

UK Government

7.2   In March 2023, the UK government published their AI White Paper, updated in August 2023, which set out their approach to the regulation of AI. The paper, published by the Department for Science, Innovation and Technology ("DSIT") and the Office for Artificial Intelligence stated that the government has chosen to focus on the development of a principle- based framework, issued initially on a non-statutory basis. The paper states that they will: "…not create blanket new rules for specific technologies or applications of AI, like facial recognition or LLMs" (Department for Science, Innovation and Technology and the Office for Artificial Intelligence, 2023) but instead focus on regulating AI with particular "functional capabilities" - namely adaptivity and autonomy - in an attempt to future-proof their new framework. Sector specific regulators will be tasked with undertaking detailed risk-analysis, issuing guidance and implementing enforcement activities, using their existing powers and resources (see para 7.7 below).

The Ministry of Justice

7.3   When consulted in autumn 2023, the Ministry of Justice stated that they are currently looking at developments in AI, including generative AI but do not have a firm position on case outcome prediction at this point. Recent relevant work included the call for evidence on Open Justice that includes questions relevant to the development of policy around computational legal analysis.

7.4   In February 2024, the Lord Chancellor and Secretary of State for Justice wrote to the LSB (see para 7.7 below) requesting that they publish an update outlining their strategic approach to AI and how they intend to respond to the government's AI white paper.

The Legal Services Regulators

7.5   The LSB has previously conducted research into consumer attitudes to legal technology framed broadly. Informed by this and their broader research into technology and innovation, they are currently in the process of drafting new statutory guidance for the regulators that they oversee. This guidance will set three outcomes that they expect regulators to pursue when developing their own approach to technology and innovation, including AI. These outcomes are:

- Technology and innovation is used to support consumers to better access legal services and address unmet need.
- Regulation balances the benefits and risks, and the opportunities and costs, of technology and innovation for the greater benefit of consumers.
- The legal services sector is open to technology providers and innovators and barriers to entry are lowered.

7.6   However, as noted above, it is unclear whether the LSB's remit does not at present extend to large parts of the legal services sector responsible for providing information and advice, and in particular, to those organisations that are developing case outcome predictive technologies or Gen AI applications.

7.7   In February 2024, the Secretary of State for Science, Innovation and Technology and the Lord Chancellor and Secretary of State for Justice wrote to the LSB, requesting that they publish an update by 30 April 2024: "outlining their strategic approach to AI and the steps they are taking in line with the expectations in the White Paper"[18]. At time of writing, this has not yet been published. The frontline regulators, overseen by the LSB, are likely to update their activities in light of this publication. The LSB is able to make recommendations to the Lord Chancellor regarding the extension of reserved activities under the Legal Services Act 2007.

Judiciary

7.8   In 2023, the Senior Judiciary issued guidance on the use of AI by judicial office holders, including Gen AI applications (Courts and Tribunals Judiciary, 2023). The guidance included information intended to support Judicial Office Holders to identify where legal representatives and litigants in person may have used Gen AI applications, and advises that judges should: "inquire about this, and ask what checks for accuracy have been undertaken" (Courts & Tribunals Judiciary, 2023:5). The guidance however falls short of recommending that judicial office holders should record where such inquiries have been made or the outcome of these inquiries.

Representative bodies

7.9   Representative bodies e.g. The Law Society and the Bar Council have provided information to their members on the use of Gen AI applications by legal professionals.

LawtechUK

7.10   LawtechUK is a Ministry of Justice backed initiative dedicated to driving digital transformation in the legal sector. It is managed by CodeBase and Legal Geek on behalf of the Ministry of Justice. LawtechUK's mission now includes: "supporting the development of technology to increase access to legal services and reduce unmet legal need" alongside increasing understanding of Lawtech's benefits for all legal service providers.

7.11   LawtechUK has produced research and published case studies highlighting the potential benefit of machine learning techniques in the context of the delivery of legal services. It also hosts the Regulatory Response Unit, to support organisations to understand and comply with existing regulatory requirements. The Regulatory Response Unit brings together UK legal services regulators and public bodies to create a unified approach to using technology in the delivery of legal services. Through its Regulatory Pathfinding scheme, it aims to provide quick and clear regulatory guidance to innovators.

Research and academia

7.12   Researchers at Oxford have developed expertise and thought leadership on issues relating to the regulation of Gen AI applications and case outcome predictive technologies in the specific context of legal service provision. Examples of this work include the "AI for English Law" Project led by Professor John Armour at the University of Oxford, which also examined lawful grounds for data sharing for the purposes of innovation (Aidinlis, 2024). In relation to case outcome prediction in justice system contexts outside civil justice and legal services, some thought

---

[18] See: https://www.gov.uk/government/publications/request-for-regulators-to-publish-an-update-on-their-strategic-approach-to-ai-secretary-of-state-letters/letter-from-dsit-and-moj-secretaries-of-state-to-the-legal-services-board-html#:~:text=Earlier%20this%20year%2C%20government%20published,five%20principles%20underpinning%20the%20framework

leadership has been developed by Cambridge academics affiliated with The Alan Turing Institute, but this has, to date, focussed on proof-of-concept tools and applications within criminal law.

7.13 Beyond these examples, academic research has tended to focus on the development, rather than the regulation of case outcome predictive tools - see for example work led by academics at the University of Liverpool – who led work to apply case outcome predictive tools to ECHR judgments. This work is often conducted in partnership with private companies and firms e.g. University of Manchester partnership with Kennedy's.

7.14 The "Counting as a Human Being in the Era of Computational Law" Project, ("the COHUBICOL Project") staffed by an interdisciplinary team of researchers based in institutions across Europe and led by Professor Mireille Hildebrandt is providing thought leadership around the ways in which "counting and computation transform the assumptions, operations and outcomes of the law". The project has developed a novel typology of legal technologies which categorises existing tools based on their legal effect (Diver et al., 2022). The data captured by this typology is capable of acting as a transparency standard for these tools, which could be adopted by regulators.

7.15 The Governance of Emerging Technologies research programme at the Oxford Internet Institute has published extensively on the ethical and regulatory implications of generative AI, although this work has tended to focus on non-justice system specific contexts and use cases. The Data Justice Lab at Cardiff University has published empirical research on the regulation of automated decision-making tools across other areas of the public sector, focussing on their use by local government – their findings and approach may be relevant to discussions in the specific context of legal services and access to justice.

Civil society

7.16 There are now several specialist civil society organisations working to influence national policy to address the potential and actual harms created by the widespread adoption of AI across all areas of society. Notable examples of organisations producing consumer focussed work in this space include the Ada Lovelace Institute, AWO, Careful Trouble, Connected by Data, Data, Tech and Black Communities, Defend Digital Me, Foxglove, MedConfidential, OpenDemocracy, Open Rights Group, Privacy International, Public Law Project, Systemic Injustice and Which?.

7.17 To date, the work produced by these organisations has tended to focus on deployment of AI and predictive technologies across the public sector, and on sectors where the use of AI is well developed e.g. health. Some work has focussed on the risks presented by the use of these tools in the criminal justice context, particularly in relation to policing.

7.18 Over the past twelve months, civil society focus has been captured by developments in wider data rights policy and legislation- specifically the Data Protection and Digital Information Bill, Digital Markets Bill, AI white paper and the AI safety summit. Resource constraints mean that there is limited bandwidth, and organisations must prioritise where their time and effort is directed.

8 Commentary on the landscape

Debate is overly focussed on the implications of the widespread adoption of Gen AI applications and case outcome predictive tools for lawyers and legal professionals at the expense of consumers

8.1 Existing research and debate has focussed primarily on the implications of the widespread adoption of Gen AI applications and case outcome predictive tools for lawyers and legal professionals, rather than their implications for consumers of legal services or litigants in person. As noted above, much of the debate about the benefits and risks of these technologies proceeds on the assumption that the primary users of these tools will be regulated providers of legal services and that as such, consumers will be able to access protections afforded to them under the LSA 2007 regime. This landscape analysis has demonstrated that this assumption is unsafe and fails to account for the provision of legal services by unregulated providers, including those who are based overseas.

8.2 Protecting consumers may require significant reforms to the regulatory regime created by the LSA 2007 – expanding the list of reserved activities and bringing currently unregulated providers under the purview of legal services regulation. It might also necessitate putting in place infrastructure to ensure that tools and technologies developed by third party providers are accurate and meet agreed performance standards. Examples of effective infrastructure from other sectors include the Medicines and Healthcare Products Regulatory Agency, which ensures the safety of medical devices and in 2022 published a roadmap clarifying requirements for AI and software used in this context (MHRA, 2022). As in the case of healthcare, the creation of this infrastructure would usefully complement, rather than replace, existing regulation.

Policy makers and regulators are insufficiently engaged in addressing the ecosystem changes needed to support the responsible development of these tools

8.3 It is clear that some of the potential risks for consumers created by an expanded role for case outcome predictive technologies stem from ecosystem factors, such as a.) lack of a level playing field in terms of access to data, and b.) missing and incomplete data in relation to areas of PeopleLaw. Experts have observed that: "first mover advantage may accrue to data aggregators who have a head start in training their AI models using data" (Armour, 2023:61). The value of this advantage is demonstrated by Thomson Reuters acquisition of CaseText (Byrom 2023). Addressing these issues, though insufficient to address potential consumer harms entirely, would confer wider benefits and should be prioritised.

8.4 Additional ecosystem factors that require attention include unequal access to investment, and the absence of business models to support the development of tools for use by individuals and consumers in the PeopleLaw field. LSB research published in 2023 found that 54% of firms focussing on consumer law cited "lack of necessary finance" as a constraint to innovation and the adoption of new technologies (LSB, 2023:69). Research conducted by Armour and Sako, which aimed to gauge the relative investment in legal tech companies operating in the "People Law" versus "Big Law" space found that in 2021, legal tech start-ups offering services in "Big Law" secured nearly four times the amount of angel and venture capital investment as their counterparts operating in the People Law space in England and Wales (see Figure 8.1 below).
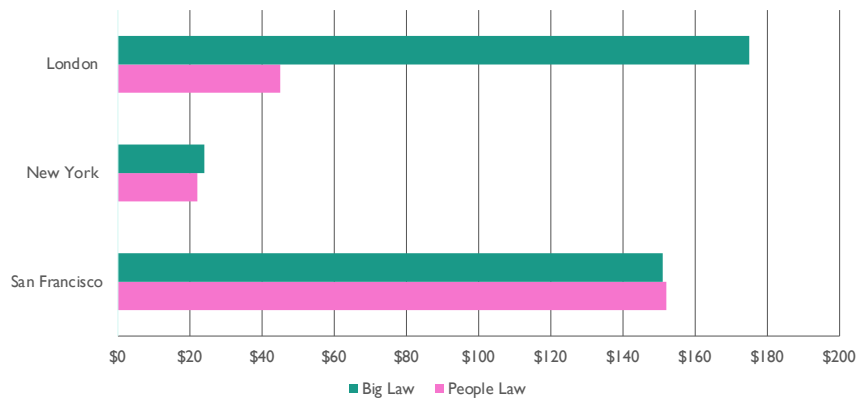
Figure 8-1 Total funding raised (USD Millions, January 2021) Armour & Sako (2023)

8.5   This means that tools, where they develop are likely to "supercharge" repeat players at the expense of small businesses and individual consumers. In the USA, it has been proposed that:

"All firms in the AMLaw 100 could pledge a proportion of their pro-bono budgets toward the development of litigation outcome prediction tools to be used in pro-bono and low-bono settings. The ABA Foundation might play a coordinating and convening role, as it is already committee to access-to-justice initiatives.. It might also jump-start additional interest from the Big Three and other commercial competitors who might invest more money in improving algorithms' predictive performance and spin off free or low cost versions of their existing suite of tools" (Alexander, 2023:166)

8.6   Extending the scope of the Legal Services Act 2007 to encompass more of the organisations currently delivering legal services across the unregulated sector may also be needed to encourage responsible adoption and enable consumer focussed services to access finance. Some survey evidence suggests that lack of clarity around whether regulation and legislation permits intended use of new technologies acts as a constraint on adoption (LSB, 2023:20). Research published by the LSB in 2023 found that unregulated firms reported higher constraints on using technology to develop new services than those in the regulated sector (LSB, 2023:21), and increased constraints on accessing finance to support investment in technology.

The focus on legaltech as a broad category, rather than particular tools and use cases, obscures potential harms

8.7   Regulators and policy makers have tended to tend to consider "legal tech" as a broad category, encompassing everything from case management systems and cloud computing to case outcome predictive tools. Particular use-cases, technologies and their adoption by parts of the legal services sector (see above) are under-explored and under-examined.

8.8   This approach may flow from the wider direction taken by government, described above at para 8.2 who have chosen to focus on the development of a principle-based, rather than technology-specific framework. However, the decision by government to defer implementation to sector specific regulators, and the relatively short timeframe proposed for responding with an updated plan, renders the failure to date by regulators of legal services to gather better data on individual tools, use cases and their implications particularly concerning. The failure to distinguish between and gather data on "high risk" and "low risk" use cases (an approach taken by the EU AI Act), may obscure potential areas of consumer detriment and threaten to undermine the efficacy of any regulatory response proposed by the legal service regulators in response to the AI white paper.

The pro-innovation approach to AI advocated by government, and the lack of engagement with civil society and impacted communities may exacerbate risks for consumers

8.9   The emphasis on "innovation" in wider policy development around the use of AI affects the stakeholders that are selected for inclusion in policy discussions on these topics. It has been noted for example that Civil Society organisations were largely excluded from invitations to the government's AI Summit in November 2023. The failure to proactively engage with impacted communities and their representatives in the development of policy and regulation of AI in general and case outcome predictive tools in particular exacerbates risks for consumers.

Standards applied to the use of predictive tools within the justice system are not being considered when these tools are deployed in the context of legal services despite the commensurate potential for harm

8.10   In general, there is a disconnect between the standards being proposed for the use of case outcome predictive tools by actors within the formal justice system (e.g. judges) and their deployment in the provision of legal services. The rationale for this distinction is unclear. As Diver and McBride (2022) observe: "Given the welcome recognition in the AI Act of the novel challenge posed by computational systems to the administration of justice and to democracy, its ambit ought to apply more widely to encompass the uses of AI by parties whose professional role in the administration of justice obliges them to sustain a normative commitment to legality and the Rule of Law".

8.11   Ethical frameworks for the use of artificial intelligence in judicial systems, such as the one created by European Commission for the Efficiency of Justice of the Council of Europe, have not drawn this distinction. The CEPEJ framework, which has the status of soft law, is intended to apply to both public and private stakeholders: "responsible for the design and deployment of artificial intelligence tools and services that involve the processing of judicial decisions and data (machine learning or any other methods deriving from data science)" (CEPEJ, 2019).

The field of organisations working in the access to civil justice space lacks the bandwidth to prioritise the issues created by Gen AI and case outcome predictive technologies

8.12   Organisations working in the access to justice space who represent those consumers that are arguably most likely to suffer detriment are under-resourced and overstretched. As such they may require additional resourcing and support to enable them to prioritise engagement on these issues.

The field of civil society organisations with expertise in data rights and AI is not focussed on the specific context of legal services

8.13   As noted above, the civil society organisations with expertise in issues around data rights and AI are not currently focussed on exploring the potential harms created by the adoption of Gen AI applications and case outcome predictive tools in legal services.

Lack of attention is being paid to the steps needed to build an evidence base for the impact of these technologies on both consumers and the justice system more broadly

8.14   There is at present an absence of data and evidence to support informed discussions around the benefits and risks for consumers (and the justice system) of the widespread adoption of these tools is underdeveloped. One approach to developing this evidence base – requiring parties to state when they have used AI in the preparation of their case - adopted in other jurisdictions- appears to have been rejected in the England and Wales context.

8.15   Beyond this, the lacuna of data on the development, deployment and impact of Gen AI applications and case outcome predictive tools across the unregulated legal services sector must be addressed. This is vital to design a proportionate and effective regulatory response, and it is not at present clear whose responsibility it is to gather this information. Further efforts are needed to design and implement an approach and designate the body responsible for gathering this data.

England and Wales can learn from efforts in Europe and the USA

8.16   There are ongoing initiatives in Europe and the USA focussed on the implications adopting AI in the delivery of legal services that England and Wales can learn from. These include the ABA Taskforce to study the impact of artificial intelligence on the legal profession, the MIT taskforce on the responsible use of generative AI for law, and the COHUBICOL project, amongst others.

8.17   Work led by the Stanford Legal Design Lab to i.) better understand how consumers use Gen AI tools to access legal information and ii.) develop implementable, developer-friendly quality standards to evaluate the performance of Gen AI applications in responding to consumer requests for legal information (Hagan, 2023) is particularly interesting and should be replicated in England and Wales.

Further ongoing work is needed to understand public attitudes to these tools, and their potential impact on trust in legal services and the justice system

8.18   Research to understand the impact of the adoption of Generative AI applications and case outcome predictive tools on public trust in legal services and the justice system is underdeveloped. Given the nature of both the field and the issues raised, this research should be longitudinal in nature, capable of monitoring changes in public attitudes over time. Investment is needed in work to develop tools to explain key concepts to the public to support informed debate- the creation of independent intermediaries modelled on examples in health e.g. Understanding Patient Data may be required. This research should build on existing work conducted by the Legal Services Board to explore the social acceptability of different forms of lawtech (LSB 2022, and research conducted by Ipsos Mori).

9 Bibliography

Aidinlis, S. et al (2024) Lawful Grounds to Share Justice Data for Lawtech Innovation in the UK (March 1, 2024). 140 Law Quarterly Review, forthcoming , Available at SSRN: https://ssrn.com/abstract=4744467

Alexander, C. (2023). Litigation Outcome Prediction, Access to Justice, and Legal Endogeneity. In D. Engstrom (Ed.), *Legal Tech and the Future of Civil Justice* (pp. 155-172). Cambridge: Cambridge University Press. doi:10.1017/9781009255301.010

Alexander, C. (2018) "Litigation Migrants" Georgia State University College of Law, Legal Studies Research Paper, Available at SSRN: https://ssrn.com/abstract=3230195

Armour, J., & Sako, M. (2023). Lawtech: Levelling the Playing Field in Legal Services? In D. Engstrom (Ed.), *Legal Tech and the Future of Civil Justice* (pp. 44-69). Cambridge: Cambridge University Press. doi:10.1017/9781009255301.004

Ashley, K.D. (2017) "Artificial Intelligence and Legal Analytics, New tools for law practice in the digital age" Cambridge University Press

Ashley, K.D. (2019). A Brief History of the Changing Roles of Case Prediction in AI and Law. *Law in Context*, 36 (1): 93-112. DOI https://doi.org/10.26826/law-in-context.v36i1.88

Barton, B (2023) Legal Tech and the Innovation ecosystem. In . In D. Engstrom (Ed.), *Legal Tech and the Future of Civil Justice* (pp. 19-90). Cambridge: Cambridge University Press. doi:10.1017/9781009255301.010

Black, N Finding Treasure with Litigation Data Analytics Software, *A.B.A. J.* (July 24, 2018, 6:05 AM CDT), https://www.abajournal.com/news/article/finding_treasure_with_litigation_data_analytics_software;

Brennan, J (2021) "The UK's new AI transparency standard is a step closer to accountable AI" Venturebeat available at: https://venturebeat.com/ai/the-u-k-s-new-ai-transparency-standard-is-a-step-closer-to-accountable-ai/

Byrom, N (2018) "Exploring the impact of the cuts to civil legal aid introduced by the Legal Aid, Sentencing and Punishment of Offenders Act [2012] on vulnerable people: the experience of Law Centres" available at: https://wrap.warwick.ac.uk/106387/1/WRAP_Theses_Byrom_2018.pdf

Byrom, N (2023a) "AI risks deepening unequal access to legal information" Financial Times available at: https://www.ft.com/content/2aba82c0-a24b-4b5f-82d9-eed72d2b1011

Byrom, N (2023b) "Unregulated AI legal advice puts the public at risk" Law Society Gazette, 27 December 2023 https://www.lawgazette.co.uk/commentary-and-opinion/unregulated-ai-legal-advice-puts-the-public-at-risk/5118241.article

CEPEJ (2019) "European ethical Charter on the use of Artificial Intelligence in judicial systems and their environment" Council of Europe, available at: https://rm.coe.int/ethical-charter-en-for-publication-4-december-2018/16808f699c

Competition & Markets Authority, (2016) *Legal Services market study: Final report* 15 December 2016, Crown Copyright, available at:

https://assets.publishing.service.gov.uk/media/5887374d40f0b659370000la/legal-services-market-study-final-report.pdf

Dahl, M. et al. (2024) "Large Legal Fictions: Profiling Legal Hallucinations in Large Language Models" Preprint accessible at: https://arxiv.org/abs/2401.01301

Department for Science, Innovation and Technology & Office for AI (2023) "A pro-innovation approach to AI regulation" CP 815 March 2023 available at: https://assets.publishing.service.gov.uk/media/64cb71a547915a00142a91c4/a-pro-innovation-approach-to-ai-regulation-amended-web-ready.pdf

Diver, L and McBride, P (2022a) Argument by Numbers: The Normative Impact of Statistical Legal Tech, *Communitas*

Diver, L and McBride, P (2022b) High Tech, Low Fidelity? Statistical Legal Tech and the Rule of Law" Verfassungsblog available at: https://verfassungsblog.de/roa-high-tech-low-fidelity/

Diver, L. McBride, P. Medvedeva, M. Banerjee, A. D'hondt, E. Duarte, T. Dushi, D. Gori, G., van den Hoven, E. Meessen, P. Hildebrandt, M. 'Typology of Legal Technologies' (COHUBICOL, 2022), available at https://publications.cohubicol.com/typology

Engstrom, David Freeman and Gelbach, Jonah B., (2020) Legal Tech, Civil Procedure, and the Future of Adversarialism (March 9, 2020). University of Pennsylvania Law Review, Available at SSRN: https://ssrn.com/abstract=3551589

Frankenreiter, J., & Nyarko, J. (2023). Natural Language Processing in Legal Tech. In D. Engstrom (Ed.), *Legal Tech and the Future of Civil Justice* (pp. 70-90). Cambridge: Cambridge University Press. doi:10.1017/9781009255301.005

Hagan, M (2024) "User Research Report into AI for Access to Justice: Legal Question & Answers" available at: https://medium.com/legal-design-and-innovation/user-research-report-into-ai-for-access-to-justice-legal-question-answers-0a6e2f925b64

Jones, E. (2023) "Explainer: What is a foundation model?" Ada Lovelace Institute available at: https://www.adalovelaceinstitute.org/resource/foundation-models-explainer/#typesmodel

Grosvenor Law (2019) "How many civil cases actually go to trial?" Available at: https://www.grosvenorlaw.com/2019/11/14/how-many-civil-cases-actually-go-to-trial/#:~:text=Taking%20an%20average%20of%20the,cases%20issued%20over%20that%20period.

Hagan, M (2023) "Good AI Legal Help, Bad AI Legal Help: Establishing quality standards for response to people's legal problem stories" (November 21, 2023). Available at SSRN: https://ssrn.com/abstract=4640596

Hagan, M (2024) "User Research Report into AI for Access to Justice: Legal Question and Answers" Available at: https://medium.com/legal-design-and-innovation/user-research-report-into-ai-for-access-to-justice-legal-question-answers-0a6e2f925b64

Hoadley, D. et al (2022) "How Public is Public Law? Approximately 55%" UK Constitutional Law Association Blog https://ukconstitutionallaw.org/2022/02/25/daniel-hoadley-joe-tomlinson-editha-nemsic-and-cassandra-somers-joce-how-public-is-public-law-approximately-55/#:~:text=Judicial%20review%2C%20Uncategorized-,Daniel%20Hoadley%2C%20Joe%20Tomlinson%2C%20Editha%20Nemsic%20and%20Cassandra%20Somers%2D,providing%20reasons%20for%20that%20outcome

ICAEW (Institute of Chartered Accountants in England & Wales), (2017) *An overview of the Legal Services Act 2007* Available at: https://www.icaew.com/-/media/corporate/files/technical/legal-and-regulatory/probate-and-abs/an-overview-of-the-legal-services-act-2007.ashx#:~:text=The%20aim%20of%20the%20Legal,creating%20a%20new%20regulatory%20structure

Legal Services Board (2018) "Technology and Innovation in Legal Services – An analysis of legal service providers" November 2018 available online at: https://legalservicesboard.org.uk/wp-content/media/Innovation-survey-2018-report-FINAL-2.pdf

Legal Services Board (2022) " Social acceptability of technology in legal services: Research with lawyers and the public" available online at: https://legalservicesboard.org.uk/wp-content/uploads/2022/05/Acceptability-of-technology-in-legal-services-research-report-FINAL-March-2022.pdf

Lexis Nexis (2019) "Hype or reality? The state of Artifical Intelligence and Machine Learning in the Insurance Industry" December 2019 available online at: https://risk.lexisnexis.com/insights-resources/research/state-of-ai-ml-in-the-insurance-industry

Lexis Nexis (2024) "Lawyers cross into the new era of generative AI" January 2024 available online at: https://www.lexisnexis.co.uk/insights/lawyers-cross-into-the-new-era-of-generative-ai/index.html#group-section-AI-adoption-Clm7Y03Umf

Magrath, P. (2023) "Publication of listed judgments: towards a new benchmark of digital open justice" 24 January 2023 Available at: https://www.iclr.co.uk/blog/news-and-events/publication-of-listed-judgments-towards-a-new-benchmark-of-digital-open-justice/

Medvedeva, M et. al (2023a) Rethinking the field of automatic prediction of court decisions, Artificial Intelligence and Law 2023) 31:195-212 2 https://doi.org/10.1007/s10506-021-09306-3

Medvedeva, M and McBride, P. (2023b). Legal Judgment Prediction: If You Are Going to Do It, Do It Right. In *Proceedings of the Natural Legal Language Processing Workshop 2023*, pages 73–84, Singapore. Association for Computational Linguistics.

Norton, K (2020) Mind the Gap: Technology as a Lifeline for Pro Se Child Custody Appeals, 58 Duq. L. Rev. 82 . Available at: https://dsc.duq.edu/dlr/vol58/iss1/5

Pasquale, F & Cashwell, G (2018) Prediction, Persuasion, and the Jurisprudence of Behaviourism, 68 U. TORONTO L.J. 63, 68

Pleasence, P., Balmer, N, and Denvir, C. (2015) "How people understand and interact with the law" Cambridge, 2015

Sako, M. & Parnham, R. (2021) Technology and Innovation in Legal Services: Final Report for the Solicitors Regulation Authority. University of Oxford.

Sandefur, R. L. (2015). Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers' Impact. *American Sociological Review*, *80*(5), 909–933. https://doi.org/10.1177/0003122415601157

Semple, N (2019) "Tending the Flame: Technological Innovation and the Legal Services Act Regime" LSB available at: https://legalservicesboard.org.uk/wp-content/uploads/2019/09/Semple-Final-version-for-publication.pdf

Smuha, N.A. (2021). "Beyond the individual: governing AI's societal harm." Internet Policy Review,[online] 10(3). Available at: https://policyreview.info/articles/analysis/beyond-individual-governing-ais-societal-harm [Accessed: 3 Sep. 2023].

Thomson Reuters Legal Insights Europe (2023) "Generative AI in legal tech is here: what now?" Available at: https://legalsolutions.thomsonreuters.co.uk/blog/2023/08/15/state-of-generative-ai-in-legal-tech/

Thomson Reuters Institute (2024) "2024 Generative AI in Professional Services: Perceptions, Usage and Impact on the Future of Work" Available at: https://www.thomsonreuters.com/en/reports/2024-generative-ai-in-professional-services.html

Vols, M (2019) European law and evictions: property, proportionality and vulnerable people. Eur Rev Priv Law 27(4):719–752

Yoon. A (2016) "The post-modern lawyer: Technology and the democratization of legal representation". *UTLJ* 66(4), pp. 456–471.