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Delegated by default? Privately owned technology in the family justice system – opportunities and challenges for access to justice

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Report

This report traces the shift from an emphasis on publicly owned and built court technology towards a 'delegated by default' model where tools developed and managed by the private sector increasingly mediate access to, and support the operation of, the courts. It examines the risks created by this new approach, focusing on those that are particularly acute for family justice, before recommending urgent reforms to regulation and governance to protect consumers and access to justice.

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Executive Summary

Background

Government and the court service are increasingly delegating the delivery of digital and AI-mediated justice services to private providers – incentivising the market to connect digital legal information and advice and dispute resolution tools to the courts, procuring privately built systems for justice agencies, and layering justice-specific interfaces on top of proprietary AI models. This increasing reliance on technology that is built, owned and managed by the private sector represents a significant departure from previous approaches to digitising the justice system, which championed publicly built, publicly owned technology as an active design choice. Further, this shift in approach is properly understood as one of '*delegation by default*' rather than *design*, catalysed by fiscal constraints, the underperformance of the £1 billion His Majesty's Courts and Tribunals Service (HMCTS) digital court reform programme, and rapid developments in technology, specifically generative AI (GenAI). Regulation and governance have failed to keep pace with this shift in approach, resulting in a patchwork of protections that are wholly inadequate to protect litigants or the justice system.

Findings

In family justice, this approach creates risks that are notably acute due to both the nature of disputes and the vulnerability of the parties. Pre-court, the standalone provision of online or AI-assisted legal information and advice falls outside legal services regulation; it is not a reserved activity under the Legal Services Act 2007, and the Act only regulates authorised persons. As a consequence, litigants using general-purpose GenAI tools[1] (e.g. ChatGPT) to access legal information or prepare court documents are exposed to risk for which there is currently no redress. Government has repeatedly been forced to step in to correct market failure in online information and advice for separating families, and the market has similarly struggled to deliver sustainable, high-quality pre-court dispute resolution: of the eight companies listed on the LawtechUK tracker as providing family law services,

[1] In this report, 'GenAI tools' refers to general-purpose, publicly available generative AI tools such as ChatGPT and Claude, which use large language models to generate text and other content in response to a user's prompt, and which are not designed, marketed or trained for a specific legal or judicial use case. This is distinct from bespoke consumer-facing legal AI tools.

only three plausibly offer dispute resolution, none is subject to legal services regulation, and one has already prompted a Competition and Markets Authority (CMA) investigation following concerns that it was misleading consumers.

Where high-quality provision exists, the growing use of general-purpose GenAI tools for search risks displacing it, disrupting decades of investment aimed at improving access to authoritative, accessible online provision. In family justice as elsewhere, there is emerging evidence that litigants are turning to these tools directly for advice and document preparation, despite the fact that GenAI tools frequently get the law wrong. Several features of GenAI tools create risks that are especially serious in the context of family disputes – which are relational and emotionally driven. GenAI tools are prone to sycophancy, affirming users in their beliefs even where they are incorrect – research demonstrates that using these tools even once can distort social judgment and discourage behavioural repair. Accordingly, the use of these tools risks transforming good-faith litigants into intransigent ones, undermining ongoing attempts by policymakers and professionals to de-escalate conflict and divert parties towards conciliation. This propensity may also affirm vexatious litigants and domestic abusers, while simultaneously enabling them to produce superficially convincing court documents at scale, weaponising litigation and overwhelming the already overburdened courts.

Within court, judges have been issued with a secure version of Microsoft Copilot, with use cases to October 2026 emerging piecemeal through guidance, policy documents and judicial speeches rather than through a published process. There is little public detail on how it was determined that judges can use Copilot safely, or for which tasks. This is despite the fact that Microsoft's own Application Card for the product, published to help customers understand its limitations, advises against using the system in ways that could affect an individual's legal status or rights. General-purpose large language models (LLMs) used for summarisation and editing are prone to inaccuracy, hallucination and subtle shifts in meaning, including the flattening of 'justified asymmetry' that risks compounding courts' documented tendency to reframe domestic abuse allegations as mutual conflict. Existing safeguards rely on judicial users of the technology as a 'human in the loop', but behavioural research shows this safeguard is unreliable in practice: the superficial fluency of AI outputs makes users less likely to scrutinise them even under incentives to check. No published information shows that judicial Copilot use is being monitored for guidance compliance, there currently is no requirement for judges to disclose its use, the findings of pilots have not been published and promised approaches to support litigants to contest judicial use of AI have not materialised. Existing frameworks of principles from the Ministry of Justice (MoJ), HMCTS and the Judicial Working Group and most recently the judiciary's own position statement do not reconcile with each other. Compared with healthcare and financial services, the regulatory response to these risks lacks urgency.

Conclusion

Nothing in this report should be read as an argument against digital or AI-mediated justice, or against a role for the private sector in delivering it. It is an argument that the current model, delegation by default, is a policy choice rather than a neutral consequence of technological change, and that it can and should be replaced by a deliberate approach: publicly funded and governed standards for safety, performance and evidence, matched to proportionate but effective oversight and accessible redress, within which a competitive market can safely operate. Above all, this is an argument against inertia. If government fails to act now, it will not simply forgo the benefits AI and digital technology could bring to access to justice; it risks generating new and avoidable costs, undermining already fragile public trust in the justice system, and compounding the very problems that the shift to digital justice was meant to solve.

Recommendations

The report makes 26 recommendations under four themes, reproduced in full at the end of the report. Firstly, the MoJ should act urgently to close two distinct regulatory gaps that leave AI tools performing legal-advice functions outside regulation.

For general-purpose tools such as ChatGPT and Claude, developed by providers based outside England and Wales, the MoJ should work with the departments and regulators responsible for health and financial services, who face analogous challenges, to consult on new approaches to regulation. Regulation should be triggered by what a tool does, rather than relying on provider declared intended purpose – closing existing loopholes that enable companies to use product framing and disclaimers to avoid liability. Regulation should also apply regardless of where the provider is based and ensure consumers can access redress. The UK should use its 2027 G20 presidency to seek international agreement on these protections, learning lessons from the "underwhelming" impact (House of Lords Communications and Digital Committee 2026a, Q24) of the Online Safety Act 2023.

For domestic tools provided by unauthorised persons that produce legal advice or assistance: "in connection with the application of the law or with any form of resolution of legal disputes" (Legal Services Act 2007, s12(3)(b)(i)), the MoJ should, as an interim measure, develop a mandatory public register of unauthorised providers, as recommended by the Competition and Markets Authority, giving consumers access to redress and generating evidence about the nature and scale of

any detriment arising from the use of these tools. Providers whose tools give users personalised advice on their own legal situation should be required to register and secure risk based financial protection, even if their terms describe that output as general legal information. The wider review of legal services regulation recommended by the independent review of the Legal Services Board (Lloyd 2026) should build on this register. The MoJ should also create a National Commission on the Regulation of AI in Justice, following the example set by health.

Secondly, the MoJ should address market failure in consumer-facing tools: developing a government response to the impact of Google's AI Overview on access to high-quality legal information, committing to long-term investment in trusted public information and advice tools, publishing evaluations of earlier government-backed tools, and developing and publishing quality standards for the existing services and tools listed by LawtechUK. The MoJ should also create an ongoing mechanism for monitoring how litigants in person use GenAI tools, and the impact of this use on dispute resolution strategy.

Thirdly, the MoJ should urgently act to build the assurance, evaluation and transparency infrastructure that does not exist. As a matter of urgency, the MoJ, HMCTS and the judiciary should *publish their evidence base for disregarding Microsoft's own advice against using Copilot where it could affect legal status or rights*. The judicial AI steering committee should also publish the list of approved AI tools and the findings of completed pilots. Future use cases, benchmarks and assurance frameworks should be consulted upon prior to deployment. Judicial independence should be protected through developing the centralised steering group, chaired by the Lead AI Judge, into a sustainably funded Judicial AI Oversight Committee, answerable to the Lady Chief Justice and the Lord Chancellor and responsible for commissioning independent evaluation of judicial AI tools. This Committee would provide the senior judiciary with the evidence needed to support safe adoption without compromising constitutional norms. The MoJ should also assess vendor lock-in and sovereignty risk created by the existing approach to procurement.

Fourthly, the MoJ, HMCTS and the judiciary must strengthen the governance of AI use in courts to ensure that both litigants and the system are protected. The MoJ's existing AI Action Plan should be reconciled with the HMCTS and Judicial AI Working Group's principles and the Position Statement on the Judicial use of artificial intelligence so that AI use is governed by a coherent rather than competing framework. HMCTS should not connect any private or third-sector tools to the courts without published quality standards – which should be developed with stakeholders through a process funded by the MoJ – and identifying a specified regulator to provide monitoring and enforcement. The MoJ should ensure that

justice- and court-specific AI standards are developed in consultation with stakeholders and written into procurement contracts rather than deferring to commercial vendors' own terms. Once tools are in use, the Lady Chief Justice should require judges to document and disclose that use. The Lord Chancellor and the Lady Chief Justice should consult publicly on proposals to ensure that litigants in person, not only lawyers, are able to contest the use of AI in their case. Finally, the MoJ, HMCTS and the judiciary should agree an approach to ongoing monitoring of GenAI's impact on court capacity, rates of legal representation, case outcomes, and public trust and confidence, starting in the family courts, to ensure that an evidence base exists to manage demand and address weaponised or vexatious litigation.

Introduction

Over the past 15 years, the UK Ministry of Justice (MoJ) has increasingly looked to digital technologies to improve access to, and the performance of, the justice system. Until 2023, proposals emphasised the importance of investing in state-owned digital tools, built and managed by government, to reconstitute key justice agencies including His Majesty's Courts and Tribunals Service (HMCTS) as 'sustainable digital organisation(s)' (House of Commons Committee of Public Accounts 2019). However, recent announcements made by the Lord Chancellor and senior members of the judiciary have signalled a shift away from this approach, towards initiatives that aim to expand the role of the private sector in designing and delivering tools that mediate access to and support the operation of the courts. Under these proposals, key components of the justice journey will be *delegated* to technologies that are owned and managed by the private sector. Some proponents argue that this is not such a radical shift, that the delivery of justice has always constituted a: 'public private partnership of the most proper kind' (Birss 2023). Others go further, stating that this change in approach is vital to harness technology to 'turbocharge the way justice is done' after 'decades of decline' (Lammy 2026).

Across the wider public sector, spending on private sector technology providers is growing. Research commissioned by techUK found that in FY23/24 public sector authorities spent £19.6 billion directly with technology firms, a compound growth rate of 8% over the past four years (Tussell and techUK 2025). In 2025, a report published jointly by the Department for Science, Innovation and Technology and the Government Digital Service found that the public sector spends £26 billion annually on digital services, with over half (£14.5 billion) spent on contractors, managed services providers and IT consultants (Department for Science, Innovation and Technology and Government Digital Service 2025). The NHS accounts for a significant proportion of this spend and can source digital products and services designed to address the drivers of ill-health or improve people's access to and experience of the health service from an ecosystem of over one thousand suppliers[2] (Office for Life Sciences and KPMG 2024). In the justice context, in contrast, there are a dearth of specialist suppliers offering tools and services specifically designed to meet the need for legal information, advice and pre-court dispute resolution, or to support judges in their role. Family justice is particularly underserved – the

[2] 1,333 suppliers, calculated from figures included in the Office for Life Sciences and KPMG report (2024:21), which states that 20% of health technology businesses report that they primarily operate in digital health technology and AI, while a further 11% state that they primarily operate in digital innovations in processes or people.

LawtechUK ecosystem tracker lists only eight companies who provide services to consumers in the family law space, two of which specialise in pre-nuptial agreements (LawtechUK n.d.).

Those tools and technologies that do exist at present operate largely without scrutiny or oversight by legal regulators, exposing the people who use them to risk for which there is currently no redress. In the absence of a mature, regulated ecosystem of specialist digital technology providers, and in the context of ongoing decline in the availability of free and affordable legal advice and representation, anecdotal evidence suggests that litigants are increasingly turning to low-cost, general-purpose tools driven by generative AI (GenAI), such as ChatGPT, Bard, Claude and Grok. While there is no official data on the prevalence of their use (MoJ 2026b), practitioners and commentators have raised concerns that the use of these tools by litigants in person risks inundating the courts with a 'tide of slop', fuelling a structural crisis in the courts and leading to delay, data breaches and poor outcomes for children and families (Hyde 2026a). If this trend continues, reliance on these tools could create a 'shadow legal system'[3] – shaping advice-seeking behaviour, reducing system capacity, undermining trust in legal expertise and threatening equal access to justice (van Kolfschooten and Petročnik 2026). Tools based on GenAI models that are privately owned and controlled are also being rolled out to judges and court staff, as part of attempts to tackle delays and improve efficiency (Lammy 2026). The emphasis on strengthening relationships with large, international technology providers (Lammy 2026) is in stark contrast to previous approaches to digital technology which stressed the importance of the court service 'creating its own capability to develop, build and continually improve' (Gallagher 2026).

These developments take place in the context of a justice system that is in crisis[4]. Swinging cuts to the government budget for legal aid introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2013 (LASPO) have trebled[5] the

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[3] The framing of 'shadow legal system' is adapted from a recent paper published by van Kolfschooten and Petročnik (2026), which describes the way in which general purpose GenAI tools based on large language models (LLMs) are creating shadow health systems which sit outside existing healthcare-specific safeguards and regulation.

[4] The UK's fiscal position is increasingly vulnerable, by both historical and international standards (Office for Budget Responsibility 2025), with high debt, high borrowing costs, rising taxes and stretched public services (Miller et al. 2026). Consequently, government is still operating within a period of fiscal restraint and faces significant pressure to simultaneously contain the cost of the courts while also reducing case backlogs. New research from the Institute for Fiscal Studies (IFS) has shown that while spending on HMCTS has been relatively protected within the MoJ budget since 2007/08, spending in 2023/24 was still 2.6% lower than during that period (Dominguez et al. 2026). This is despite recent increases in spending aimed at tackling delays and backlogs in the Crown Court. Funding for legal aid has fared less well, with the IFS reporting a 36% decrease in per-person day-to-day spending on legal aid since 2007/08 (Dominguez et al. 2026).

[5] In Q1 of 2026, the proportion of private family law cases where neither party was represented rose to 49% (MoJ 2026a), over treble the number in 2013, the year that cuts to legal aid for private family law were introduced (Comptroller and Auditor General 2025). Data published by the Law Society in 2024 indicated that in some parts of the country, at least a quarter of parties were unrepresented in public family law cases, due to a lack of legal providers (Fouzder 2024).

number of cases in the family courts[6] where neither applicants nor respondents have legal representation. In the absence of public funding for legal advice in private family law, uptake of mediation and other forms of pre-court dispute resolution have fallen, increasing pressure on the courts. Despite significant and successive investments in technology aimed at reducing delays in and the cost of the system[7], an investigation by the National Audit Office (NAO) in 2025 reported that children and families are waiting too long to have their cases resolved, with thousands of children in public and private law proceedings that had run for nearly two years[8] (Comptroller and Auditor General 2025). The same investigation found that delays were generating both individual and systemic harms: placing children at increased risk, generating anxiety and instability, and, in a compounding effect, making further delay more likely as families' circumstances change while cases remain open (Comptroller and Auditor General 2025). In the face of these challenges, the case for harnessing technology to reduce delay and increase efficiency has grown in proportion with the stakes of choosing the wrong approach. An overstretched court system has little capacity to absorb the consequences of technology that falls short of its intended benefits, and recent history shows that the cost of failure will be felt most acutely by the children and families who rely on the system for protection.

The following report describes the shift from an emphasis on *publicly built, publicly owned* technology to an approach where technology that is *built, owned and managed* by the private sector increasingly mediates access to and the operation of the courts and tribunals in England and Wales. It argues that this new approach is properly understood as 'delegation by default' rather than design, driven by fiscal constraints, the bruising underperformance of the £1 billion HMCTS digital court reform programme, and techno-optimism generated by rapid advancements in technology, specifically GenAI. It explores the implications of this '*delegated by default*' approach for both the family justice system and the children and families who rely on it focusing on risks that are both immediate and material. The discussion is framed around four key questions:

i.) Can the market deliver tools and services that meet the need for online information, advice and trustworthy pre-court dispute resolution in family law?

ii.) Can litigants find those tools and services that do exist, and can they compete with free or low-cost GenAI tools?

iii.) Can judges safely use GenAI tools like Copilot to support them in their work?

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[6] The Family Court and Family Division of the High Court.

[7] To both litigants and the state.

[8] The report found that over 4,000 children were in proceedings that had already run for more than 100 weeks, and further, that the proportion of children waiting over a year in public law cases rose to 12% in December 2024, a sixteenfold increase from January 2017.

iv.) Are children and families adequately protected by existing regulation and governance?

The report concludes with a recommendations section, gathering the recommendations made throughout the report and organising them by theme, rather than the order in which they appear in the text. The report argues that only when these recommendations are implemented will the justice system be able to effectively harness private sector technology to increase access to justice and improve the operation of the courts.

1. Publicly built, publicly owned technology: The HMCTS Reform Programme

In 2014, the MoJ and senior judiciary set in motion plans to harness technology to improve the efficiency of the courts by introducing new digital ways of working. By 2016, the scale and scope of these plans had been significantly expanded to include the adoption of in-court digital technology, online dispute resolution, online hearings, an expanded role for case officers[9], and reductions in the workforce and physical court estate – creating a £1.3 billion public sector technology programme 'unmatched anywhere in the world' in terms of breadth and aspiration (Boston Consulting Group 2016).

The programme was funded on a 'spend to save' basis in the hope that investments in technology would make the courts more efficient and cheaper to run over the medium to long term. Proponents of reform argued that the introduction of new technologies would reduce the cost of running the courts by tackling administrative inefficiencies. New digital systems, it was claimed, would also reduce the impact on the courts of the growing number of people attempting to represent themselves in legal proceedings[10]. While the need for reform was driven by a financial imperative to reduce costs 'necessitated by the retrenchment of the state' (Thomas 2014), early communications emphasised the role that investment in technology would play in maintaining or improving access to justice[11]. The creation of a 'single online system for starting and managing cases' would 'help people to understand their rights and what options are open to them' (Lord Chancellor et al. 2016) encouraging earlier settlement of cases and uptake of alternative dispute resolution. Plans included the development of a 'common online claims portal: common to civil, family and tribunal claims' (Etherton 2017), creating a single, digital front door to the entire civil justice system. Digitisation would also provide the opportunity to 'reappraise the court's administrative processes, so what is digitised is itself more efficient and effective

[9] Administrative staff with delegated judicial powers to facilitate earlier settlement between parties.

[10] The Legal Aid, Sentencing and Punishment of Offenders Act, which came into force in 2013, substantially reduced the civil legal aid budget by removing whole areas of law (including most private family law cases) from scope and changing the financial eligibility criteria for those that remained. The impact on the courts was significant and almost immediate – a report published by the cross-party House of Commons Justice Committee (the 'Justice Committee') found that by 2014 reforms had led to: 'a substantial increase in litigants in person (self-represented litigants)' accompanied by a shift in 'the nature of litigants in person, who are increasingly people with no choice other than to represent themselves and who may therefore have some difficulty in effectively presenting their cases'. The Justice Committee concluded that: 'the result is that the courts are having to expend more resources to assist litigants in person and require more funding to cope' (House of Commons Justice Committee 2015).

[11] For a detailed description of the reforms please see Appendix C.

than current practice' (Etherton 2017). The publicly stated aim of the reform programme was to produce a court system that was cheaper to run while remaining 'just, proportionate and accessible to everyone': a system that would 'continue to lead and inspire the world' (Lord Chancellor et al. 2016).

Publicly owned technology as an active design choice

The architects of reform were cognisant of the troubled history of public sector information technology programmes and keen not to 'ignore the lessons of the past' (Etherton 2017). The reform programme was deliberately designed to end reliance on the private sector to develop, deliver, manage and iterate the technology underpinning the operation of the courts. In 2016, Kevin Gallagher, the then Digital Director of HMCTS, stated: 'gone are the days of single, large-scale, beginning-to-end government IT projects handed to multinational IT consultancies' (Gallagher 2016). The key stated benefit of this approach was that it would allow HMCTS to develop and support reformed digital services 'based on user experience and business need, without being inhibited by expensive, inflexible contracts' (Gallagher 2016). Richard Goodman, the then Change Director of HMCTS further emphasised that *not* outsourcing to a supplier would enable HMCTS to 'own the intellectual property' behind reformed systems, which would confer numerous benefits, including enabling HMCTS to 'respond to changes in behaviour and changes to statute – more straightforwardly'. It would also help to contain costs, by ending government reliance on expertise that 'sat outside the walls (of government), paid much more than we can afford to' (House of Commons Committee of Public Accounts 2019). This 'build not buy' approach was lauded at the time by members of the House of Commons Committee of Public Accounts[12] who recognised the role that an overreliance on contractors and externally owned and maintained services had played in the creation of technical debt[13] and underperformance of digital change programmes across government (National Audit Office 2021).

Almost from its inception, the reform programme was beset by delays and challenges (National Audit Office 2018). Between 2017 and 2020 the programme was repeatedly scaled back and the timetable for delivery extended from four to nine years (National Audit Office 2023). By 2019, official communications from HMCTS seemed to indicate that they were quietly retreating from proposals for an overarching publicly funded and designed pre-court online automated process to help parties to understand their rights (see Appendix C) – arguably the flagship initiative of the

[12] In response to Richard Goodman, Sir Geoffrey Clifton-Brown, member of the House of Commons Committee of Public Accounts, states: 'In part of that answer I say "Hallelujah!" to you, because we on this Committee have been inquiring into all sorts of IT projects across Government, and they have let the intellectual property go elsewhere' (House of Commons Committee of Public Accounts 2019).

[13] 'Technical debt' refers to the future costs that will be incurred in ensuring that a system continues to remain operational and fit for purpose.

programme in terms of improving access to justice (Acland-Hood 2019). Political instability and the COVID-19 pandemic served to exacerbate existing issues; diverting key staff to focus on recovery plans and delaying the rollout of existing projects (National Audit Office 2023), while also intensifying significant case backlogs. By February 2023, the UK NAO reported that even though HMCTS had spent 90% of its £1.3 billion budget, only 24 out of 44 reform projects had transitioned to live state (National Audit Office 2023). Giving evidence to the House of Commons Justice Committee (Justice Committee) inquiry into the work of the County Court last year, the Master of the Rolls and Head of Civil Justice, Sir Geoffrey Vos, reported that: 'we are going to reach the end of reform with only 23% of cases beginning and ending with digital and the rest ending up on paper' (House of Commons Justice Committee 2025:Q36). The Justice Committee concluded that the reform programme was 'over ambitious and under-delivered' (House of Commons Justice Committee 2025) and further criticised HMCTS for offering 'weak justifications' and failing to '...adequately acknowledge the extent to which the reform programme failed to deliver the necessary, and promised, digital transformation' (House of Commons Justice Committee 2025).

HMCTS Reform Programme and family justice

In the family jurisdiction, by the time the reform programme concluded in 2025, three services had been digitised: divorce, financial remedy and public family law. Only one of these services (divorce) was intended to cater to public (as opposed to professional) users. A reformed digital service for private family law (which will allow child arrangement orders, non-molestation orders and occupation orders to be submitted online) has been subject to significant delays: a national rollout initially trailed in early 2026 (UK Parliament 2025) has now been pushed back until autumn 2026 (UK Parliament 2026).

While the MoJ-led evaluation of HMCTS reform did identify some measurable gains from digitisation, there is consistent evidence that, overall, the programme did not deliver its intended benefits[14] (see Appendix C). Across divorce, financial remedy and public family law services, MoJ commissioned evaluations found that reforms had failed to deliver a better service, improve efficiency or reduce delays. Issues with the new case management systems exposed litigants to risk, crucial documents regularly 'disappeared' from new systems and whistleblowers raised concerns that confidential information had been revealed to parties. Consequently, judges and court staff felt compelled to develop manual workarounds for serious and urgent cases. Reformed systems also failed to reduce costs for litigants through creating simplified processes that supported users to self-serve. Instead, the MoJ evaluation of the digital divorce service reported that reform had inadvertently created new

[14] The HMCTS Reform Programme is far from unique in this regard; a National Audit Office report on digital transformation across government found that over the past ten years, 'attempts at large-scale digital change have had little success' (Comptroller and Auditor General 2023).

channels for fee-charging, unregulated intermediaries to capture litigants, negating potential cost-savings and creating new risks for litigants (Frontier Economics and IFF Research 2025c:25, see Appendix C for further details). Professional users also compared reformed systems unfavourably with commercial alternatives; one judge quoted in the research stated that: '*I like the idea, I like the format, I like the portal…but if it's not going to be subsidised to a Microsoft level of injection of capital then we are left with a third-tier system… We are struggling because of a lack of infrastructure and injection of resources for the IT.*' Judge (Financial Remedy) (Frontier Economics and IFF Research 2025b). The promised holistic digital reforms, intended to support people without legal representation to understand and resolve their disputes before issuing court proceedings, entirely failed to materialise.

2. From public technology to 'delegated by default' digital justice?

In light of the ongoing challenges facing the courts, a reform programme that overran, overspent and failed to deliver on its promise, and the emergence of GenAI tools such as Claude and ChatGPT, which use large language models (LLMs) to produce text, a new approach to harnessing technology across the justice system is being pursued. In a shift from the principles underpinning the HMCTS Reform Programme, which emphasised the importance of *publicly built, publicly owned* technology, these new proposals envisage an expanded role for technology that is *designed, built and managed* by the private sector both in mediating access to the courts and streamlining their operations.

New plans for private sector technology to mediate access to the courts

In the pre-court space, the senior judiciary are looking to the private sector to deliver solutions that will improve the navigability of the system for litigants, reduce pressure on the courts and promote earlier resolution of disputes. In November 2023, the Lord Chancellor and senior judiciary announced a new vision for the future of civil and family courts and tribunals (MoJ et al. 2023). Their short, published statement set out a bold ambition to harness AI and technology to create a joined-up process for people attempting to navigate third- and private sector providers of information, advice and dispute resolution, and facilitate seamless transfer to the courts where necessary (MoJ et al. 2023).

The Online Procedure Rule Committee (OPRC), established by the Judicial Review and Courts Act 2022, is intended to play a key role in delivering this vision, by using its powers to set rules and standards, including data standards, for both online court-based dispute resolution services and 'digital pre-action portals and other processes' (Vos 2023). The Master of the Rolls, Sir Geoffrey Vos, inaugural Chair of the OPRC, has stated that the creation of the OPRC signals an end to the fixation on court-based systems, and the beginning of a process of creating a 'truly holistic Digital Justice System' (Vos 2023). The focus of the OPRC's rule making is on 'providing architectural coherence and integration' (Vos 2023) between private and non-court providers of dispute resolution services and the courts and tribunals. This would be achieved, Vos argued, through the process of both i.) dictating high-level standards for the dispute resolution processes within the OPRC's remit and ii.) setting common technical standards for digital dispute resolution platforms,

including specifying the design of Application Programming Interfaces (APIs)[15] to support the seamless transfer of data from online information, advice and dispute resolution services to the courts (Vos 2023).

This vision has been elaborated on in a series of judicial speeches. Sir Colin Birss, the then Deputy Head of Civil Justice, has emphasised the break with the past represented by these new proposals. In a lecture given to the Competition Law Association in 2023, Birss stated definitively that the aim is no longer to create a single digital 'front door' to the courts, supported by a state-run 'interactive triage' system for different legal issues[16]. In explaining the rationale for this, he argued that: 'no matter how sophisticated a system government may be tempted to build, with decision trees and the like, the effort required to produce these sort of detailed questions, for all but the commonest kinds of cases, is unlikely to be cost effective' (Birss 2023.) Instead, routes into the court system would be designed by specialist organisations in the private and not-for-profit sectors, distributing the expertise and the expensive burden of maintenance away from 'centralised, state-controlled system' (Birss 2023). This approach, Birss argued, would create a 'win-win' for the justice system: 'well-designed specialist portals for particular areas and a generalist court and tribunal system to which they can connect if need be' (Birss 2023). Birss concluded: 'The whole justice system as it exists today… is already a public private partnership of the most proper kind. The digital justice system of tomorrow can and should become one too' (Birss 2023).

An engagement document, published by the OPRC (2025a), summarised the key features of this new approach to delivering: 'pre-court digital justice':

- ***The state sets the standards, not the infrastructure.*** Rather than HMCTS constructing a single, expensive digital portal, the OPRC will specify high-level standards and a shared data standard, adherence with which may in due course enable private and not-for-profit providers to secure API access to HMCTS services. This will allow private and not-for-profit organisations to build their own digital triage and dispute resolution services that plug seamlessly into the court service, to transfer cases to the courts where earlier resolution cannot be achieved. In effect, the cost of updating and maintaining these services will therefore fall to private sector providers, not the taxpayer, although the funding allocation is not specifically stated in the document itself.

[15] An Application Programming Interface (API) is a set of rules or protocols enabling software applications to communicate with each other to exchange data, features and functionality.

[16] 'Now you might think that part of the solution to many of these problems is what has been called in the past "a single point of entry". If only there was a single place – a single website let's say – maybe run by the Government – to which everyone could go and it would ask them what their problem was and tell them authoritatively where they needed to go and what to do. And at one stage our thinking was centred around a set up like this. And something like that looks like that may still have a role to play. However, it does raise some difficulties and the point of this address is to explain why a data standards approach offers advantages.' (Birss 2023)

- ***A connected journey, not a set of dead ends***. The aim is that the data standard will eventually span the entire justice journey – from services providing early legal information and advice through to dispute resolution services and the courts – with the intention, in principle, that a person's information could follow them through the system without needing to be re-entered. Providers are expected (though not yet formally required) to establish protocols for sharing and referring cases, which could reduce two acknowledged challenges for litigants: referral fatigue and the need to repeat their information.

Both the proposals and this new approach appear to have drawn inspiration from Open Banking – an initiative which required financial institutions to adopt common data standards and APIs to enable customers to move seamlessly between banks, budgeting apps and payment services[17] (Byrom 2025). However, unlike the Open Banking regime – which created the Open Banking Implementation Entity[18] with the power to mandate adoption the data and technical standards developed to support Open Banking – the OPRC has no powers to monitor or enforce the standards it sets (see Table 1 below which compares key elements of the Open Banking regime with the proposals for the new pre-court digital justice regime).

Table 1. Comparison of the key features of the Open Banking initiative with the features of the pre-court digital justice system

	UK Open Banking	Digital Justice
Scope of data to be shared	Limited – reference data and transaction data	Potentially extensive, including personal and case level data
Data to be shared specified in legislation?	Yes – in the Payment Services Directive 2	No
Oversight entity	Initially the Open Banking Implementation Entity	The Online Procedure Rule Committee
Powers to mandate adoption of the data standard awarded to oversight entity?	Yes	No – guidance only
Staffing of oversight entity	Over 100 staff	Committee of 6 members plus volunteer sub-groups
Resourcing	Up to £47m per annum, provided by industry	£10,000 per annum provided by the MoJ to support the operation of the

[17] For a detailed comparison of the two schemes please see Byrom (2025).

[18] The Open Banking Implementation Entity (OBIE) was created to 'agree, consult upon, implement and make widely available without charge open and common banking standards' for the reference and transaction data specified in the Retail Banking Market Investigation Order 2017. The OBIE was established as an independent company, Open Banking Limited, funded by the nine largest UK banks and was originally overseen by the Competition and Markets Authority. From its inception, the OBIE employed over one-hundred staff and had a multi-million pound annual budget, collected from industry. The OBIE was required to establish a roadmap to secure the successful initial implementation of the 2017 Order in the UK by 2020.

		OPRC, plus unspecified funds from the HMCTS Reform Programme[19]
Market of providers needed to adopt the common data standard	Concentrated – 9 banks with over 90% market share	Fragmented – over 9,600 firms plus 80 approved ADR providers and 20 Ombudsmen schemes
Regulator to guard against misuse of APIs	Financial Conduct Authority, ICO	Not currently specified

The mechanism through which the OPRC can encourage compliance with the standards it creates is described at Section 24 of the Judicial Review and Courts Act 2022[20], which explains that rules made by the OPRC that either:

- enable online dispute resolution services to access to APIs to transfer information to the courts or tribunals, or;
- enable the behaviour of parties using an online dispute resolution service to be considered by the courts and tribunals,

may be expressed so that 'their application in relation to a particular service depends on things done by a particular person from time to time'. Section 24(3) gives two specific examples, stating that: '(3) The Rules may, for example, refer to such services as – (a) appear from time to time in a list published by a particular person, or (b) are from time to time certified by a particular person as complying with particular standards'. The explanatory notes make clear that the OPRC does not itself compile or maintain the list, nor does it necessarily accredit providers directly – it can simply write rules that defer to an externally published list or certification scheme run by an unspecified 'particular person'. No procedure for designating this 'particular person' is set out in the Act or explanatory notes (UK Parliament 2022: Explanatory Notes, para 287).

The Act is similarly silent on how compliance with the standards and rules set by the OPRC will be enforced. In an event at The Law Society launching the OPRC's work, Lord Justice Birss stressed that the history of technology showed that standards for interoperability can achieve momentum without being enforced: 'a data standard will become mandatory because if I don't use it, I won't be able to connect to the courts' (Cross 2025b). Whether this is sufficient incentive to encourage compliance for services whose business model is often predicated on resolving disputes pre-court remains to be seen. An official summary of stakeholder responses to the OPRC engagement document, published in October 2025, emphasised the importance of creating strong monitoring mechanisms, warning that, without sufficient accountability, 'frameworks risk becoming aspirational rather than operational' (OPRC 2025b). In July 2026, a statement published by the OPRC confirmed that standards developed by the committee for the pre-court space would have the status of voluntary guidance only. The development of APIs to support private

[19] Figure derived from MoJ (2021:3).

[20] See https://www.legislation.gov.uk/ukpga/2022/35/section/24

providers to connect to the courts, and standards for accessing these APIs will be developed separately by HMCTS.

Recommendation

HMCTS should not connect private or third-sector tools to the courts without published quality standards, monitoring and enforcement – The MoJ should work with stakeholders, regulators and standards bodies to develop quality standards for private and third-sector online information, advice and dispute resolution tools. Existing tools should not be connected to the courts without meeting these quality standards, and without ongoing monitoring and enforcement by a specified regulator once connected. As with Open Banking, once developed, these standards and arrangements should be enshrined in legislation that specifies i.) what data must be shared and ii.) a named regulator responsible for guarding against misuse of the Application Programming Interfaces (APIs) connecting providers to the courts – neither currently exists.

From build to buy? HMCTS's approach to AI

As described above, leaders of the HMCTS Reform Programme repeatedly expressed a clear strategic preference for building the digital infrastructure underpinning new services in-house, albeit with the support of different suppliers (Anbil 2020). A 2020 blog from HMCTS's then head of Digital Architecture and Cyber Security function, Balaji Anbil, explicitly rejected reliance on 'pre-built standard off the shelf software packages' (Anbil 2020). Instead, open-source, vendor-neutral development was presented as a choice that was both principled and pragmatic: it would avoid vendor lock-in[21] and offer 'the potential to fundamentally change our cost base' (Anbil 2020).

Five years on, and in the specific context of AI, communications emphasise a substantial reversal in this approach. The MoJ's AI Action Plan for Justice (MoJ AI Action Plan), published in July 2025, set out a three-year plan aimed to secure 'proportionate AI adoption across courts, tribunals, prisons, probation and supporting services' (MoJ 2025). The MoJ AI Action Plan stated the intention to embed AI 'across citizen-facing, operational and enabling functions alike', adopting a 'Scan, Pilot, Scale' approach to identify the most promising use cases for the technology. Tools would be both built and bought, and solutions would be delivered in collaboration with the private sector, with emphasis placed on 'procuring smartly' from the AI ecosystem of multinational companies and UK start-ups. The MoJ AI Action Plan committed to rolling out AI assistants that are not specifically designed for justice contexts, including Microsoft 365 Copilot and ChatGPT Enterprise, to all 90,000 staff members. In doing so, the MoJ became the: 'first UK government department to pilot ChatGPT enterprise' (AI Magazine 2025). Microsoft Azure OpenAI Services have also been used to create GenAI-based knowledge retrieval assistants for HMCTS staff, trained on operational procedures and guidance documents (PA Consulting 2025).

Commercially produced tools have also been made available to the judiciary. Sir Colin Birss, now[22] both Chancellor of the High Court and Lead Judge for AI, has confirmed that judges in England and Wales now have access to AI systems developed through 'collaboration between the judiciary, the Judicial Office, His Majesty's Courts and Tribunals Service (HMCTS) and the Ministry of Justice's AI

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[21] This principled resistance to vendor lock-in reflected established good practice across government. In 2014, the then government Chief Technical Officer Liam Maxwell framed procurement reform as essential to support open competition, warning that reliance on a handful of large suppliers risked 'locking out innovation' (du Preez 2014). This shift in government agencies' own justificatory language has itself become the subject of empirical study: a content analysis of European government decisions to switch away from de facto technology standards finds that switches were once justified primarily on cost and vendor lock-in, but that from around 2020 onwards they increasingly invoke sovereignty and geopolitical risk instead (Sarkar 2026).

[22] Sir Colin Birss will become the Master of the Rolls in November 2026, following the retirement of Sir Geoffrey Vos.

unit', resulting in the availability of 'a secure form of the Microsoft Copilot system… to all judges in England and Wales' alongside a secure system based on in-house development (Birss 2026: paras 11–13). These systems, Birss continued, could prove useful in helping judges to anonymise judgments, complete administrative tasks and 'identify internal inconsistencies in judgments' (Birss 2026: para 13). Birss concluded that he had found deploying AI for this purpose to be 'remarkably effective', further stating that he had 'clarified wording in draft judgments as a result' (Birss 2026: para 13). In April 2026, The Observer reported that judges in immigration tribunals have been given permission to use their secure version of Copilot to prepare for hearings, produce summaries of bundles and case outlines, generate skeleton judgments and check their decisions (Tapper 2026). While judges are warned that they should not use Copilot for legal analysis, one of the officially approved prompts for Copilot in the training materials is labelled 'critical analysis'. The Observer reports that the prompt reads: '*Review this decision against the summary of the evidence and submissions above, identify any grammatical or typographic errors, and comment on how fully the decision addresses matters raised in the evidence and submissions, identifying any omissions.*' The Observer concluded that the distinction between critical analysis and legal analysis is 'not obvious' and, further, that the prompt 'may invite the AI to cross the line from summarising and error checking into doing cognitive work on behalf of the judge' (Tapper 2026).

Recommendation

The Lady Chief Justice should review and publish officially approved prompt templates in judicial training materials – to ensure that prompt templates provided to the judiciary do not risk crossing into 'legal analysis' – a use case that existing judicial guidance does not recommend.

This pattern of licensing commercial AI infrastructure, rather than building it, now extends even to HMCTS's own internal software engineering function. In October 2025, Microsoft published a case study describing how HMCTS worked with external supplier Kainos to overhaul the developer platform used by its approximately 700 internal software engineers (Microsoft 2025). While the resulting platform was designed to meet HMCTS's specific needs, every technical component underpinning the platform is a licensed Microsoft product: Azure cloud infrastructure, GitHub, GitHub Copilot, Azure OpenAI, Azure AI Search, CosmosDB and Azure AI Foundry (Microsoft 2025). What HMCTS and Kainos have built, in other words, is an application layer – the specific configuration, workflow and business logic – assembled entirely on top of a proprietary, licensed foundation, delivered by an external commercial supplier rather than HMCTS's own staff. This is a materially different model from the open-source, vendor-neutral approach Anbil described in 2020, even though the language of 'building' a platform has been retained.

The dependency of the public sector on a small number of technology providers for the delivery of public services has been recognised as an 'acute challenge' for the public sector (House of Commons Science, Innovation and Technology Committee 2026). Microsoft in particular has attracted criticism – in March 2026 the Competition and Markets Authority (CMA) launched a strategic market status investigation into Microsoft's business software ecosystem (including Copilot), following the conclusion of a previous investigation into competition in the cloud market which raised 'major concerns' about Microsoft's use of software licensing to maintain market power in cloud services (CMA 2026b). A press release accompanying the announcement of the investigation stated that the embedding of 'advanced AI, including assistants and emerging agentic technologies into familiar workplace tools means this is a pivotal moment for the sector' with significant implications for 'productivity, competitiveness and value for money' (CMA 2026b). A recent inquiry by the House of Commons Science, Innovation and Technology Committee into digital government, concluded that: 'the public sector's dependence on AWS and Microsoft's cloud products undermines fair competition, fails to deliver value for money, can prevent domestic alternatives from scaling and – when outages occur – exposes a lack of resilience' (House of Commons Science, Innovation and Technology Committee 2026). The committee further concluded that the public sector's dependence on a small number of large technology providers 'does not automatically lead to better delivery of public services or better use of public money' (House of Commons Science, Innovation and Technology Committee 2026: para 106). In the context of justice specifically, a recent Nuffield-funded evidence scoping review of the use of AI in administrative, civil and family justice settings in the UK concluded that: 'dependence on proprietary systems is among the most consequential and least reversible choices currently being made' (Sargeant 2026:84).

Stakeholders have also raised concerns about the dependence of the UK public sector on the US AI ecosystem. In a recent blog, the Ada Lovelace Institute highlighted the 'parasitic' nature of the UK's domestic AI sector, stating that 'none of the leading AI foundation models are trained in the UK, and UK-based AI companies remain deeply reliant on US capital and infrastructure (Davies 2026). The Ada Lovelace Institute argues that this reliance represents at best a 'business continuity risk' and at worst 'a glaring strategic weakness' in the context of ongoing geopolitical uncertainty. The House of Commons Science and Technology Committee concluded that the UK's reliance on a small number of US-based providers for digital infrastructure and public services delivery is a 'strategic and economic vulnerability', stating further that: 'the government's digital infrastructure and public service delivery could be derailed at any time by a decision taken outside our shores based on the narrow interests of a foreign commercial or state actor' (House of Commons Science, Innovation and Technology Committee 2026). As part of a raft of measures designed to address this risk, the committee recommended that government should provide targeted support for start-ups in strategic sectors and update the

Procurement Act 2023 to require public sector bodies to 'prioritise open-source tools and technology over proprietary offerings' (House of Commons Science, Innovation and Technology Committee 2026).

Recommendation

The MoJ and HMCTS should assess vendor lock-in and sovereignty risk before further embedding proprietary AI – The MoJ should reduce dependence on a small number of foreign AI developers. It should also adopt AI more selectively, favouring open and interoperable infrastructure. Where frontier capability is genuinely needed, the MoJ should attach firmer conditions to access, including interoperability standards, guaranteed retention of IP and data generated, and preferential long-term access terms. More widely, the UK government should scale up in-house capability such as i.AI to avoid public sector lock-in. A What Works Centre for AI in Public Services, as proposed by the Ada Lovelace Institute (Parker and Carter 2025), could support smarter adoption and procurement, and enable government departments, including the MoJ, to extract fairer value from public sector AI partnerships.

3. The 'delegated by default' approach: Questions and risks

Sections 1–3 of this report have explained how justice-system leaders have turned to technology that is privately built, owned and managed to address structural problems that have not been resolved by the HMCTS Reform Programme. This new 'delegated by default' approach seeks to harness proprietary private sector technology through:

i.) ***Incentivising*** private sector providers of consumer-facing specialist online information, advice and dispute resolution tools to adhere to standards and connect to the courts;
ii.) ***Procuring*** tools designed, built and managed by the private sector and deploying them within justice-system agencies; and,
iii.) ***Building*** justice-system-specific application interfaces on top of proprietary, licensed tools and models[23], integrating these tools with specific workflows and connecting them to curated data.

This section explores the questions and risks raised by this approach in the specific context of the family justice system.

Key point 1: Can the market deliver tools and services that match need?

As outlined above, the OPRC aims to increase access to justice through joining up existing provision of online legal information, advice and dispute resolution. However, successive research studies have concluded that the online information and advice that is currently available does not meet the needs of litigants in the family justice system, especially those who cannot afford to access legal representation. Barlow et al. (2017) reported that since the introduction of the Legal Aid, Sentencing and Punishment of Offenders Act in 2013, the volume of online information and advice

[23] E.g JUSTICE Transcribe. Sargeant (2026) has noted issues with transparency relating to the models underpinning the tools that are deployed across the civil and family justice system. A recent review mapped 45 tools currently operating in the justice system, of which 27 are live. Across those 45 tools, Sargeant notes: 'Thirteen tools disclose the type of AI models they are built from, 11 of which are built on proprietary general-purpose LLMs, such as OpenAI's GPT family or Microsoft's Copilot; only 2 are built on open-source LLM architectures. A further 26 tools do not disclose the specific model used, and 6 are explicitly built with non-disclosed proprietary AI.' (Sargeant 2026:24)

for separating families had increased 'exponentially', but that much of this content was of variable quality and provided by unregulated providers who would sometimes exploit asymmetries of knowledge to mislead potential clients about their professional status (Barlow et al. 2017). In 2020, the Family Solutions Group, a sub-group of the Private Law Working Group, called on the government to create an 'overarching authoritative central website' providing 'clear unambiguous information' to separating families: creating a 'one-stop-shop' for all parents, children and professionals who support them. The website, it was argued, could then link out to 'other suitable kitemarked services and organisations' (Family Solutions Group 2020). The Family Solutions Group further argued that such a website would need 'adequate long-term (government) funding to ensure it remains relevant and accurate' – tacit acknowledgement that the market had struggled to produce and sustain initiatives of this kind.

Government has repeatedly stepped in to correct the failure of the market to deliver online information and advice for separating parents and children – with mixed results

Government has, to date, responded to the failure of the market to produce online information and advice that meets the needs of separating parents and children through i.) awarding grants to not-for-profit organisations that provide high-quality resources and ii.) experimenting with building their own tools and services. The importance of public funding in upholding the ecosystem of trustworthy online information was highlighted in 2023 when the cessation of a government grant threatened the continuing existence of Advicenow, a national, not-for-profit provider of online information and advice (Fouzder 2023). In 2020, Cafcass, the independent public body responsible for advising the family courts on what is in the best interests of individual children during legal proceedings, launched its own free, online resource: the Cafcass Co-Parent Hub. Created jointly with the MoJ and OnePlusOne, the hub brought together information, programmes and tools, including a digital tool to support parents to map co-parenting arrangements (Benson 2020). Although professional users were positive about the hub (Benson 2020), the Family Solutions Group argued that the tool, while helpful, fell short of the 'overarching authoritative website' that was needed (Family Solutions Group 2020). As described above, the MoJ has also created its own online tools to support separating parents to agree arrangements in respect of their children, hosted on GOV.UK. In 2020 the MoJ piloted and conducted a limited evaluation of a Child Arrangements Information chatbot (Sargeant 2026). However, the low continuation rate and poor user feedback suggested that the tool, in its proof-of-concept form, did not meet expectations, and it was discontinued. In 2025 the Solicitors Journal reported that the MoJ had been working with the cross-government Accelerated Capability Environment (ACE) for two years to develop online solutions that addressed three key 'pain points' for separating parents: 'finding trustworthy information, getting information at the right time and receiving information that was relevant to their

personal circumstances' – something existing provision had failed to deliver (Solicitors Journal 2025). The MoJ's collaboration with ACE resulted in the creation of two new tools: a retrieval augmented GenAI chatbot and a self-help Child Arrangements Plan tool, which aimed to reduce and resolve parental conflict pre-court. The Solicitors Journal reported that the tool was in private Beta, with 17 new users and a 36% completion rate. However, the original case study listed on GOV.UK was withdrawn with GOV.UK's own note reading: 'removed because it was published in error… we will publish it again when a new version is ready'. This tool represents the fourth attempt by government in six years to deliver an effective online information, advice and triage tool in a narrow area of family law – arguably indicating the scale of the challenge this presents – even where there is no commercial pressure to generate a profit from the solution or establish a sustainable business model to ensure it remains in operation.

Recommendation

HMCTS and the MoJ should publish evaluations of previous and existing government-backed tools – to ensure that new tools do not replicate previous issues.

The market struggles to deliver sustainable, high-quality, pre-court online dispute resolution services for family justice

In relation to pre-court online dispute resolution in family justice, there is evidence to suggest that the market struggles to deliver sustainable, high-quality services. As stated in the introduction to this report, the LawtechUK ecosystem tracker lists only eight companies who provide services in family law: one of which provides AI-powered legal information and document review for a range of areas including family law[24], and three of which could plausibly be described as providing pre-court online dispute resolution services. Octopus energy acquired an 80% stake in the best known of these companies, amicable, in 2023. While amicable's turnover has grown significantly since this acquisition, so have its losses (E-Negotiation Ltd 2023a, 2023b, 2025). In the year to 2025, amicable's marketing and advertising expenditure was equivalent to nearly 45% of the company's turnover – suggesting that the cost of acquiring customers has not yet diminished with scale. The cumulative effect is that the company's balance sheet moved from net assets of £83,000 in August 2023 to net liabilities of £2.33 million by April 2025, meaning it is now balance-sheet insolvent and continues to trade only on the strength of a statutory parental guarantee from Octopus Group Holdings Limited. While a single company's accounts cannot establish a market-wide pattern, amicable's trajectory is at a minimum consistent with the view that direct-to-consumer online divorce services face structural difficulties converting user growth into sustainable margins, even where (as here) the provider benefits from an established brand, a favourable High Court ruling (Rose 2023) and the resources of a well-capitalised parent group[25]. None of the four companies listed as providing services in family law are regulated under the Legal Services Act 2007, and it does not appear that the LawtechUK ecosystem tracker applies any form of quality filter to the tools and firms it features: one of the companies listed is the same service that prompted an inquiry from the Competitions and Markets Authority into unregulated legal services, after concerns were raised that it was misleading consumers (see Appendix C).

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[24] https://www.unwildered.co.uk/how-it-works; note: Unwildered states that their AI legal assistant is trained on 10,000 cases and markets itself as 'the best AI legal assistant for law' in England and Wales. However it does not disclose the model that it uses or the origins of its data. When asked a simple question about the divorce process in England and Wales, it cited the wrong application fee (see Appendix D).

[25] In August 2026, amicable applied for an Alternative Business Structure license, to enable the company to set up its own law firm to: "handle the reserved activities amicable currently has to outsource to solicitors" (Rose 2026b).

Recommendation

The MoJ should require LawtechUK to review the list of companies published on the LawtechUK tracker and include quality and evidence standards for those that are listed – at present the tracker does not apply any quality filter – listing a firm whose practices previously triggered a CMA inquiry into misleading consumers. The tracker should be developed to list information regarding intended purpose, target population, accuracy, evidence of efficacy, and conformity to existing data protection, privacy and accessibility standards (mirroring the information provided for digital health tools by ORCHA).

There is a mismatch between need and provision

Beyond these concerns, there remains a question as to whether specialist online information, advice and dispute resolution services can meet the specific needs of the litigants in person who currently appear in the family court. Research conducted by Nuffield Family Justice Observatory (Nuffield FJO) (Saied-Tessler 2023) suggests that the population of litigants in person in the family court has characteristics that mean that digital self-service models of information, advice and dispute resolution may be structurally unsuited to their needs, a concern that is distinct from and additional to the question of whether they can afford to pay for them. A 2023 Nuffield FJO evidence review underlined the vulnerabilities of adults in private family law proceedings, stating that litigants in person are more likely to live in the most deprived areas and experience mental ill-health, domestic abuse, substance misuse and self-harm. They may also struggle with low levels of literacy or experience language barriers. Trinder at al. (2014) notes explicitly that these vulnerabilities serve to 'increase the challenges of the case (legal and procedural)'. It is not at all clear that self-service digital models are equipped to ameliorate these challenges – nor is it clear that the business case for investment in these models has been tested against accurate data about who the litigant-in-person population actually is.

Recommendation

The HMCTS and the MoJ should design future reforms around vulnerable users – litigants in person facing deprivation, domestic abuse, mental ill-health, low literacy, substance misuse or language barriers – digital self-service tools should not be assumed to meet their needs. Where digital self-service tools are contemplated, the MoJ and HMCTS should require that the business case is evidence based. To the extent that the rationale for investing in digital self-service tools rests on an assumption that the adoption of these tools will free up in-person resource and capacity for vulnerable litigants this should be modelled using data about the existing system's actual user base. Without this, there is a risk that the proportion of users able to self-serve digitally may be smaller than assumed, meaning too few are diverted to meaningfully free up resources and physical capacity.

Key point 2: Can users find them – and can they compete with free general-purpose AI?

The MoJ's Legal Problem and Resolution Survey published in 2024 (Ames at al. 2024), found that of the 44% of people who used self-obtained help to resolve their problem[26], 14% used internet sites, 13% used GOV.UK and 6% used social media. Successive research studies have highlighted issues with the discoverability of existing online legal information and advice. Search engines play a key role in information discovery: in the UK in early 2025, Google accounted for more than 90% of all general search queries, leading the CMA to designate Google with Strategic Market Status (SMS)[27] in general search and search advertising services under the new digital markets competition regime[28].

Accordingly, to date, search engines have played a crucial role in mediating access to legal information, advice and dispute resolution (Balmer et al. 2010, Denvir et al. 2011, Barlow et al. 2017). The role of search engines as the de facto 'main portal' (Hagan 2016) to online legal information, advice and dispute resolution services has created significant problems for the people who attempt to use them in this way. First, the way in which search engines index content means that they do not always display prominently legal content that is up to date, freely accessible, applicable to the user's situation and from the correct jurisdiction (Hagan 2016, Denvir et al. 2011). Secondly, the quality and relevance of the results returned is dependent on the ability of users to frame their searches effectively. This is problematic because successive studies have shown that people often fail to recognise the legal dimensions of problems they are experiencing or identify when a difficulty they experience may admit of a legal solution (Genn 1999, 2025). In the MoJ Legal Problem and Resolution Survey (Ames et al. 2024) only 23% of respondents recognised a family law problem they were experiencing as legal from the outset. Thirdly, people struggle to assess the credibility of the sources of information they do access (Barlow et al. 2017), or identify free, high-quality sources of advice if these do not appear in the first listings returned by the search engine (Hagan 2016). Writing on this issue, Hagan (2016) states: 'many users cannot (or do not) easily parse through search results to find "quality" or "public service" sites of legal information. Many users are not aware of the importance of jurisdiction-specific legal information. If they find information that seems trustworthy, they take it as useful and stop their

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[26] The survey states that: 20% reported seeking help from family or friends, 12% sought help from those on the other side of the problem, and 3% used a leaflet, book or self-help guide – the total sums to more than 44% because respondents could select more than one option. The results of the survey are silent on the sequencing of this help-seeking. In family law specifically, for 23% of respondents, self-help was the most formal source of advice obtained.

[27] To designate a firm with SMS the Competition and Markets Authority must decide that it has substantial and entrenched market power and a position of strategic significance in digital activity.

[28] See https://www.gov.uk/government/news/cma-confirms-google-has-strategic-market-status-in-search-services

search there'. Growing evidence suggests that the advent of GenAI tools may make high-quality information harder to find using traditional search engines. Researchers have raised concerns that the sheer volume of AI-generated content[29] flooding the internet risks displacing other content in algorithmic ranking or otherwise diluting the relative visibility of accurate information. In the context of online legal information and advice, the proliferation of poor quality, AI-generated material designed to maximise engagement risks compounding the existing challenges faced by litigants when attempting to identify content that is accurate and helpful.

Existing initiatives to help users find online legal support are undermined by the growing popularity of GenAI tools for search

Researchers, civil society and government are increasingly attuned to these issues and the potential consequences for the online information environment. Since 2017, the preferred proposed solution has been to host content on GOV.UK. The Legal Support Action Plan, published in February 2019, announced a pilot to explore how online legal support could be better coordinated and signposted – culminating in the development of a guided pathway tool for housing disrepair cases hosted on GOV.UK (MoJ 2019). As outlined above, in the context of family justice specifically, the MoJ has invested in building guided pathway-based[30] tools for separating parents navigating child arrangements. This is a sensible approach for two reasons. First, Google's own account of its ranking system names 'quality' as one of five ranking signals, determining how high in the list of results a given website appears (Google, n.d.). One of the factors used to determine quality is whether other prominent websites link or refer to the content. Government pages attract disproportionately high volumes of backlinks, with the consequence that search engines rank content hosted on GOV.UK above other content (Government Digital Service 2012). Consequently, online legal information, advice and dispute resolution services listed or hosted on GOV.UK are more likely to appear higher in search results, which makes it more likely (per Hagan 2016) that people will access them. Secondly, the GOV.UK domain is recognised by users as the official website of the UK government. Research has demonstrated that people seeking legal help online look to official markers to know that information is authoritative: a study in the US (Hagan 2016) identified a preference among users for 'official information sources that are affiliated with the government or the courts'. Awareness of the official, authoritative nature of GOV.UK makes it more likely that users will select webpages hosted on GOV.UK from search results. As the MoJ Legal Problem and Resolution Survey (Ames et al. 2024) notes: '*The GOV.UK website is well-known as a source of*

[29] Researchers have used the term 'AI Slop' to refer to high-volume content produced by GenAI that is generic, poor quality, misleading, and optimised for engagement (Weedon et al. 2026, Shaib et al. 2025)

[30] A **guided pathway tool** is a free interactive digital questionnaire that helps users complete complex forms, draft documents, and navigate multi-step administrative or legal procedures

advice and was used by more than one in eight (13%), highlighting its potential as a critical source of information and signpost to other forms of help and support.'

The advent of free-to-access, general-purpose generative AI tools based on LLMs like Claude and ChatGPT (referred to as 'GenAI tools' in this report), and their growing popularity as an instrument for online search among millennials and Gen Z (YouGov 2026), threatens to undermine existing attempts to improve access to online legal information, advice and dispute resolution services. YouGov research, conducted in April–July 2026 surveyed a representative sample of UK adults about their online search behaviour. YouGov found that while search engines like Google remain the dominant information discovery mechanism used, 58% of people now start at least some queries with AI. Over one-fifth (21%) of adults now start with an AI tool when asking a specific question online. Adoption varies across age groups: 23% of Millennials and 25% of Gen Z start new queries with AI at least once per day. As such, the population now arriving at the typical age of marital breakdown[31] in England and Wales is the first for which AI tools, rather than search engines, are the default starting point for self-directed research.

GenAI tools, including AI Overviews, are less likely to return government or educational sites

An emerging body of research suggests that using GenAI tools for search may make it harder for people to access high-quality legal information and advice. In one recent study conducted by Grossman et al. (2026), researchers built a benchmark of 11,500 real-world queries and compared what three systems retrieved for the same query – traditional Google Search Results, Google's AI Overview and Gemini 2.5 Flash. They measured the extent of similarity between the retrieved sources, the types of websites favoured by each tool and the consistency of each system (in terms of retrieving the same results over time). The study found that the three systems retrieved almost entirely different sources (despite all being built by Google) with Google's AI Overview and Gemini sources being the least similar of any pairing. Concerningly, in the context of legal information and advice seeking, the study found that generative systems were *significantly less likely to cite popular, government or educational domains than traditional search*, and more likely to *surface Google-owned content (e.g. YouTube)*. The study also found that generative search is both inconsistent and fragile – rerunning the same query gives different results and AI Overviews are much more vulnerable than traditional search to trivial query rewording.

[31] ONS (2019) 45 for men and 42 for women.

The ‘zero click’ phenomenon harms advice seekers and degrades the information ecosystem

The introduction of Google’s AI Overview creates additional challenges for online advice seeking. Stakeholders have raised concerns that the positioning of the tool at the top of Google’s search interface may result in users relying on inaccurate information and lead to a disintermediation or ‘zero click’ phenomenon, reducing traffic to reputable sites (Lefley and Meers 2026; see also more widely Khosravi and Yoganarasimhan 2026). Similar concerns have been raised in the context of online health information seeking, where charities have argued that the ‘zero click’ approach poses a risk to health outcomes by disrupting access to high-quality sources of help (Patient Information Forum 2025). An investigation published by The Guardian in January 2026 found that people were being put at risk of harm by ‘false and misleading medical information’ contained within Google’s AI summaries (Gregory 2026). Non-profit providers of online legal information and advice (Advicenow 2025) have called on the government to follow the example set by the NHS and charities working in the health sector, who have collaborated on a strategy to address these concerns (Patient Information Forum 2025). Recommendations arising from this work include asking Google to suspend AI summaries on health topics in the UK until accuracy and safety issues are resolved, agreeing a framework for the verification of trusted health information in the UK, and asking Google to prioritise verified UK-based sources in its AI Overview (Patient Information Forum 2025). However, identifying effective approaches to ensuring that reputable sources appear in generative search results is a non-trivial task. Researchers have found while some companies now offer Generative Engine Optimisation services to actors seeking to increase their presence as cited sources in generative search results, the efficacy of these services is contested (Puerto et al. 2025).

Academics have argued that the growing adoption of GenAI tools for search is creating a vicious cycle that is degrading the quality of information retrieved by these tools (Spina and McKay 2026). The ‘zero click’ phenomenon described above means that a growing number of websites now block ‘AI crawlers’ – tools that technologically examine websites to train models and generate answers in AI overviews and tools. Site owners may decide to block AI crawlers for normative or economic reasons; AI crawlers generate costs for website operators in terms of bandwidth and computing power, and the ‘zero click’ phenomenon reported above means that operators are not compensated through increased traffic to their content. High-quality websites are more likely than low-quality sites to block AI crawlers, meaning that GenAI tools (and by extension users) are forced to rely more heavily on lower quality sites that don’t block crawling, including those built using AI-generated content.

Recommendation

The MoJ should learn from initiatives that are being developed across sectors to address the impact of Google's AI Overview on access to high-quality sources of legal information and advice. Following the conclusion of this review, they should urgently develop and publish their own approach.

Recommendation

The MoJ should build or commission trusted, publicly funded advice tools – hosted on or signposted from GOV.UK, continuing the MoJ/Accelerated Capability Environment (ACE) work, with long-term funding rather than pilot-and-discontinue cycles. The MoJ should consult with the FCA who are considering a range of approaches to delivering and resourcing a trusted public-interest AI enabled financial capability service

Free GenAI tools are already capturing the attention of litigants in family proceedings

As Sargeant (2026) has observed, there is a dearth of robust longitudinal evidence in England and Wales quantifying whether, when and how people use GenAI tools to access legal information and advice. However, as described above, a growing body of anecdotal evidence supported by limited cross-sectional studies suggests that unrepresented litigants are relying on GenAI tools to prepare for and participate in court proceedings, with varying results (Hyde 2026a). The appeal of GenAI tools for individuals seeking legal information is easy to understand. GenAI tools offer free, near instant access to cleanly formatted, seemingly authoritative content. Users can frame their queries in plain language. The information they receive is tailored to the specific circumstances given by the user and delivered in plain language – users can prompt GenAI tools to simplify the way that concepts are described if they don't understand them. GenAI tools also suggest next steps for users, which can include offering to complete court forms and draft legal documents, despite disclaimers that they do not offer legal advice. In terms of the tone in which the advice they provide is delivered, GenAI tools are designed to respond to users in a supportive and affirming manner. They also can converse in multiple languages and translate documents. Hagan (2024), reporting on the findings of a small-scale study into how people facing a civil legal problem would use GenAI tools to respond, concluded that the study's participants: 'indicated a general enthusiasm and optimism around how AI can help them understand the law, protect themselves and feel a sense of control and dignity' (Hagan 2024). A recent study, conducted by JUSTICE and the Administrative Fairness Lab estimated that up to one in six people had used an AI chatbot to access

information and advice about their legal rights and options over the past two years[32] (Lefley and Meers 2026). In family law, in the context of both the dearth of affordable legal advice and representation and persistent issues with accessing and navigating non-AI-based online self-help, senior judges have described it as 'entirely understandable that litigants in person should resort to artificial intelligence' (*Re D (A Child) (Recusal)* [2025] EWCA Civ 1570)[33]. A survey of lay people's willingness to generate legal advice using LLMs (Seabrooke et al. 2024) reported that 39% of respondents would be somewhat or extremely likely to consult an LLM for legal advice in relation to their divorce.

What are the risks of litigants in person using general-purpose GenAI tools for legal information and advice?

As described above, GenAI tools seemingly respond to many of the deficiencies in the online legal information ecosystem – providing personalised, actionable advice that static websites cannot deliver. However, a growing body of evidence highlights the risks facing users who rely on them for legal information and advice. These risks are most acute for litigants in person, and compound for those with the combination of characteristics and vulnerabilities that are overrepresented in the population of litigants in person found in private family law proceedings. Two key categories of risk relate to i.) inaccuracy and ii.) sycophancy.

Inaccuracy: General-purpose GenAI tools frequently get the law wrong

Sargeant (2026) reviewed the existing literature on the risks of the public using GenAI tools in UK legal settings. Her review identified five studies that reported problems with the accuracy of responses provided by GenAI tools. Common issues reported included hallucinations (where the GenAI tools invented cases or statutory provisions that did not exist). A study by Curran et al. (2025) compared hallucination rates across three models (Claude, GPT-4 and Gemini) and three jurisdictions (Los Angeles, London and Sydney) using place agnostic legal scenarios sourced from Reddit. The study reported that for legal questions based in London the hallucination rate was 0.55 – meaning that in 55% of cases the model's response was either

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[32] The same study reported that chatbot users are less likely to have used a solicitor (33.9% vs 44.6%), and more likely to be younger, male and employed.

[33] In this case, a mother acting in person submitted a skeleton argument (relating to a judicial recusal application) prepared with AI assistance. It contained a mix of accurate case references, misapplied authorities and citations to cases that didn't exist at all. She accepted she had used AI. Per Baker LJ at para 83: 'I absolve the mother of any intention to mislead the court. Litigants in person are in a difficult position putting forward legal arguments... It is entirely understandable that litigants in person should resort to artificial intelligence for help. Used properly and responsibly, artificial intelligence can be of assistance to litigants and lawyers when preparing cases. But it is not an authoritative or infallible body of legal knowledge.' Baker LJ also clarified that all parties – represented and unrepresented – 'owe a duty to the court to ensure that cases cited in legal argument are genuine and provide authority for the proposition advanced', while emphasising that reliance on hallucinated authorities generates real costs, since further judicial time must be spent scrutinising flawed submissions.

substantially wrong or fabricated, or mostly right but with a wrong pinpoint reference or minor added detail. For family law specific queries in London the hallucination rate across all models was 0.547. A smaller study by Ryan and Hardie (2024), testing GenAI performance on queries about English law developed from the author's pro-bono legal clinic, found that 42% of responses were too generic to be useful, 25% were wrong in law and 21% defaulted to the wrong jurisdiction. The substantive legal errors identified in this study did not relate to case law, but to reliance on outdated statutes, omission of key legal requirements or timescales, and incorrect summaries of the applicable legal regime. Sargeant (2026) describes the errors cited in the paper as: 'material, rather than superficial because they could cause litigants in person to miss limitation periods, pursue ineffective or impossible remedies, or be misdirected about enforcement'. In relation to family law and child maintenance queries, the study reported that that the GenAI tools used produced potentially misleading advice, including incorrect statements about court procedures and time limits.

The potential impact of inaccuracies in the information provided by GenAI tools is compounded by three factors: i.) the confidence and fluency with which the information is presented – a phenomenon referred to by researchers as 'epistemia' – where 'linguistic plausibility substitutes for epistemic reality' (Loru and Quattrociocchi 2025); ii.) the personalisation of the response they provide; and iii.) the inability or unwillingness[34] of users to interrogate and verify the information they receive from the tool (a phenomena referred to in the wider literature as 'automation bias'). Hagan's 2024 research, conducted in the US, found that user trust in LLM's rose (from 2.7 to 4.2 (out of 6)) after using a GenAI tool to find answers to their civil legal problem, with no matching improvement in their ability to detect errors in the responses they received. Their increased trust in the tool was therefore mediated by factors outside of the accuracy of the information they were provided with – an example of the fluency heuristic operating in a legal context. Ryan and Hardie (2024), discussing the findings of their research, explain that while GenAI tools might be 'useful for someone with some understanding of the law, who was able to review and ask appropriate follow up questions, many litigants in person have limited legal knowledge and may not appreciate the need to check the jurisdiction or source of law' (Ryan and Hardie 2024, cited in Sargeant 2026). This is of particular concern in the context of the demographic profile of users who research suggests are most likely to use GenAI tools: a representative survey published in 2020 by the Legal Services Board reported that younger people aged 18–29 were less likely to say that they understood their rights and responsibilities when their issue started – with only 62% stating that they understood their rights compared with 83% of those aged 65+ (Legal Services Board 2020). An obvious point is that the very deficiencies in the online legal information ecosystem that may drive unrepresented litigants to rely on

[34] Hagan (2024) reported that users did not want warning signs.

GenAI tools in this context, also make it difficult for them to verify the information and advice they receive from these tools.

Sycophancy: General-purpose GenAI tools tell users what they want to hear

GenAI tools are purposefully designed to be 'flattering, people-pleasing and affirming', to increase user engagement (Cheng et al. 2026). In the context of using GenAI tools to access legal information and advice, a growing body of evidence suggests that this tendency can prove toxic. An article, published in The Economist in June 2026 reported that GenAI tools are fuelling a rise in 'vibe lawyering', stating that: 'AI chatbots often encourage people to litigate, urge them not to settle and overstate their chances of winning' (The Economist 2026). A separate article published in Futurism, an online tech and science news outlet, reported on numerous cases in the US where unrepresented litigants are being encouraged by GenAI tools to flood the courts with unmeritorious claims (Harrison Dupre 2026). Lawyers interviewed in the article frame the core problem with the advice generated by GenAI tools as agreeableness, rather than hallucination, stating that: 'AI will absolutely tell you what you want to hear' – leading unrepresented litigants to submit 'incomplete, biased or even delusional claims' that have been given a veneer of legibility by GenAI tools, in cases including divorce and child custody. The themes of this reporting are increasingly corroborated by academic research. A study by Dahl et al. (2024) explored the ability of leading GenAI tools to respond accurately to legal questions in the context of US law. The research found that three out of the four models tested deferred to users' implicit assumptions even when those assumptions were wrong – accepting legally false premises and responding as if they were true.

Sycophantic models distort social judgment and discourage behavioural repair – increasing users confidence that they are 'in the right'

In the context of family justice, the implications of unrepresented parties turning to tools that are purposefully designed 'to tell users what they want to hear instead of challenging perspectives' (Cheng et al. 2026) are particularly concerning. Cheng et al. (2026) has reported on the propensity of GenAI tools, when used for advice and guidance, to 'reinforce maladaptive beliefs, reduce responsibility-taking, and discourage behavioural repair'. Across eleven AI models, Cheng et al. found that AI affirmed users' actions 49% more than crowdsourced human responses. The research identified that, across a range of contexts, AI models affirm users at a substantially higher rate than humans, including in cases involving 'deception, illegality or other harms'. Cheng et al. explored the consequences of interactions with sycophantic AI across three pre-registered studies, finding that participants who interacted with sycophantic AI became 'more convinced of their own rightness and

less willing to repair relationships'. The study found that responses from sycophantic models narrow user's focus to self-affirmation and, in doing so, 'erode social accountability and distort interpersonal judgment'. This effect persisted even when the user reported reduced trust in AI models, leading the authors to suggest that 'almost anyone can be susceptible to the effects of sycophantic AI' not just 'vulnerable populations previously identified' (Cheng et al. 2026). Concerningly, Cheng et al. reported that *even a single interaction* with a sycophantic AI increased users' confidence that 'they were right' and reduced their willingness to take responsibility or move to repair interpersonal harm. In addition, Cheng et al. found that participants rated sycophantic AI models as higher quality, more trustworthy and more desirable for future use, creating a 'self-reinforcing cycle in which the very responses that distort social judgment are those that users tend to return to and AI algorithms learn to optimise for' (Perry 2026). Further research in the context of personal and relationship advice suggests that people are more likely to report stronger intentions to act on information provided by sycophantic chatbots[35], and further, that interacting with sycophantic AI reduces satisfaction with real-world communication, making human interaction feel more effortful (Ibrahim et al. 2026a).

These findings have dramatic implications in the context of the family justice system. Family law problems are by their nature relational, and research has confirmed that both family law problems and the strategies taken to resolve them are typically driven by strong emotional motivations – including the desire for recognition and redress (Pereira et al. 2014). Successive policy initiatives going back nearly 40 years have attempted to shift the culture in the family courts from one of conflict to conciliation, particularly in cases involving children (Family Solutions Group 2020). Since the Family Justice Review 2011, policy, guidance and procedural rules have been developed with the express intent of redesigning the system to de-escalate conflict and divert parties towards conciliation. Sycophantic GenAI tools, substituting for early information and advice, sit upstream of ongoing initiatives to counteract escalatory dynamics in family disputes, and could strip them of their intended effect, by entrenching the position of parties and setting unrealistic expectations at the point at which claims are framed.

[35] Compared with challenging or neutral chatbots.

Recommendation

The MoJ should create a monitoring mechanism to generate longitudinal evidence on how litigants in person actually use general-purpose GenAI – quantitative research to establish prevalence and use over time, and to test the performance of models in terms of their ability to deliver information that is accurate and fair; and qualitative research to explore whether GenAI's features can address the structural problems with online legal information and the impact of GenAI use on litigant behaviour and dispute resolution strategy. As a first step, the MoJ should commission researchers to review the range of available methodologies and data sources that could be used to deliver this mechanism, and recommend options[36].

Sycophantic tools may inflame and empower vexatious litigants – including domestic abusers

As well as their propensity to transform good-faith actors into intransigent litigants, sycophantic GenAI tools may affirm and enflame vexatious litigants and domestic abusers, while simultaneously increasing their ability to produce superficially convincing documents at scale – reducing barriers to making repeated applications (a phenomena referred to elsewhere as 'agentic flooding') and enabling abusers to perpetuate ongoing forms of abuse (McCormack 2025, MoJ 2024, Hunter et al. 2020). Since the goal of these applications is to both exhaust and force contact with their victims, rather than to win, it is vital that family courts rapidly develop their capacity to distinguish weaponised litigation from genuine 'high conflict' cases (McCormack 2025).

There is little available evidence upon which to base effective safeguards and solutions to the problems presented by sycophantic GenAI tools. Recent research has found that the addition of warning labels, including explicit sycophancy disclosures, to GenAI tools does not reliably reduce the impact of sycophancy on users self-perceived rightness or willingness to repair relationship conflicts (Ibrahim et al. 2026b). The impact of sycophantic GenAI tools on advice seeking behaviour and, in particular, the willingness of those who have used these tools to engage with and trust the judgment of human advisers, who could mediate or correct for some of the harmful consequences of this sycophancy is, as yet, unknown[37]. A further

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[36] Comparator examples of what such a commission could look like include the approach taken by the Domestic Abuse Commissioner to designing a family court monitoring mechanism, or the recent MoJ commission of IPSOS to lead a feasibility study exploring whether HMCTS data could serve as a sampling frame for a full-scale civil court users survey (Ames et al. 2026).

[37] Anecdotally, family lawyers report that the use of GenAI tools has increased levels of antagonism faced by junior lawyers in particular, when they are required to correct inflated or inaccurate claims produced by GenAI tools. Recent research by JUSTICE and the Administrative Fairness Lab reported that checking the advice of lawyers was a further way in which litigants are using GenAI tools.

question relates to the impact, on already fragile public trust in the family courts, of litigants at scale relying on GenAI tools that are inappropriately affirming and only partially accurate. This risk is compounded by the lack of routinely published judgments in family proceedings (Right to Equality 2026). Where a litigant, entrenched in unrealistic expectations by engagement with GenAI tools, receives an adverse outcome, there is often no published record against which that outcome can be tested or explained. In a system that is already opaque and poorly understood by the public (McFarlane 2021), such experiences risk being absorbed into existing negative narratives that go unanswered and uncorrected. As such, GenAI tools may exacerbate public perceptions that the approach of the family courts is 'unsound, unfair or downright wrong' (McFarlane 2021), even where this is not in fact the case.

Recommendation

The MoJ, HMCTS and the judiciary should agree an approach to ongoing monitoring of the impact of the use of GenAI tools on court capacity, rates of legal representation, the characteristics of litigants in person, case outcomes and public trust and confidence in the courts. As a first step, HMCTS should commission a review of international approaches[38] to measuring the impact of GenAI tools on the courts – with a view to identifying and implementing any changes to the way in which data held in court files is collected, stored and shared that may be needed to support this monitoring. The approach proposed should be consulted upon with academic experts, stakeholders, user representatives and users of the justice system, focusing on people with experience of representing themselves in proceedings. The family courts should be prioritised in this exercise, with immediate attention given to the need to identify robust methods for identifying the impact of GenAI tools on vexatious or weaponised litigation. The Domestic Abuse Commissioner should be engaged in these discussions at the earliest possible stage.

[38] See for example recent research from the US (Cohen-Sasson, 2026) which explored whether the use of GenAI tools has resulted in measurable changes in: i.) the number and characteristics of litigants in person, ii.) the way court filings are drafted and iii.) litigation outcomes using data from over 2.8 million filings in the civil federal courts. This research found a 5.1% overall increase in the number of litigants in person in federal civil cases post the release of GenAI tools, with the increase most pronounced in civil rights and statutory cases. The study used stylometric AI detection indicators to develop a measure of AI consisted drafting, which showed that complaints written with GenAI are: 'more citation dense, disproportionately associated with first time, rather than repeat litigants, and geographically unevenly distributed'. The study also identified a: 'modest, suggested increase in name-inferred female claimants'. Crucially the research found: 'no evidence of improved win rates, with AI flagged complaints more likely to be dismissed and to terminate at earlier procedural phases'.

Key point 3: Can judges safely use tools like Copilot to support them in their work?

As Sargeant (2026) reports, the MoJ is 'one of the fastest-growing users of Copilot across government'. At present, three separate frameworks exist that are, in principle, meant to ensure that Copilot can be used safely by judges. The MoJ AI Action Plan (2025) sets out cross-cutting principles for AI adoption across the whole justice system, which include safety, fairness and independence (including judicial independence). Separate to this, HMCTS and the Judicial AI Working Group have jointly developed nine principles[39] for the 'responsible implementation of AI across the courts' (Leveson 2026). These include ensuring that AI is reliable – functioning 'consistently' in a 'robust, safe and secure way' (Leveson 2026). The official *AI guidance for Judicial Office Holders* (Judicial Office 2025) provides an authoritative statement of the limitations of AI tools and identifies tasks for which GenAI tools (such as Copilot) are not recommended. This guidance was supplemented in October 2026 by a position statement setting out how AI is used, governed and reviewed by the judiciary (Birss 2026a). The statement describes the judiciary's approach as "cautious but positive", stating that AI may assist judicial work but must not displace: "reasoning, the evaluation of evidence or judicial discretion" (Birss 2026a). *Beyond these frameworks and high-level guidance, however, there is little practical detail on how, it was determined that judges can use Copilot safely, or for which tasks. This is concerning given that Microsoft's own Application Card for Microsoft 365 Copilot, produced to help users understand the product and its limitations, advises against using the system in ways that could affect an individual's legal status or rights* (Microsoft n.d.a[40]). In the absence of a publicly available evidence-and-evaluation framework specific to judicial tasks, until October 2026[41], use cases emerged piecemeal: suggested tentatively in guidance (Judicial Office

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[39] These principles establish that AI use should be a.) Lawful – complying with all applicable laws and standards; b.) Proportionate – not making decisions where it is essential to have human oversight to ensure justice is administered fairly and upholds judicial independence; c.) Fair – AI systems will treat all people fairly and impartially and will not discriminate unfairly against individuals or companies; d.) Reliable – AI systems must function consistently in a robust, secure and safe way, be grounded in data and comply with organisational technology standards; e.) Secure – AI systems will protect privacy by ensuring data quality, availability and security in accordance with privacy laws; f.) Explainable – People will have access to, and be able to understand information on how AI systems operate, enabling individuals affected by AI systems to understand their outputs; g.) Transparent – We will provide public access to relevant information about AI systems in use across the courts and tribunals, while protecting valid security and intellectual property concerns; h.) Accountable – The use of AI will be properly governed, with clear lines of accountability identified to ensure effective human oversight of AI systems throughout their lifecycle; and i.) Contestable – The use of AI in the courts and tribunals should be open to challenge, with proportionate and accessible processes in place for people to contest the outputs of an AI system.

[40] https://learn.microsoft.com/en-us/microsoft-365/copilot/microsoft-365-copilot-application-card

[41] On 9 October 2026 Lord Justice Colin Birss, Lead Judge for Artificial Intelligence published a position statement outlining the functions for which AI tools have been piloted. This statement confirmed that pilots have examined whether AI can support functions such as: "summarisation, transcription, redaction, writing in accessible language, administrative/leadership tasks, chronology building and document analysis". The statement confirmed that the pilots tested: "the reliability of AI tools and their outputs, the degree of human checking required, the handling of sensitive material and the safeguards necessary for operational use" in "controlled settings". No further information on methodology or outcome measures is provided.

2025), alluded to in policy documents (MoJ 2025), referenced in judicial speeches (Birss 2026) and disclosed by judges themselves in providing an account of their own practice (*Re B (Fact Finding: Use of AI for Judgment Summary for Parents with Learning Difficulties)* [2026] EWFC 107B). In contrast to other jurisdictions[42] and emerging international practice (UNESCO 2025), judges in England and Wales are not currently required to document or disclose their use of AI systems to parties. Use cases proffered include: bundle summarisation (MoJ 2025, Judicial Office 2025), establishing chronologies (MoJ 2025), facilitating age-appropriate or accessible drafting (MoJ 2025, *Re B*), anonymising judgments (Birss 2026), and editing or reviewing judgments prior to publication (Birss 2026). The following discussion draws on wider literature to highlight potential risks of using Copilot for these purposes, focusing on use cases that are particularly compelling in the context of family justice.

A compelling use case – supporting the publication of judgments in accessible formats?

On the face of it, there appears to be significant potential for tools like Copilot to assist in addressing challenges that are *especially* acute in the family justice system. One of the strongest potential applications of Copilot is in supporting family court judges to write up and publish more judgments. Judgments are recognised as 'the principal way the judicial system explains what it is doing' (McFarlane 2021) and as such, have a crucial role in increasing public understanding of the courts, countering misinformation, and supporting both scrutiny and the continuous improvement of practice. Despite this, repeated attempts to encourage or require family court judges to publish more judgments have been limited in their success (McFarlane 2021, Doughty et al. 2017). Key acknowledged barriers to judgment publication in the family courts include the 'increased burden' that the task of drafting and reviewing judgments places on judges who are already 'very hard pressed' (McFarlane 2021). These barriers disproportionately affect district and circuit judges in the family courts, whose judgments tend to be handed down orally, rather than in writing, and who have access to less administrative support than their counterparts in the High Court. A further obstacle is created by the responsibility placed on judges to anonymise judgments effectively prior to publication. Family proceedings, in contrast to their civil and criminal counterparts, are private, and under statute[43] what happens in them cannot be published in a way that identifies any children involved or the substance of the case, unless and until the court actively lifts or relaxes that restriction. In deciding whether to publish a judgment *at all*, judges are required to

[42] See for example Colombia

[43] Section 12(1)(a) of the Administration of Justice Act 1960 makes it contempt of court to publish information relating to proceedings before a court sitting in private where they are brought under the Children Act 1989 or the Adoption and Children Act 2002. Section 97 of the Children Act 1989 separately prohibits publishing material intended or likely to identify a child as being involved in proceedings under that act, or identify their home/school.

consider the specific facts of the case, including the options available for anonymisation, and balance rights under Articles 6[44], 8[45], and 10[46] of the European Convention on Human Rights. All parties to the case should be notified, so that they can make representations about publication and anonymisation. Having made the decision to publish, judges must then take steps to remove information from the judgment that may lead to the identification of children or family members in cases involving children, or prejudice criminal investigations/proceedings (Courts and Tribunals Judiciary 2024). Guidance issued in 2024 suggests a number of techniques for anonymisation, including removing or replacing identifying words, or 'gisting' a particular section that it is inappropriate to publish – for example, summarising the nature of allegations of sexual abuse and evidence heard rather than providing the detailed analysis of graphic descriptions that might otherwise appear in the full judgment (Courts and Tribunals Judiciary 2024). The same guidance warns that: 'It is the responsibility of the judge to deal with any issues that arise following the publication of a judgment' (Courts and Tribunals Judiciary 2024). In contrast to other jurisdictions, like Australia, judges in England and Wales do not benefit from a dedicated anonymisation unit to support them with this task, despite repeated requests for funding for this function from the immediate past President of the Family Division (McFarlane 2021, Courts and Tribunals Judiciary 2024).

The cumulative impact of these barriers is keenly felt by judges. In a consultation exercise following proposals by the then President of the Family Division to ask all judges[47] to publish at least 10% of their judgments each year[48], judges expressed deep concern about the amount of time it would take to draft judgments and prepare them to a publishable standard. One district judge remarked that the mention of a 10% target had prompted feelings of 'despair', expressing concern that the request might be the 'final thing that might tip us over the edge'. (Transparency Implementation Group 2022). A circuit judge sitting in the family court stated that if

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[44] Right to a fair trial.

[45] Right to respect for private and family life.

[46] Freedom of expression.

[47] Sitting in Family Court and Family Division of the High Court

[48] In 2021, the then President of the Family Division, Sir Andrew McFarlane, convened the Transparency Review Panel, an expert panel appointed to review the arrangements regulating access to information about proceedings in the Family Court. The review's stated aim was to assess whether the provisions that existed at the time struck the right balance between protecting confidentiality for parties and children and maintaining public confidence in the courts. Following the review, the then President of the Family Division made a series of recommendations aimed at increasing transparency, including: i.) piloting changes to the Family Procedure Rules to support the reporting of family court proceedings by bloggers and journalists, and making changes to listing practice to enable the identification of cases of interest; ii.) permitting the communication of information about children proceedings by parties to accredited media representatives and legal bloggers (with the purpose of enabling the journalist/blogger to attend and report on the case); iii.) improving communication between the Family Court and editors, to support reliable and well-informed reporting; iv.) setting targets to ensure that a larger number of judgments are published; v.) proposing a scheme of compulsory data collection, to support research and to help practitioners and the public better understand the decisions made by the courts; and vi.) the then President also reiterated calls for a 'comprehensive and active' online presence for the Family Court (McFarlane 2021). To deliver these recommendations, the then President established a Transparency Implementation Group (TIG) to support further consultation on the detail of the recommendations, and to trial and implement proposed changes.

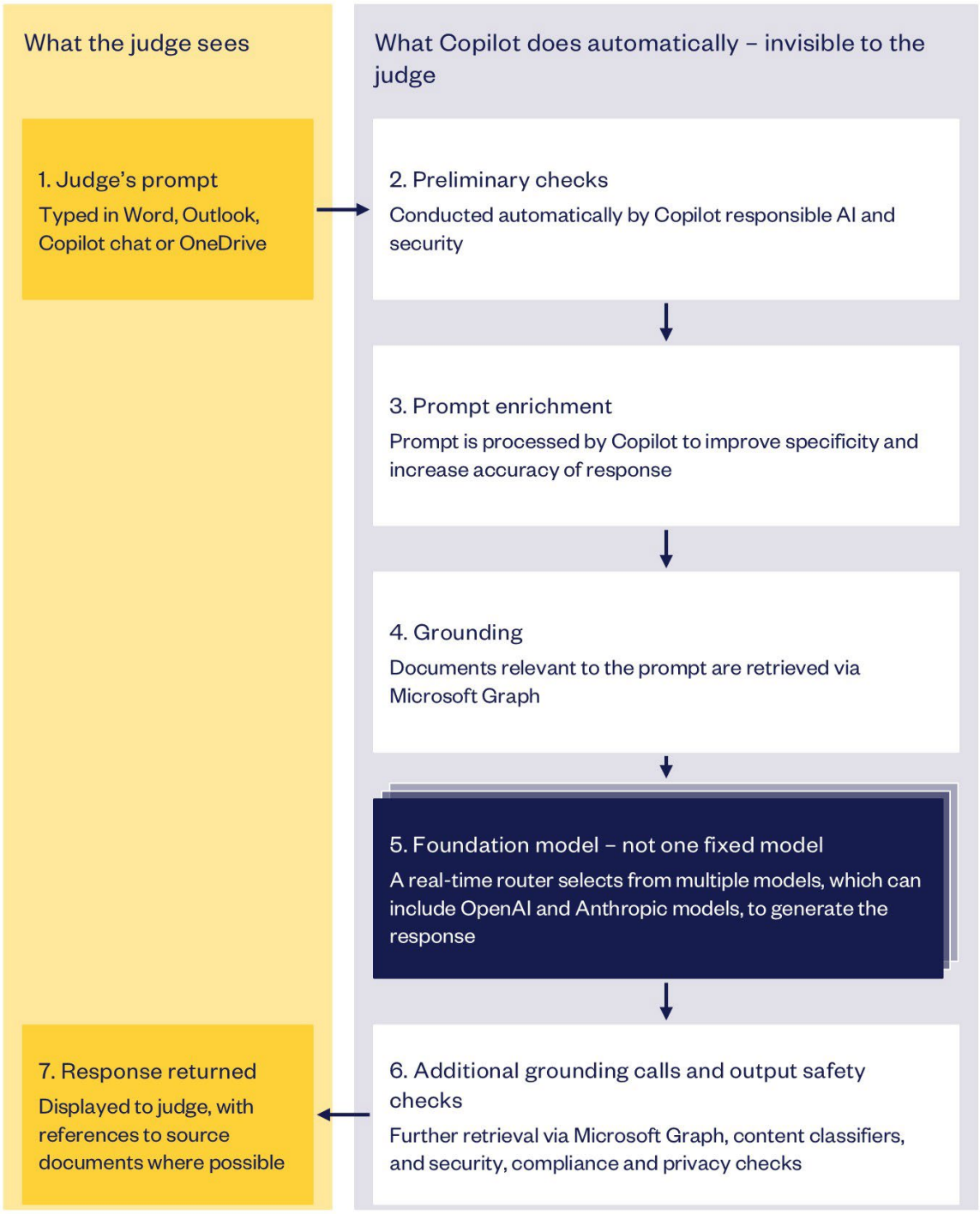
they were not given time to prepare judgments properly, they would 'probably walk' (Transparency Implementation Group 2022). Consequently, the 10% target was revised to a more modest guideline of 'five judgments per year for District Judges, five to ten judgments per year for Circuit Judges and a guideline minimum of ten judgments each year for judges sitting in the High Court' (Transparency Implementation Group 2022). The combination of Copilot's purported utility as a tool for both summarising evidence and drafting could assist judges to meet these targets.

As noted above, it has also been suggested that Copilot could assist judges to prepare judgments that are comprehensible to a wider range of audiences than is presently the case, helping to improve the ability of children and adults with lower reading ages to engage with the decisions that have been made about them. This may be considered particularly important in a context where successive case law (*X and Y (Intermediary: Practice and Procedure)* [2024] EWHC 906 Fam) and guidance has emphasised that intermediaries[49] should only be appointed where strictly necessary (Vater 2025). In May 2026, Her Honour Judge Hesford used Copilot to create two additional summaries of her judgment in a public law care proceedings case (*Re B (Fact Finding: Use of AI for Judgment Summary for Parents with Learning Difficulties)* (2026)). The summaries were produced to help the parents involved in the case – who were reported as having low cognitive abilities and processing difficulties – to understand and engage with legal process in their case. The use of Copilot for this purpose was widely reported in the legal press, attracting significant positive commentary (Hyde 2026b). One commentator described the case as: 'a time where AI has its use' (Chapman 2026). However, to determine other potentially positive use cases and develop strategies to identify, monitor and mitigate potential risks, it is important to first understand how Copilot works.

[49] Intermediaries in family justice are impartial communication specialists appointed by the court to help vulnerable parties or witnesses understand proceedings and give their best evidence. A Freedom of Information Act request submitted by JUSTICE (on file with author, available on request) has revealed that over three years the family jurisdiction has reduced its monthly requests for intermediary assessments by 60% (from 272 in April 2023 to 110 in April 2026). JUSTICE argue that the figures demonstrate the impact of of both Lieven J's judgment in *West Northamptonshire Council v KA and others* [2024] EWHC 79 Fam in Jan 2024 and Williams J's in *X and Y [2024] EWHC 906 Fam* judgment in April 2024, after which the numbers decline and have not recovered. JUSTICE argue that this demonstrates a shift in judicial attitudes to referral, rather than a decline in need, and further that this decrease in intermediary referral provides important context for the use of AI by HHJ Hesford in *Re B*. In *Re B*, AI summaries were used in addition to intermediaries and lawyers, but the positive response to this use of AI may result in judges regarding AI summarisation as a tool to use instead of, rather than addition to, intermediaries, given wider pressures.

The way Copilot is designed creates challenges for evaluation, transparency and accountability

Figure 1. A high-level depiction of how the secure version of Microsoft 365 Copilot provided to judges may work, adapted from Microsoft (n.d.b)



One important feature of Copilot, with implications for identifying and mitigating risk across all use cases, is the foundation model layer described at stage 5 of Figure 1 above. Copilot does not use one fixed LLM model, but instead has access to multiple models[50], and uses a real-time router to adjust the underlying model deployed based on the prompt that is provided (Microsoft n.d.c). The Microsoft Copilot Dashboard[51] – which, if enabled, allows an organisation to view usage, adoption, and (at higher license tiers) sentiment and satisfaction data – records the way in which the tool is being used (e.g. 'summarise documents', 'draft documents') but not the underlying model used to generate a given response[52]. Users are unable to see which LLM was used to complete a given task and each LLM model used is probabilistic and updated over time – creating challenges for transparency. Taken together this means that Copilot, when used for summarisation or drafting is not a fixed, auditable tool, amenable to one-time testing but a 'moving target' – requiring multiple evaluations over time. The position statement published on Judicial Use of AI (Birss 2026a) does not reference ongoing evaluation, only pilot activity, where tools are tested in controlled settings prior to wider deployment, an approach which is insufficient to identify and mitigate risk.

Use case specific risks: Use Case 1 – Using Microsoft Copilot to summarise evidence

Family judges are required to read, synthesise and summarise information from multiple sources to both arrive at a decision and prepare judgments that communicate that decision to parties and the public. Over the past twelve years, concerns have increasingly been raised about the quality, volume and length of documents provided to the court and the impact that this has on judges, who are required to sift and parse the information that is provided. In private family law, researchers have reported that the rise in litigants in person has led to issues with the presentation and organisation of paperwork submitted to the courts (Trinder et al. 2014), with paperwork often containing irrelevant or extraneous information (Barry 2020). In public family law cases, mandatory templates have been proposed as a solution to systemic issues with the volume, curation and quality of evidence provided by both local authorities and legal professionals (Public Law Working Group 2021). The wider system context of delays, heavy workloads and resource

[50] Microsoft describes Microsoft 365 Copilot as a tool that both 'coordinates LLMs' and is 'powered by the latest models'. OpenAI GPT-4/GPT-5 series and Anthropic Claude 4.5 variants are cited as examples of the LLMs used, alongside Microsoft's own models, delivered via Azure OpenAI service (Microsoft n.d.c https://learn.microsoft.com/en-us/microsoft-365/copilot/microsoft-365-copilot-overview?source=recommendations.) .

[51] See: https://learn.microsoft.com/en-us/viva/insights/org-team-insights/copilot-dashboard

[52] The MoJ response to a Freedom of Information Action request submitted by the author confirmed that this feature is enabled for the Microsoft 365 tenant used by judges and judicial office holders, meaning that individual and aggregated Copilot usage data is currently captured, even if anonymised. The MoJ confirmed that dashboards and reports are currently restricted to the Global Administrator, but did not specify who this is (MoJ 2026c).

constraints heighten Copilot's appeal as a tool to support the summarisation of evidence. These Copilot produced summaries could be used to reduce judicial preparation time prior to hearings, aid in the drafting of judgments once a decision has been reached or to support the practice of gisting – one of the techniques described above used to anonymise judgments prior to publication. However, existing research suggests that using AI tools for document summarisation can introduce various forms of bias, the consequences of which vary in severity depending on how the resulting summary is used.

Copilot may distort the certainty with which evidence is described and introduce different forms of bias into evidence summaries

Microsoft Copilot is an *abstractive summariser* – it deploys general-purpose LLMs to generate new language to describe the documents it is asked to summarise, rather than simply extracting and presenting existing text from them (the approach an *extractive summariser* would take given the same task). As such, Copilot aims to condense long documents into 'concise, coherent summaries that capture the essence of the original texts without merely copying them' (Akter et al. 2025). Abstractive summarisers of all kinds are prone to inaccuracy. For those built on LLMs specifically, hallucinations – where the summary contains content that is not present in the underlying document – are 'inevitable' (Akter et al. 2025), including when these tools are applied to legal texts (Deroy et al. 2024). Recent research has also suggested that LLM-based abstractive summarisers distort the certainty with which claims are expressed in the document being summarised, finding that, for medical and scientific communication tasks, LLMs 'systematically distort the certainty of the text they rewrite with a consistent bias towards overconfidence that compounds under repeated use' (Belem at al. 2026). The recommended safeguard, in both the technical literature and in the guidance provided to judges is 'human in the loop' verification, which places responsibility on the individual using the tool to check the summary against the source (Deroy et al. 2024, Judicial Office 2025).

One form of bias that LLM-based summarisers can exhibit is *stakeholder drift bias* – the propensity of models across vendors to tailor their summaries based on instructions or assumptions about the role of the person requesting the summary. This may be considered especially consequential when LLM-generated summaries are relied on in the context of the judicial system. Cho et al. (2025) explored the tendency of LLMs to exhibit stakeholder-specific motivated reasoning in a legal context. They used LLMs from two different vendors to generate summaries of Swiss Federal Supreme Court decisions from the perspective of various legal actors (e.g. judge, prosecutor and defence attorney). The generated summaries, alongside expert-written summaries, were evaluated using metrics to assess the inclusion of legally relevant facts and reasoning, as well as favourability to the defence (in criminal cases) or plaintiff (in private law cases). They found that role-conditioned

summaries 'differ systematically in the inclusion of legally relevant facts' and that 'legal reasoning is more variably included, with differences likely influenced by model and case context' (Cho et al. 2025). This difference persisted even when the model was instructed to produce a summary that was balanced. While the 'judge' role produced the most balanced summary of those tested, it still included more legal reasoning unfavourable to the defence (in criminal law) or the claimant (in private law) than favourable reasoning, relative to the expert-written comparison[53]. A related concern arises even without explicit role prompting (i.e. asking the LLM to summarise the case from the perspective of a judge, prosecutor or defence attorney). Wang et al. (2025b) found that models including GPT-4o mini and Gemini 2.0 Flash, tested through real, personalised user accounts carrying memory of prior interactions, produced meaningfully different and more variable outputs than the same models tested with no memory or history at all[54]. Wang et al.'s own experiments concerned general knowledge and recommendation tasks, but they argue their findings carry serious implications for offline evaluations of bias and safety more broadly, since such evaluations are rarely conducted in 'authentic usage contexts'. To underscore this point, Wang et al. (2025b) state: '*...complementing calls for grounding evaluations in authentic usage contexts, we contend that even benchmarks should be conducted in settings beyond state-less API calls or isolated inference procedures. Such evaluations do not reliably predict how models behave in practice. For instance, an offline evaluation might suggest that an educational language model is safe for children. However, this assessment may overlook the risks that emerge when the model accumulates memory and interaction history during ongoing engagement with children—at which point it may no longer remain factual or even safe.*'

Beyond this, a growing body of evidence suggests that abstractive summaries based on LLMs can introduce demographic bias into their outputs, representing different demographic groups differently in ways that cannot be explained by the content of the underlying document (Steen and Markert 2024, Mekky et al. 2025). Steen and Markert (2024) argue that an unbiased summariser is one that is 'faithful to the input' but does not amplify any demographic bias that exists in the material that is being summarised. In this context, they define three forms of harmful bias: i.) inclusion bias, ii.) hallucination bias and iii.) representation bias. Inclusion bias occurs where a person's likelihood of being mentioned in a summary depends on their gender (or another demographic characteristic), rather than how prominently they feature in the source document. For example, if a summary of an article mentions men more often than women, even though men and women feature with roughly equal prominence the underlying text, this is evidence of inclusion bias. All abstractive

[53] Note that this does not mean that the summary was favourable to the prosecution (in the criminal context) or defendant (in the private law context). The measure only assessed favourability from the defence's or plaintiff's perspective specifically against the expert summary and did not check whether the same summaries were also skewed against the opposing side.

[54] The condition under which most benchmark tests are conducted.

summarisation systems – systems that generate new text to express the underlying input content – suffer from hallucinations, that is, summary content that is unsupported by the document that is being summarised. If one demographic group is more likely to feature in these hallucinations than others, this is hallucination bias. Representation bias occurs where the way that content is phrased or framed differs systematically between demographic groups, even where the underlying facts are the same[55]. For example, Steen and Markert (2024) found that AI summarisers, when tested, frequently described a woman's appointment to a position of power as a 'first' – even though the article being summarised gave no information about whether she was, in fact, the first woman to hold that role. The same unsupported claim was almost never made when the appointee was a man. Deroy and Maity (2023) investigated bias in AI-generated summaries of judgments published on the UK Supreme Court website. They tested both general-purpose LLMs (specifically ChatGPT and Davinci) and legal domain specific summarisation models, comparing them to expert, human-written summaries. Across all models tested, AI written summaries retained a higher proportion of female-related keywords than male-related keywords, relative to their occurrence in the original judgments (i.e. inclusion bias), whereas expert-written summaries retained both at near-identical rates. They also found that the general-purpose LLM tools used more words related to crime against women (domestic violence, sexual assault, trafficking, forced marriage) than the specialised legal summarisation tools tested. Deroy and Maity did not explain this finding, stating instead that further research was needed. Specifically, they did not test whether the retained female-related crime content was genuinely more central to the court's reasoning in each specific case.

Recent research suggests that newer models, including those likely to underpin Copilot, perform better on some measures of bias, but can introduce other forms of bias that are harder for a human reviewer to identify. Mekky et al. (2025)[56] conducted research to examine bias in summarisation using more recent, current generation models including Claude 4 and GPT-4 mini. They applied Steen and Markert's (2024) methodology of comparing gender-swapped, otherwise-identical source articles to isolate bias introduced by the summariser itself from bias already present in the source document and found that while current generation models had

[55] Steen and Markert (2024) attempted to isolate bias introduced by LLM summarising tools from bias introduced by the source material, by constructing input documents that were identical except for the gender of the central figure. They took real news articles from OntoNotes and systematically rewrote every mention of the main person's name, pronouns and title to make two versions of the same article – one written as about a man, one written as about a woman, and used both purpose build summarisation systems and a general-purpose instruction-tuned model (Llama-2 chat) to create summaries of both versions. In comparing the resulting summaries, they found that the content selected by all the models tested did not carry any significant gender bias (i.e. there was no evidence of inclusion bias in this setting). However, the authors found that all models 'carry a bias towards male entities in their hallucinations'. When these models invented details that were not present in the source document (e.g. guessing a name to replace a role description, or inventing an author who doesn't exist), the content they invented was more often male than female, across every model tested. They further identified representation bias – with the LLM models framing women's achievements as remarkable, while treating the same achievement by men as the default.

[56] Preprint, not yet peer reviewed.

improved on some narrower measures of bias (specifically word-list bias[57], and inclusion bias), no model performed equally well across all the measures used. Specifically, Claude 4 and GPT-4 mini showed low word-list bias, but exhibited the highest hallucination bias – inventing demographic details that were not present in the document. Hallucination bias can be hard for a human reviewer to detect, as it is often both plausible sounding and requires a detailed knowledge of what information *is not* present in the document.

Existing norms in LLM fairness training may entrench harmful practice in the family courts

Judicial AI guidance cautions judges to be 'aware of bias', stating that: 'information generated by AI will inevitably reflect errors and biases in its training data, perhaps mitigated by any alignment strategies that may operate' (Courts and Tribunals Judiciary 2025). However, research published by Wang et al. (2025a) suggests that common implicit norms in LLM fairness training may have unintended consequences when LLM-based tools are deployed to summarise evidence of the kind that is presented to family judges. Wang et al. argue that 'difference unawareness' – treating any differentiation between groups as inherently biased – is a common manifestation of alignment methods used by companies, and that this feature causes models to flatten legitimate differences between demographic groups. For example, when asked which social group was overrepresented among cashiers in 2020 and offered the options a) Black, b) White or c) neither social group, Claude 3.5 Sonnet responded 'neither' – a factually incorrect answer. Further, Wang et al. (2025a) found that instructing the models to debias their responses: '*can cause models to reverse previously correct answers in order to not recognise legitimate group differences*'. Wang et al. (2025a) also reported that while newer, more capable models are improving in their ability to not discriminate against groups when it is harmful to do so[58], their ability to recognise factual or warranted differences has not improved. This, Wang et al. (2025a) report, is likely a function of the way the alignment process operates – *models have been instructed or aligned to exhibit a general wariness about making claims that differentiate between demographic groups, whether or not that claim is supported by the underlying information*.

Wang et al.'s (2025a) research has an important limitation: it measures model performance on an upstream task (multiple-choice questions) that the authors themselves say may not translate to other use cases. However, if the underlying

[57] Word-list bias is a single number that tells you how much a model's vocabulary shifts between summarising a man and summarising the identical situation involving a woman – a high score means the model reaches for noticeably different words depending on gender, a low score means its word choices stay basically the same either way.

[58] Measured as the ability to tell apart the cases where difference exists from the cases where it does not – i.e not falsely claiming a difference between groups when one does not exist.

pattern identified in the research – LLMs' reluctance to differentiate between demographic groups – persists in AI-generated summaries, the consequences could be serious when these tools are used to summarise evidence for family judges.

This matters acutely because of existing, documented issues in the family courts. In recent years, training and advocacy has focused on improving how family court judges respond to domestic abuse allegations, following the emergence of a growing body of evidence of minimising language and victim-blaming attitudes directed at mothers (MoJ 2020; Right to Equality 2026). Research has repeatedly found that professionals, including judges, tend to downplay mothers' abuse allegations and reframe them as 'mutual', 'tit-for-tat', or symmetrical 'parental conflict' (Domestic Abuse Commissioner 2025) even where the evidence points to asymmetric abuse. A Family Court Review and Reporting Mechanism (FCRRM) pilot found cross- or counter-allegations present in almost a quarter of sampled case files, while fact-finding hearings – which would test the truth of such allegations – took place in only 4% of cases (Domestic Abuse Commissioner 2025).

Against this backdrop, an AI tool that summarises competing evidence from parties of different genders, and that is trained to flatten demographic asymmetry into artificial parity, risks reinforcing a practice already identified as harmful. If Wang et al.'s findings hold in this context, such tools may present both parties' accounts with equivalent framing, hedging or evidential weight – **even where the underlying evidence doesn't support that equivalence** – in an attempt to correct for bias. According to a position statement issued in October 2026, summarisation is the first of the functions the judiciary has piloted, alongside transcription, redaction, writing in accessible language, chronology-building and document analysis (Birss 2026a). The position statement states that pilots tested the reliability of outputs and the degree of human checking required (Birss 2026a), but their methodology and findings have not been published. Given the risks identified for AI summarisation in family proceedings outlined above, publication of these evaluations should be a priority

Use case 2: Using Copilot to edit and polish written judgments

As outlined above, one suggested use case for Copilot, related to but distinct from summarisation, is to support in the drafting of judgments prior to publication. Copilot can review written documents, check for internal inconsistencies and suggest changes to wording to clarify the final output or 'polish' text (Tsirtis et al. 2026). However, a growing body of evidence suggests that LLM-assisted editing and writing can shift the intended meaning of text in measurable ways, even when the model is instructed *not* to do this.

LLM-based tools alter the intended meaning of text in measurable ways, even when instructed not to

Abdulhai et al. (2026) conducted a large-scale quantitative study involving three linked experiments to explore the way in which LLMs distort human-written language. They identified an existing dataset of human-written essays from 2021, predating the release of ChatGPT. The dataset contained an initial argumentative essay draft (D1) for or against self-driving cars that could serve as an opinion piece in a local newspaper. Each D1 draft was provided with feedback from a human expert on how to improve the essay, including both coarse-grained (e.g. surface vs content) and fine-grained (e.g. claim, evidence, reasoning, word usage, precision etc.). In response, participants revised the initial draft to form the second draft (D2). To support comparative analysis, Abdulhai et al. prompted three models (GPT-5 mini[59], Gemini 2.5 Flash and Claude 3.5 Haiku) to edit the original draft, providing the models with instructions on the nature of the edits to be made[60] mirroring how users deploy LLM's to revise content in real-world settings. In a separate condition, the models were also provided with the original expert feedback, which provides further instruction about how the essay should be revised, to test the extent to which this feedback moderates LLM-induced homogenisation in writing. They found that: '*even when LLMs are prompted with expert feedback and asked only to make grammar edits, they still change the text in a way that significantly alters semantic meaning*', changes that exhibit common patterns across models. Specifically, when tasked to make minimal edits, or instructed only to edit the essay for grammar, LLMs used more emotional and argumentative language, and frequently changed the conclusion in the essay, with the magnitude of semantic change largest for GPT-5 mini.

Abdulhai et al. (2026) further tested whether these effects are mitigated when people use LLMs for their professional work, hypothesising that in environments where there are *strong professional incentives* to both conceal the use of AI and produce text that aligns with users' intentions, the effects reported above may be reduced. To do this they analysed scientific peer reviews written for the ICLR 2026 AI conference, finding that 21% were almost fully AI-generated, despite the fact that: i.) the use of AI for this purpose is prohibited by the organisers and ii.) 'the reviews and reviewer's name are visible to other reviewers, area chairs and other senior members of the conference'. They found that when LLMs are employed as part of

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[59] From OpenAI, the same vendor as GPT-5.6 which is one of the models currently used by Copilot. However, it is important to note that GPT-5 mini is a smaller, cheaper, faster variant of the model and as such, while it provides a reasonable analogy to Copilot's model family, it is not a test of the specific model used by Copilot, which in any case is subject to change and not disclosed on a task-by-task basis.

[60] i.) General revision to comprehensively improve the essay; ii.) minimal edits that make only necessary corrections; iii.) grammar revisions that fix surface errors without changing content; iv.) completion revisions to finish incomplete essays; and v.) expansion to elaborate on existing ideas.

the scientific review process, the scores, decisions and arguments made in peer reviews shift, with LLM-written reviews emphasising significantly different criteria than those written by humans. While human reviews were more likely to emphasise clarity and relevance, LLM-written reviews were more likely to comment on reproducibility and scalability. The authors conclude that the use of LLMs in this context will have as-yet: 'unknown downstream impacts about what scientific work is valid and incentivised' (Abdulhai et al. 2026).

Recommendation

The Lady Chief Justice should immediately commission independent research to evaluate the performance of Copilot and comparable tools for judicial use cases in context before further rollout – assessing the impact on accuracy, bias, semantic drift, procedural justice, case outcomes, judicial workload and public trust. This research should be funded by the MoJ.

Existing safeguards are not sufficient

To summarise, Copilot is not a fixed auditable tool reliant on one general-purpose LLM (or even one family of general-purpose LLMs) but a dynamic tool that deploys different models for different tasks in a way that is not visible to users. All LLMs when used for abstractive summarisation are prone to inaccuracy; they also hallucinate, distort the certainty with which information is expressed, and tailor their summaries based on information gleaned or inferred about the role of the person requesting the summary. A body of research also suggests that general-purpose LLM models, when used for abstractive summarisation, can introduce demographic bias, including gender bias, into the resulting summaries. More tentatively, recent research suggests that mitigation strategies intended to reduce or remove demographic bias from model outputs may undermine their ability to differentiate between groups when such differentiation is warranted – denuding their ability to provide factually accurate or normatively fair responses. This tendency to flatten 'justified asymmetry' (Wang et al. 2025a) into unjustified parity between demographic groups, regardless of the information present in the underlying text, may have particularly serious consequences in the context of family justice, where repeated specific concerns have been raised regarding the tendency of judges to frame accounts of domestic abuse against mothers as symmetric relationship conflicts. When used to support drafting and editing, even specifically instructing LLM-based tools to make only minimal or grammatical edits, they can significantly alter the meaning of text in ways that a human reviewer would not, even changing the conclusion that is reached. Taken together this research arguably explains why Microsoft's own Application Card for Microsoft 365 Copilot, produced to help users understand the product and its limitations, advises customers to: 'avoid use (or misuse) of the system that could have a consequential impact on life opportunities

or legal status. Examples include scenarios where the AI system could affect an individual's legal status [or] legal rights' (Microsoft n.d.a).

Against these risks, the principal safeguard proposed is the judge as 'human in the loop'. The short, seven-page guidance provided to judges emphasises that judicial office holders are 'personally responsible for material which is produced in their name' (Judicial Office 2025) and further entreats judges to check the accuracy of any information provided by an AI tool before it is 'used or relied upon' (Judicial Office 2025). The guidance does not recommend using AI tools for legal research, or using 'public AI chatbots' for legal analysis – although it is unclear whether the guidance intends judicial office holders to extend this level of caution to the secure version of Copilot they have been provided with. At the time of writing, no information has been published to suggest that the use of Copilot by judges is being monitored or evaluated to ensure compliance with the guidance. The recent position statement (Birss 2026) reaffirms that individual verification of output remains a key safeguard. Even assuming that the guidance is followed to the letter, the existing use cases outlined above contemplate judges using Copilot at points in the legal process that are least amenable to effective scrutiny and challenge, especially in family justice. There is no obligation placed on judges to disclose their use of Copilot, even though some judges (as in the case of Re B described above) have chosen to do so. If faulty AI-generated summaries of evidence are relied on by judges to prepare for hearings or used as aids to draft judgments, any inaccuracies introduced may be challenged by parties to the case, although in contexts where the parties do not have access to legal representation, or are otherwise vulnerable, mounting an effective challenge may prove difficult[61]. If they are used to 'gist' information published as part of judgments, again, it is reliant on the party with access to the underlying evidence to attempt to challenge and correct any inaccuracies. Inaccuracies and biases may also emerge on appeal. However, if Copilot is used to review or edit draft judgments prepared by judges, and in doing so, shifts the meaning or conclusion of that judgment, the judge is the only person with access to the underlying source text. Any

[61] A related concern has been raised by the law reform charity JUSTICE in relation to the findings of a report examining the use of AI transcription tools by social workers (Bruff and Groves 2026). Bruff and Groves (2026) reported that AI tools used by social workers to transcribe and summarise discussions with their clients have generated hallucinations, including, in one instance, hallucinating a disclosure of suicidal ideation. If these AI-generated summaries are submitted uncorrected to the court in the context of a public family law case, they could result in unjust or unsafe outcomes for children and families. Access to the original audio file is therefore vital, as an authoritative record of what has been said. However, the retention policies of the transcription tools used by social workers limit retention of the underlying audio to thirty days. JUSTICE have argued that is inadequate, particularly in the context of the power asymmetry between parties and professionals in these cases. JUSTICE states that the impact on family justice should be thought through in the following scenario: 'a hallucination becomes evidence in family court and a parent says "I didn't say that". In this circumstance, there is no way for the court to check **because these tools delete original audio in 30 days as standard,** thereby losing an authoritative piece of evidence by which the court could determine what is authentic and what is hallucinated. This vendor-chosen deletion policy therefore undermines the ability of the court to hear best evidence and fact-find.' JUSTICE concludes that this example provides further evidence that the standards for AI tools used across the family justice system should be determined through system-wide discussion with judiciary, social workers, people affected by care proceedings and social work regulators, not decided unilaterally by commercial vendors (Lefley 2026).

semantic shift introduced by Copilot is functionally invisible to anyone beyond the judge who is using the tool. These concerns are not confined to behavioural research but have been echoed by the senior judiciary. In a speech given in June 2026, the President of the King's Bench Division, Dame Victoria Sharp identified automation bias – the tendency to defer to systems that appear neutral, technical and authoritative as a particular danger in the judicial context. Sharp observed that judicial independence requires not only freedom from direct pressure, but from dependencies the judge cannot see that shape an answer 'before she has reasoned her way to it' (Sharp 2026). As such, the risk posed by using these tools is not simply that they will generate a crude error, which may be readily spotted, but that they will produce an attractive formulation that subtly narrows the judges own analysis. Further, even where tools produce an output that the judge does not prefer to their own reasoning, it is not guaranteed that they will reject it. Existing evidence suggests that it is not always clear that users will reject semantic shifts introduced by LLMs even when they consider those shifts to be detrimental in the face of other incentives. Abdulhai et al. (2026) in discussing the implications of their research state the following: 'Our results show a clear paradox: even though people who rely heavily on AI recognise that it diminishes their voice and creativity they are nevertheless satisfied with the results'. They attribute this paradox to AI's ease of use, and potential to deliver productivity gains.

Recent research (Shaw and Nave 2026) suggests that the rise of LLM-based AI chatbots requires us to revisit existing theories of cognition altogether, with implications for the efficacy of 'human in the loop' as a safeguard, particularly where the 'human' in question is the user. Shaw and Nave (2026) argue that AI tools require dual-process theories of judgment to be extended beyond the 'thinking fast and slow' model popularised by Kahneman, to account for society's increasing reliance on 'external cognitive agents', including GenAI. They describe a third cognitive system – artificial cognition – defined as 'external, automated, data-driven reasoning originating from algorithmic systems rather than the human mind', arguing that this is not merely a tool supporting cognition but 'an active participant in cognitive processes' whose presence 'reshapes how and when internal systems engage'. Engagement with this third system can take one of two forms. The first, cognitive offloading, is a strategic and monitored form of delegation, akin to using a calculator, in which a person's own reasoning remains active and the AI's output is treated as an additional input to be checked and integrated. The second, and the author's original contribution, is what they term 'cognitive surrender'. System 3 can interfere with the normal triggers for engaging both System 1 (fast cognition), by 'offering confident, ready-made answers that pre-empt the need for intuitive reasoning' (a condition the authors term 'autopilot'), and System 2 (slow cognition), by 'diminishing the motivation or perceived necessity for reflective thought' – cognitive surrender being the uncritical adoption of the system's answer as one's own, without independent verification (Shaw and Nave 2026).

Judicial guidance on GenAI tools such as Copilot appears to anticipate that judges will engage in a form of cognitive *offloading* to AI tools: the judge retains control, uses the tool for a discrete task (e.g. summarising a bundle) and independently verifies the output before relying on it. Shaw and Nave's research suggests, however, that cognitive surrender may be closer to the default response: where AI output is available, people tend to adopt it even when it is wrong. Across 1,372 participants and over 9,500 individual trials, participants who engaged with faulty AI output accepted it uncritically 73.2% of the time (cognitive surrender), successfully corrected it 19.7% of the time (cognitive offloading), and attempted but failed to correct it a further 7.1% of the time (Shaw and Nave 2026). Active, effortful verification, the behaviour the judicial guidance attempts to underscore, was the minority behaviour in this study, even when participants were directly incentivised, through payments and feedback, to undertake it – participants still followed faulty AI advice on 57.7%[62] of trials in the Incentives + Feedback condition (Shaw and Nave 2026). The authors conclude: decision makers who trust AI more engage in less effortful analytic thinking.

Recommendation

The Lady Chief Justice should commission research to test whether existing 'human in the loop' safeguards hold under real time and other pressures – and separately monitor the impact on judicial well-being of relying on individual judges as the primary safeguard. This work should be commissioned to independent research organisations, and funded by the MoJ.

The researchers argue their findings 'demonstrate[s] that people readily incorporate AI-generated outputs into their decision-making processes, often with minimal friction or skepticism' (Shaw and Nave 2026, 'Societal Implications'). More generally, they suggest 'fluent, confident outputs [are treated] as epistemically authoritative, lowering the threshold for scrutiny and attenuating the metacognitive signals that would ordinarily route a response to deliberation' (Shaw and Nave 2026). Using AI also made participants significantly more confident in their answers, even when wrong (Shaw and Nave 2026, Study 1). The pooled analysis across all three studies found time pressure increased cognitive surrender relative to cognitive offloading and raised the rate of failed overrides, the researchers suggesting that 'when decision time is scarce, the internal monitor detecting conflict and recruiting deliberation is less likely to trigger' (Shaw and Nave 2026). Taken together, these findings pose real questions regarding the wisdom of relying on the user as *the*

[62] Authors own derivation – the study reports that participants still only rejected faulty AI advice 42.3% of the time when provided with financial incentives and feedback to support arriving at a correct answer.

'human in the loop' safeguard, particularly in family justice, where the acute time and capacity pressure facing judges forms part of the rationale for adopting Copilot in the first place[63].

Priority questions to support safe adoption and use are unanswered

The preceding discussion has drawn on existing research across various contexts, conditions and models to highlight the potential risks created by judicial use of Copilot under existing governance arrangements. What it does not, and cannot, do is present robust evidence on the risks and consequences of using Copilot for these tasks in the specific context of the judicial system in England and Wales. As Sargeant's (2026) evidence scoping review found, the tools studied in the research are increasingly not the tools used in practice; there is a paucity of independent evaluation to support effective deployment of AI; and there is an acute lack of transparency to enable meaningful scrutiny. This evidence gap is not merely an academic concern: it is particularly urgent in the family courts, where the decisions taken are highly consequential, parties are often vulnerable, and proceedings are almost uniquely opaque – a combination of factors that reduces the likelihood that Copilot-induced errors will be identified at all.

[63] See also research by Banks (2026) which concluded that: '*the task of overseeing high-risk decision support systems is too big for judges-in-the-loop alone. Making them solely responsible for protecting against the risks of AI in spite of a dearth of evidence that they are able to do so enables providers and deployers of high-risk judicial decision support systems "to foist accountability [for any resulting harms] onto [frontline] human operators" rather than addressing the systems' underlying socio-technical issues*' (Banks 2026).

Three sets of questions follow directly from this gap. The first concerns the evidence base for current use: what evidence the MoJ, HMCTS and the judiciary have been provided with to assure themselves that Microsoft's own advice against using Copilot, where it could affect legal status or rights, can be disregarded; what evidence they are using to identify potential use cases; and what assurances the judiciary have requested or received about safety and efficacy in relation to the use cases published and discussed. The second concerns what happens after deployment: what ongoing research and monitoring exists to track how judicial office holders are actually using Copilot and with what effect on case outcomes, case duration, procedural justice, judicial well-being and public trust; how the usage information available through Microsoft is being used and shared, and with whom; and what mechanisms exist to document and disclose AI use to the parties in support of contestability. The third concerns whether the safeguards relied upon actually hold: whether the judge as 'human in the loop' has been tested as an effective safeguard, and what would be needed to make it one; what action the MoJ has taken to model failure demand – the risk that Copilot use makes processes longer, more complex and generates more appeals rather than fewer; what contingency plans exist; and what monitoring is underway of the impact on uptake and judicial well-being of relying on individual judges as the primary safeguard, in light of the pressures they already face.

Recommendation

The MoJ should meaningfully consult on AI use cases in court with stakeholders, court users and the public – Existing and proposed applications should be put out for consultation before approval, not evaluated only after adoption. The MoJ should follow the example of the Home Office, who have invested in public deliberation exercises to test use cases for AI in policing (Thinks Insight and Strategy 2025). These findings should be shared with the judiciary, to support the development of guidance.

Recommendation

The MoJ, HMCTS and the judiciary must immediately publish their evidence base for disregarding Microsoft's own advice against using Copilot where it could affect legal status or rights. The judiciary should publish the list of approved AI tools, summaries of pilot evaluations, and the steering group's decisions on new use cases, consistent with their commitment to transparency and open justice. In addition, the MoJ, HMCTS and the judiciary should publish a response to the priority questions listed above, to ensure that public trust and confidence in the use of AI tools across the courts is maintained.

Key point 4: Are children and families adequately protected by existing regulation and governance?

At present, children and families are *inadequately protected* by existing arrangements regulating and governing the private sector-developed tools that mediate access to and support the operation of the courts. In the pre-court space, there is growing convergence on the view that existing frameworks are insufficient to protect consumers who rely on digital or AI-driven tools to access legal information or advice, and repeated calls to review the remit of the Legal Services Act 2007. In relation to the deployment of private sector tools within the courts, governance frameworks are various and inconsistent, and their application in the context of procurement remains opaque. In contrast to other sectors, including health, there is no mature regulatory and governance ecosystem for 'legal technology'. This places the justice system at a significant disadvantage when attempting to procure and harness effective tools to improve the operation of the courts. The following section provides an overview of the frameworks that currently protect children and families, identifying gaps and highlighting their implications.

Pre court: How are consumers of digital and AI-mediated legal information and advice currently protected?

The Legal Services Act 2007 (the Legal Services Act) is the core statute governing the regulation of legal services in England and Wales. Formally, if not in practice[64], the Legal Services Act provides a range of protections for consumers who access regulated legal services, including multiple avenues for redress. It protects consumers through requiring anyone carrying out a set of six 'reserved' activities – for example, conducting litigation, representing clients in court or handling probate – to be authorised and supervised by one of seven approved 'frontline' regulators who are overseen by the Legal Services Board (Mayson 2022). Consumers who use regulated legal service providers can access a complaints service (the Legal Ombudsman, established by the Office for Legal Complaints), if they experience issues relating to the *quality of the service* provided – for example, poor communication, delay, overcharging, missing something obvious that a competent adviser would not have. The Legal Ombudsman has powers to both investigate

[64] Expert commentators including Professor Stephen Mayson have argued that the regulatory approach under the Legal Services Act is overly focused on punishing 'delinquent providers' at the expense of providing accessible redress to individual consumers (Mayson 2022) and further that existing redress mechanisms are predicated on a faulty model of the individual legal consumer as informed and empowered, when information and power asymmetries mean that many consumers cannot recognise substandard service, let alone pursue redress for it (Mayson 2022:28–33). A recent position paper published by the Legal Services Consumer Panel argued that the existing model is overly fragmented, confusing and failing consumers, and should be scrapped and replaced with one single regulator, organised into specialist divisions, with a single complaints body and single compensation scheme (Legal Services Consumer Panel 2026).

individual complaints and to instruct regulated providers (e.g. solicitors, barristers, legal executives) to provide specified forms of recompense, including conducting further work (if this will rectify the harm), refunding or reducing legal bills, and providing compensation of up to £50,000[65] including compensation for 'emotional effects due to legal provider failings' (Legal Ombudsman n.d.). It also requires all regulated providers to have professional indemnity insurance (PII), to compensate consumers in cases of professional negligence. In addition, frontline regulators are required to maintain a compensation fund for risks that are not covered by PII: including 'losses related to the regulated person or firm's dishonesty', and 'loss or hardship due to the regulated person or firm's failure to complete work for which they have been paid' (The Law Society, n.d.). Consumers can also raise complaints relating to professional misconduct (e.g. dishonesty, conflicts of interest, mishandling of client money) with the relevant frontline regulator (e.g. the Solicitors Regulation Authority for solicitors, the Bar Standards Board for barristers etc.), which can take disciplinary action, issue fines or remove an individual's right to practice.

The standalone provision of online or AI-assisted legal information and advice is not regulated under the Legal Services Act

Whilst the provision of legal advice is defined in statute as a: "legal activity", it is not a *reserved activity* Unlike many other jurisdictions, the standalone provision of legal information and advice *is not a reserved activity* under the Legal Services Act, unless it is provided by an authorised provider alongside a reserved activity (Mayson 2022). Under the existing statutory framework *anyone*[66] can offer unreserved legal services, including providing legal information and advice, without qualifications, insurance or oversight from a Legal Services Regulator (Frontier Economics 2023). The shift to technology assisted and digital models of legal information and advice has been led by organisations and individuals that are not regulated under the Legal Services Act (CMA 2016). Research has established that unregulated providers are more likely than regulated providers to use technology (e.g. apps, chatbots and interactive websites) to deliver services to consumers (Legal Services Board 2023) than their regulated counterparts. Where digital, online or AI-mediated legal information and advice is *not* provided by an authorised provider of legal services,

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[65] The Legal Ombudsman's website notes that most compensation awards are under £500.

[66] Contrast with the position in the US, where strict rules prevent anyone who isn't a licensed attorney from giving legal advice, representing someone in legal proceedings, drafting legal documents or otherwise acting as a layer (the Unauthorized Practice of Law legal doctrine or 'UPL'). UPL is enforced on a state-by-state basis through criminal penalties, civil injunctions, bar association or state attorney general enforcement, or sometimes private lawsuits pursued by parties who were harmed. At time of writing in Illinois, a suit has been filed by Nippon Life, an insurance company against OpenAI claiming unauthorised practice of law and seeking $300,000 in compensatory damages and $10 million in punitive damages, alongside a declaratory judgment that OpenAI violated Illinois UPL law and a permanent injunction barring OpenAI from providing legal advice (Nippon Life Insurance Company of America v. OpenAI Foundation and OpenAI Group PBC, No. 1:26-cv-02448 (N.D. Ill.), filed March 4 2026). See also the bill announced by New York legislators which would bar AI chatbots from posing as licensed professionals and give affected users a private right of action against AI platforms.

consumers are reliant on the protections offered by consumer law (e.g. the Consumer Rights Act 2015 and the Digital Markets, Competition and Consumers Act 2024). Protections under the UK General Data Protection Regulation are only availale for harms specifically related to data processing rather than the quality of legal advice or unfair processes more broadly.

The Consumer Rights Act 2015 requires in broad terms that a service must 'be carried out with reasonable care and skill, within a reasonable time and for a reasonable price' (Mayson 2022). It also requires that terms and conditions are fair[67] (CMA 2026a). Remedies offered under this Act include the right for work to be repeated, and the right to a price reduction if the work is not carried out with reasonable care or skill or within a reasonable time. Consumers may also seek damages, providing they do not attempt to recover twice for the same loss. The primary route for accessing these remedies is through the courts. The Digital Markets Competition and Consumers Act also reaffirmed that businesses have an obligation to ensure that prospective consumers have the information they need to make an informed decision, and that sales practices are not misleading, aggressive or generally unfair (CMA 2026a). From April 2025, the Digital Markets, Competition and Consumers (DMCC) Act 2024 gave the CMA enhanced powers to determine whether consumer law breaches have occurred, to impose fines and to order firms to pay compensation to affected consumers, without going through the courts (CMA 2026a).

In practice, the protections and options for redress available to consumers of online (including AI-mediated) legal information and advice are determined by the answer to two questions. First, is access to the online/AI-mediated legal information and advice provided in the context of a client relationship with an authorised provider of legal services? Second is there an ordinary paid consumer transaction that is not defeated by a disclaimer? Table 2 below illustrates the implication of the answers to these questions for the nature of protections provided to consumers, and their options for securing redress.

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[67] The CMA issued to unregulated providers of legal services (2026) also specifies the conditions under which terms that seek to exclude or restrict a business's liability to consumers may be considered unfair. Contractual terms excluding or limiting a provider's liability *may* be unfair if they create a significant imbalance in the parties' rights. Terms are automatically void where they attempt to exclude liability for failing to provide the service with reasonable care and skill, exclude liability for pre-contractual statements relied on by the consumer, limit liability (cap compensation) for want of reasonable care and skill, or cap liability for breach of statutory rights below the price paid. The guidance also makes clear that adding wording such as 'statutory rights not affected' or 'as far as the law permits' does not cure an otherwise unfair term. The guidance also advises unregulated providers that while they are not required to carry professional indemnity assurance, good practice says that they should have adequate cover anyway, as a consumer's right to compensation is illusory if the provider is unable to provide this.

Table 2. Protections for consumers accessing digital/AI-assisted legal information and advice

	Paid, no disclaimer	Free or disclaimed
Client relationship with an authorised provider of legal services	Legal professional engagement Redress: Regulated under the Legal Services Act 2007 – access to associated redress mechanisms	Legal professional advice augmented by a digital/AI tool e.g. a law centre deploys a free AI tool to help people draft responses to housing or benefit claims, and refers an existing client to use it by way of giving them advice (Smakman 2025) Redress: Regulated under the Legal Services Act 2007 – access to related redress mechanisms
No client relationship with an authorised provider of legal services	Paid, unregulated provider of legal services e.g. McKenzie Friend, amicable, Divorce Online Redress: Protections under consumer law and UK GDPR for data processing – redress for individual harms through the courts	Free, disclaimed information and advice from a provider who is not an authorised provider of legal services e.g. ChatGPT, Claude Redress: No effective redress

This lacuna of regulation is concerning as tools that help people define their legal problem and decide whether they need advice operate at a point of considerable consumer risk. How people define and understand their legal problem plays a critical role in determining both the resolution strategy they adopt (Pleasence, Balmer and Denvir 2015; Ministry of Justice 2015;) and the outcomes they secure (Hitchings et al. 2021). In family law, research has shown that divorcing couples without legal advice were more likely to leave pensions unaddressed (Hitchings et al. 2021) with potentially lifelong consequences. Some errors generated by faulty or inaccurate early advice cannot be undone – many legal rights are subject to strict time limits, consequently incorrect initial advice can mean a person loses an opportunity for redress permanently. In the context of family law specifically, inadequate screening for domestic abuse can expose parties to serious risk of harm. Further, legal services are a credence good: users cannot readily judge the quality of what they receive, a fact which the CMA noted gives rise to consumer protection issues that justify sector specific regulation (CMA 2016).

Consumers using GenAI tools to access legal information and advice are exposed to risk for which there is no redress

As depicted in Table 2 above, consumers relying on legal information and advice from general-purpose AI tools including ChatGPT and Claude are *exposed to harm for which there is currently no redress*. The consumer terms of service provided by general-purpose GenAI tools tend to disclaim their accuracy in a manner that means

that the protections under consumer law outlined above are unlikely to apply[68]. In addition, the UK Jurisdiction Taskforce (UKJT) – an industry led initiative created by the MoJ and funded LawtechUK Panel – recently published a *Legal Statement on Liability for AI Harms* (UKJT 2026), which explored liability for non-deliberate AI harms under English private law. In this statement, the UKJT set out their view that the Consumer Protection Act 1987 (CPA), which imposes strict liability for defective products, only applies where AI is embedded in a tangible product, such as a robot or an automated machine. AI tools supplied purely as software or as a service, including GenAI tools like ChatGPT and Claude, are therefore unlikely to fall within the purview of the CPA[69].

The challenges created by the growing use of general purpose GenAI tools for information and advice seeking are not restricted to the legal context. In health, recent policy analysis describes the way in which the popularity of gen AI tools is creating a "shadow health system" – where privately governed infrastructure is performing health-system functions without being subject to healthcare-specific safeguards, because the regulatory framework is triggered by declared purpose rather than real-world use (van Kolfschooten and Petročnik 2026). Cross sectional research has raised significant concerns about the impact of GenAI use for health information seeking on patient safety- finding that health information accessed via GenAI tools does not comply with standards for evidence-based health information and therefore is inadequate to inform health decision making (Rebitschek et al. 2025). Rebitschek et al (2025) found that even where well-informed prompts are crafted by researchers, specifically designed to elicit maximum accordance with established evidence- based health information requirements, not even 50% of maximum compliance could be reached with Chat GPT and Gemini. Lay users fared worse- the study found that information generated by lay users with no guidance on prompt design reached only 17% of the possible maximum score. The study further found that more frequent usage of Gen AI tools for seeking health information was negatively associated with information quality- meaning that heavier use of Gen AI tools for this purpose correlates with worse outcomes. A tested behavioural fix (reminding users to ask about options, advantages and risks) moderately improved response quality, but outputs remained below required standards. Despite this, polling analysed by researchers at King's College London found that one in seven UK adults are now using AI chatbots instead of seeing a GP, prompting the lead author to warn of an "unregulated AI healthcare system developing alongside the NHS" (Clark and Duffy 2026). The research found that 21% of those who sought health advice from GenAI decided against seeking professional healthcare advice because of something an AI chatbot said, deeply concerning in light of recent research that observed gen AI chatbot failure rates of over 80% for differential diagnosis – the

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[68] In the US, in Nippon v OpenAI (outlined at footnote 66), the claimants (Nippon) frame OpenAI's October 2024 decision to revise its usage policies to prohibit users from relying on ChatGPT for legal advice as evidence that OpenAI recognised the foreseeable risk and failed to take appropriate action – responding with a terms-of-service disclaimer rather than the architectural safeguards needed to make the system safe. (Kahana 2026).

[69] The Law Commission is currently looking into this – see https://lawcom.gov.uk/project/product-liability/

earliest stage of clinical reasoning before diagnostic testing or final diagnosis (Rao et al. 2026).

The financial services sector is also grappling with the implications of gen AI tools for its regulatory regime. In January 2026 the Financial Conduct Authority launched The Mills Review, led by Executive Director Sheldon Mills to examine the long-term impact of AI on retail financial services. The review was prompted in part by political and parliamentary pressure, a House of Commons Treasury Committee report, following an inquiry launched in February 2025, criticised the FCA for its lack of clarity on AI, warning that the absence of effective guidance exposed consumers and the wider financial system to "potentially serious harm" (House of Commons Treasury Committee 2026). In launching the review, the FCA expressly framed the project as responding to the role played by GenAI products in in mediating access to financial services. Public polling conducted for the review found that AI use is widespread amongst UK adults- with 16% using AI for financial services. Demand for AI was reported as strongest where: "decisions feel complex, high stakes or hard to navigate" including debt advice. (FCA 2026) Among consumers who use AI in financial services currently, 24% reported uploading personal financial data and 13% stated that they would be willing to grant real-time access to their financial information. (FCA 2026). The review made seven recommendations, including securing and adapting the regulatory perimeter to encompass genAI tools used for the purpose of accessing financial information and advice and strengthening system-wide coordination to address shared dependencies on AI models. The review also recommended that the FCA should build and maintain a "trusted public-interest AI enabled financial capability service" – working with government, industry, consumer groups and the Money and Pensions Service to create a new, free, publicly accessible service to provide reliable information, guidance and support to improve financial inclusion, consumer outcomes and confidence in AI enabled financial services. (FCA 2026.)

The analogous issues across sectors created by the growing popularity of a small number of general-purpose Gen AI tools mitigate in favour of exploring an aligned approach to regulation where possible. Further, lessons from comparing the impact of Online Safety Act 2023 to the EU's Digital Services Act (European Parliament and Council of the European Union 2022) suggest that powerful companies respond more readily to regulation backed by large markets acting together (House of Lords Communications and Digital Committee 2026b). The question of how to protect consumers who use general-purpose AI tools for legal, health and financial advice is shared by every G20 member, and it is unlikely that any country can resolve it alone. The Ministry of Justice, working with the Department for Science, Innovation and Technology, the Department of Health and Social Care and HM Treasury, should press for consumer protection in AI advice to be on the presidency's AI agenda, including evidence of accuracy, access to redress and how national regimes should apply to providers based overseas.

Recommendation

The Ministry of Justice should work with the departments and regulators responsible for health and financial services to consult on new approaches to regulating general-purpose AI tools that provide legal, health and financial advice, using the UK's 2027 G20 presidency as a vehicle to seek international agreement. At a minimum, any approach should reach providers wherever they are based; determine whether a tool is in scope by what it does, not how it is framed or disclaimed; require risk-based financial protection; and ensure consumers can access effective redress.

The Legal Services Act 2007 is ill equipped to address the challenge posed by domestic AI tools

Whilst the regulatory gap is widest for general-purpose Gen AI tools, bespoke consumer legal AI tools also operate outside the Legal Services Act where they are not delivered by authorised persons and provide only unreserved legal information and advice. Many consumer facing AI legal tools are free or low cost at point of use but generate revenue by referring users to paid providers. These arrangements can create incentives to steer users towards paid legal services rather than towards the option that best serves them, such as mediation, free advice or no action at all. Referral arrangements are already recognised as a consumer protection risk in legal services: referral fees are prohibited in personal injury cases under the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Vulnerable litigants in person are the least able to detect such incentives, which strengthens rather than weakens the case for regulatory coverage and transparency. Despite this, there is currently no requirement for these tools to be independently evaluated for accuracy, fairness or impact on outcomes. A recent evidence scoping review found that only seven of 45 mapped AI tools in the justice system had any publicly available evaluation, and that no UK justice-specific study has measured how AI-assisted processes affect individuals (Sargeant 2026).

Successive independent reviews of both the legal services market (CMA 2016, 2020) and the regulatory framework established by the Legal Services Act (Mayson 2022) have highlighted the inadequacy of existing arrangements for regulation and redress in the face of the rapid growth in consumer-facing digital legal information and advice. As early as 2016, a year-long legal services market study led by the CMA raised concerns that the framework created by the Legal Services Act was 'poorly aligned with the risks of providing legal services to consumers' (CMA 2016) and 'insufficiently flexible to apply proportionate, risk-based regulation which reflects differences across legal services areas over time' (CMA 2016). The study called on the MoJ to undertake a review of the Legal Services Act with a view to: 'restructuring the regulatory framework around activities and risks to consumers', with the implication that this might bring some activities of currently unauthorised providers into the scope of legal services regulation. While the government initially

acknowledged the case for a review of the Legal Services Act, no further action was taken. In 2020, an independent review of legal services regulation, prompted by the CMA market study and led by Professor Stephen Mayson, concluded that existing arrangements focused on regulating lawyers at the expense of regulating legal services, and in doing so, created a framework that was ill-equipped to deal with the rise in unregulated online providers of legal information and advice (Mayson 2020). Ten years on from the CMA's study, an independent review of the Legal Services Board (Lloyd 2026) commissioned by the MoJ as part of their periodic review of non-departmental public bodies, reiterated concerns that the existing framework is 'insufficiently focused on activity-based regulation' and as such does not 'reflect recent developments in the sector, such as the rapid growth of AI and law tech' and 'growing calls for a shift towards more activity-based regulation'. The review concludes that this disconnect is 'clearly a root cause of a major risk to the effectiveness of the system that is ultimately overseen by the Legal Services Board' (Lloyd 2026) and again calls upon the MoJ to '*carry out a comprehensive review of the regulation of legal services with consideration also being given to what activity should sit within or outside the current regulatory perimeters*' (Lloyd 2026). The review recommends that this new framework should be developed by 2029 and implemented during the next Parliament. In announcing the conclusion of the review in parliament, the Courts minister, Sarah Sackman, acknowledged that it is 'clear that prompt action is needed' and further that she would be 'working with her officials and the LSB to consider the report's findings'. The government's response will be set out in due course.

In the interim, there are immediately available steps that the MoJ could take consistent with a medium to long-term strategy of moving towards a more risk-based approach. In 2020, the CMA proposed that the MoJ should: "create, or empower the creation of, a mandatory public register for unauthorised providers" (CMA 2020). The CMA argued that such a register would confer several benefits including: enabling a proper understanding of the unauthorised sector to be developed; deterring "rogue providers" and facilitating evidence gathering on consumer detriment arising from the use of services delivered by unauthorised providers (CMA 2020). The CMA considered that a mandatory register would also provide a framework for attaching redress and other requirements: "to the extent appropriate and necessary", based on a better understanding of risk. Whilst the CMA concluded that the creation of the register would likely require legislation, the changes would be "would be more limited than the changes that wholesale reform would entail" (CMA 2020). Redress for consumers using unauthorised providers could be provided either through widening access to the Legal Ombudsman (as proposed by Mayson 2020) or mandating access to alternative dispute resolution. The CMA tasked the MoJ with determining approaches to funding the register, whilst Mayson proposed that the initiative could be funded through a registration fee and a pro-rata contribution to the Legal Ombudsman's establishment costs (on the same basis as the allocation of costs to authorised persons) (Mayson 2020). Under Mayson's proposal, the register would be maintained by the Legal Services Board,

who would have the power to decide: "in relation to all providers (or those of certain legal activities) that it is a condition of initial and continuing registration that a registrant should have a minimum level of professional indemnity insurance" albeit that this minimum should not be: "on the basis of the SRA's current minimum terms and conditions which impose a one size fits all approach that would be inappropriate" (Mayson 2020). Crucially, Mayson also stated that he did not: "believe that all the legal activities that would fall within the scope of the obligation to register are low risk. I would therefore expect the LSB to give due consideration to the nature of any regulatory conditions that ought to be imposed in relation to those providers who are...operating online services" (Mayson 2020).

Recommendation

The Ministry of Justice should, as an interim measure and without waiting for the review of the Legal Services Act 2007, develop a mandatory public register of unauthorised providers of legal services, as recommended by the Competition and Markets Authority (CMA 2020). As a condition of registration, providers should be required to offer consumers access to mechanisms for complaints and redress and hold risk based financial protection proportionate to the services they provide. The MoJ should review the options for delivering redress, including extending the remit of the Legal Ombudsman or mandating alternative dispute resolution. The MoJ should explore options for funding the register, which could include a registration fee paid by registrants and case fees for redress. The legislation establishing the register should allow further requirements, including quality and evidence standards to be added as they are developed with funding from the MoJ.

The Competition and Markets Authority's guidance to unregulated legal service providers advises that, although they are not required to carry professional indemnity insurance, good practice is to hold adequate cover, as a consumer's right to compensation is illusory if the provider is unable to pay (CMA 2026). There is also precedent for requiring unauthorised providers to hold professional indemnity insurance: claims management companies that advise on, investigate or represent in personal injury claims must do so under Financial Conduct Authority rules (FCA CMCOB 7.4), and some membership bodies for unregulated providers, such as the Institute of Professional Willwriters, require it as a condition of membership (Chartered Trading Standards Institute 2026). Mayson found that many unregulated providers already take out indemnity insurance voluntarily (Mayson 2020).

Concerns about the cost and availability of insurance are nonetheless understandable. The Legal Services Board has acknowledged the difficulty experienced by providers in securing cost-effective cover when the market for insurance hardens (Legal Services Board 2022), and research jointly commissioned

by the LSB and SRA found that smaller firms, and those specialising in property work, tend to pay higher premium rates as a percentage of their annual turnover (Frontier Economics 2023a). Industry press reports also suggest that insurers in the US have begun to tighten policy wording on AI-related losses, with law firms expected to be among the first affected (Royle 2026).

The available evidence suggests, however, that these concerns can be managed. Reviewing the findings of research they commissioned with the SRA, the LSB concluded that there was "limited evidence of consumer harm to date" from rising premiums, while noting a risk of reduced access to services if higher costs were passed on to consumers (Legal Services Board 2023a). The LSB noted that the number of authorised professionals had grown in almost every part of the sector (Legal Services Board 2023a), and further that more recent evidence suggested the insurance market may be softening (Legal Services Board 2024a). In the services most relevant to this paper, costs are modest: for an uncontested divorce, PII accounts for between £10 and £60 (2%–7%) of a total cost of £815 (Frontier Economics 2023a). Professional indemnity insurance was raised in only seven of the 151 written submissions to the Justice Committee's inquiry into access to justice, most often as a consumer safeguard that unregulated providers lack (Law Society 2025; The Divorce Surgery 2025). Two submissions identified rising premiums as a pressure on small and legal aid practices (Children 1st Mediation 2025; Central Law Group CIC 2025). It was not raised in oral evidence, where advice sector witnesses identified funding, training and lack of capital investment in digital services as the principal pressures on the sector (Justice Committee 2026a). Cover is also available for technology-delivered legal services: Garfield.Law, an AI-driven law firm authorised by the SRA for small debt claims, and LawFairy, a law firm that uses rules-based technology to provide immigration eligibility assessments, have both obtained professional indemnity insurance (Non-Billable 2025; Rose 2026a). The LSB's starting point is that "robust financial protection for consumers is paramount" (Legal Services Board 2024a), and its consumer research found that the most preferred options were those in which all providers continued to hold mandatory cover (Legal Services Board 2024a). Its concern has been with uniform requirements, not with requiring cover: it has proposed "a more graduated approach to PII that is more closely aligned to risk" (Legal Services Board 2023a), and suggested that regulators could establish mutual funds for particular groups of providers (Legal Services Board 2024a).

Mayson acknowledged concerns that requiring indemnity cover would "drive up the costs of becoming a registered provider of legal services, and might deter currently unregulated providers from continuing in practice", but concluded that, "if the regulator assesses that indemnity cover at a certain level is an appropriate and proportionate requirement, those who are not willing to bear the consequential cost should probably not be in the market, and for good reason" (Mayson 2020). Providers should therefore be required, as a condition of registration, to hold risk-based financial protection proportionate to the services they provide. The review of the Legal Services Act should consider how these requirements can best be

designed over time, including alternatives to individual insurance for not-for-profit providers, and for risks that conventional insurance may not cover, such as errors "multiplied by mass use" (Mayson 2020).

Reforms to regulation and the not-for-profit legal advice sector

Concerns have been raised that bringing AI-delivered legal advice within regulation would impose costs on not-for-profit advice providers and reduce the availability of free advice. However, the risks to users do not depend on whether a provider generates a profit, and creating an exemption for services that are free at the point of use would also benefit tools that generate commercial gain through referrals or lead generation. As such, concerns are best addressed not through blanket exemptions, but by changes to the way in which regulatory obligations are applied.

Existing UK regulators already bring free advice within regulation without charging the providers who deliver it. The Immigration Advice Authority regulates not-for-profit immigration advisers but charges no registration fee to organisations that provide advice in the course of a business that is not for profit and do not charge a fee, directly or indirectly (Immigration Advice Authority 2024). Under FCA rules, a not-for-profit debt advice body with limited permission pays a Financial Ombudsman Service case fee of £0, compared with a standard case fee of £680 (Financial Conduct Authority n.d.b), and the FCA's definition of such a body excludes those whose associates carry on the same activity commercially, preventing commercial providers from routing services through a not-for-profit arm (Financial Conduct Authority n.d.c). Fee exemptions under the register should follow the same model, applying only to bodies that do not charge users directly or indirectly, including through referral fees, lead generation or the commercial use of user data, and none of whose associates provide the same services commercially. Such concessions should be explicitly funded by the Ministry of Justice rather than met by other registrants.

Financial protection could be designed in a similar way. Many advice agencies already hold insurance and solicitors working in non-commercial bodies must ensure that adequate and appropriate indemnity cover is in place, based on an assessment of the cover required, rather than holding insurance on the minimum terms that apply to law firms (Solicitors Regulation Authority n.d.). The LSB has suggested that regulators could establish mutual funds for groups of providers, and that smaller providers could obtain cover collectively (Legal Services Board 2024a). The review of the Legal Services Act 2007 recommended below should consider these options for the not-for-profit sector.

The biggest challenge for not-for-profit providers is likely to consist in meeting evidence standards attached to registration. Few charities could afford to commission ongoing independent evaluation of AI tools, and responses to the Online Procedure Rule Committee's engagement on its inclusion framework warned that standards should not become "overly onerous, particularly for small firms, start-ups, and public sector providers", stating that "heavy compliance requirements may stifle

innovation, limit participation, or deter new entrants" (Online Procedure Rule Committee 2025). Accordingly, whilst evidence standards should apply to not-for-profit tools, providers should be supported to meet them, through publicly funded evaluation infrastructure and shared benchmarks, and by making evaluation a condition of grant funding for publicly funded tools.

Recommendation

The MoJ should ensure that the wider review of legal services regulation recommended by Lloyd (2026) builds on the register recommended above rather than delaying it. The review of legal services regulation should consider how domestic AI-facilitated legal advice tools can be regulated through registration rather than by making legal advice a reserved activity. It should determine how requirements for risk-based financial protection should apply (including exploring alternatives to insurance) and consider how not-for-profit providers can be supported to meet evidence standards for AI tools. It should also reshape the reserved activities around risk and explore options for consolidating the regulatory and complaints landscape (Legal Services Consumer Panel 2026) to make it easier for consumers to navigate. The regulation of mediation should also be considered through this review. In the interim, the Legal Services Board should include AI legal advice, including from general-purpose tools, in the first annual assessment of sector risk recommended by the independent review (Lloyd 2026).

Within court: What protections exist for children, families and the system?

Private sector-developed tools and products that are bought or built into court processes present a related, but distinct set of challenges for regulation and governance. In 2022, the House of Lords Justice and Home Affairs Committee likened the landscape for implementing AI in the criminal justice system to 'a new Wild West – in which new technologies are developing at a pace that public awareness, government, and legislation have not kept up with' (House of Lords Justice and Home Affairs Committee 2022). Four years on and arguably the position has improved, with the MoJ, HMCTS and judiciary all producing principles and guidance to support the adoption of AI, some of which is public facing. However, there are gaps. Existing published[70] frameworks are not consistent with each other, and it is unclear which framework takes precedence where they contradict. Where guidance for judges has been published, it is unclear who is empowered to ensure

[70] At time of writing the AI principles developed by the Judicial AI Working Group and HMCTS are not available anywhere as a standalone document, although they are referenced in a blog post published by HMCTS that is available here: https://insidehmcts.blog.gov.uk/2026/06/05/using-artificial-intelligence-to-improve-justice-services/

that this is adhered to, or how the requirement to generate evidence to understand whether systems function reliably, impartially and fairly, and support accountability and human oversight can be delivered without threatening judicial independence. The extent to which standards enshrined in existing frameworks are operationalised in procurement processes is also ambiguous.

It is unclear who is empowered to review judicial use of AI

Internationally, there is growing consensus that to preserve judicial independence, the judiciary, and *not* the executive, should oversee the purchase, design, control and testing of AI technologies deployed in the courts. Publications from the Council of Europe Consultative Council of European Judges (2023), the United Nations Educational, Scientific and Cultural Organisation (UNESCO 2025) and the UN Special Rapporteur on the Independence of Judges and Lawyers (2025) concur that the judiciary should have both oversight of and responsibility for the development, deployment and use of AI tools. To facilitate this, other common law jurisdictions, such as India, have proposed the creation of a permanent, judge-led Apex Body at the Supreme Court – supported by a Judicial Committee and dedicated AI secretariat in each High Court, a Technical Committee and a Centre of Research and Excellence on Artificial Intelligence – to deliver independent and ongoing evaluation of AI tools used in the courts (Supreme Court of India, AI Committee 2026). Proposals also include: i.) controlled environment testing prior to deployment; ii.) a public facing AI Register for each High Court, documenting every approved tool, its scope, audits and any incidents; and iii.) an AI Incident Database, logging every malfunction, error or bias event, with cross-court sharing of findings. In England and Wales, from October 2026 new tools, use cases and pilots are to be assessed by a centralised steering group chaired by the Lead Judge for Artificial Intelligence (Birss 2026a). A position statement, published in October 2026 describes this centralised steering group as: "the sole route for oversight of the development, piloting and deployment of AI tools and a route for escalation should concerns arise (Birss 2026a). However, the statement makes no provision for publishing the decisions of the group, the evaluations it relies on, or any incidents which may occur. In contrast to India, there is no mention of a public register of approved tools or public facing incident database. The extent to which the steering group is provided with dedicated funding or independent research capacity remains unclear.

Recommendation

The Lady Chief Justice should develop the centralised steering group announced in the Position Statement on the Judicial use of Artificial Intelligence into a Judicial AI Oversight Committee to oversee judicial use of AI and commission independent research into its impact. Anonymised data on judicial use of AI tools, including Microsoft Copilot, should be provided to this committee for the purpose of understanding trends in adoption and use and ensuring that judicial guidance is complied with. The committee should be answerable to and report directly to both the Lady Chief Justice and the Lord Chancellor. The MoJ must ensure that the committee is sustainably funded with a budget of no less than £1 million per annum (benchmarked against the budget provided for the Domestic Abuse Commissioner, who has been tasked with developing a reporting mechanism to review the treatment of allegations of domestic abuse in private family law cases) and staffed with an expert secretariat to support the commissioning of independent, robust research and evaluation. The Committee should also contribute findings to an AI Incident Database, published by HMCTS, that records malfunctions, outages, errors and bias events.

Existing published frameworks of principles do not reconcile and it is not clear which takes precedence

The MoJ AI Action Plan (2025) identifies four public cross-cutting principles to guide the adoption of AI: 'put safety and fairness first', 'protect independence (including judicial independence)', 'start with the people who use the system' and 'build or buy once, use many times'[71]. The tone throughout the plan is expansionary and cross-cutting metrics for evaluation emphasise scale, productivity, efficiency and value for money. Importantly, no detail is provided about the way in which metrics to capture departmental priority outcomes (e.g. access to justice) will be developed, or whether external stakeholders including affected communities (as opposed to 'users' of the technology) will be consulted.

[71] See Appendix A which reproduces the framework in full.

Recommendation

The MoJ should co-develop context-specific benchmarks and success and harm measures with affected families and court users – consulting on the evaluation approach itself with technical experts and wider stakeholders. In particular, the MoJ should invest in socio-technical evaluation – evaluation that considers the performance of each technology within its system, and explores how that performance is mediated by processes and people. The MoJ should commit to publishing the findings of these evaluations as standard practice. Success criteria should be expanded beyond adoption and cost effectiveness. In addition, any analysis of cost effectiveness and value for money should be extended to model the impact of AI tools across the justice system, not just the individual agency deploying the tool.

In contrast, the nine principles produced by HMCTS and the Judicial AI Working Group[72] (Leveson 2026) are more granular and defensive in tone. Seven of the nine principles – which aim to ensure that the use of AI in the courts and tribunals is lawful, proportionate, fair, secure, explainable, transparent and accountable – are reflected in the language used in the MoJ's AI Action Plan. However, two further principles – which state that the AI used by the courts should be 'reliable', 'function(ing) consistently in a robust, secure and safe way' (Leveson 2026); and 'contestable' with outputs open to challenge through 'proportionate and accessible processes' (Leveson 2026) – are not mentioned in the MoJ AI Action Plan at all. The judiciary's Position Statement on the Judicial Use of AI (Birss, 2026a), described as "complementary" to the existing judicial guidance, adds a further set of principles. These include protecting the administration of justice and upholding the rule of law; preserving judicial discretion; and maintaining judicial independence, impartiality, fairness, accountability, human oversight, confidentiality, security and transparency. However, the statement does not explain how these principles relate to either the MoJ AI Action Plan or the principles set out by HMCTS and the Judicial AI Working Group.

While the evaluation metrics published in the MoJ AI Action Plan include accuracy – defined as how well the AI solution is performing its intended task – it is not clear that that this metric captures the narrower dimension of 'reliability' in the context of use cases including summarising evidence and reviewing the wording of judgments. It is unclear whether Copilot, with its dynamic, non-fixed model routing and reliance on Gen AI is capable of performing consistently in the sense intended by the Judicial AI Working Group and HMCTS, or indeed, whether existing evaluation approaches track unnoticed semantic drift in draft judgments, or the fidelity of Copilot produced summaries to the underlying evidence. While transparency is mentioned in both documents, neither contains provisions for documentation and disclosure of judicial

[72] See Appendix A which reproduces the principles in full.

AI use, despite this being a crucial precondition for both open justice and contestability. The absence of any reference to the processes that users of the courts and tribunals can access to contest the output of AI systems is an additional structural gap – one with direct consequences for the children and families who rely on the family courts.

Recommendation

The Lord Chancellor and the Lady Chief Justice should reconcile the MoJ AI Action Plan with the HMCTS/Judicial AI Working Group principles – and the position statement — the latter's 'reliable' and 'contestable' principles are absent from the former; and the role of HMCTS and the Judicial Office in specifying evaluation standards is not explained. One set of principles should be produced and published jointly by the Lord Chancellor and the Lady Chief Justice.

Recommendation

The Lady Chief Justice should issue guidance requiring documentation and disclosure of judicial AI use, drawing on emerging international practice. Wherever AI is used to summarise evidence, or draft, edit or anonymise judgments, this should be made explicit in the file. The guidance should require judges to produce an adjunct memorandum as an annexe stating the name of the tool used, model and provider company; the date on which it was used; and that they read, understood and accepted the terms and conditions of use. The memorandum should also explain what the tool was used for and the details of how it was used and include the specific prompts or instructions used. In the memorandum, the judge should also account for the ways in which their reasoning engaged with or diverged from the outputs of the tool. Within any documents produced using the tool, judges should follow UNESCO guidance and refer to the specific location of the products or results reproduced, transcribed or incorporated, with inverted commas, bold, italics or any other method to clearly distinguish the texts that were produced by the tool (UNESCO 2025). This memorandum should be proactively shared with parties and their representatives to support contestability.

Recommendation

The Lord Chancellor and the Lady Chief Justice should consult publicly on proposals for operationalising the contestability principle in the HMCTS/Judicial AI Working Group principles. In devising an approach to contestability, priority should be given to designing a mechanism that enables litigants in person – not only lawyers, who are better equipped to spot AI-related issues – to contest the use of AI in their case. Amendments to the guidance published by the Judicial Conduct Investigations Office could be considered as part of this approach.

It is unclear whether and how existing principles are operationalised as part of the procurement process

The MoJ AI Action Plan is also ambiguous in relation to the governance of AI tools deployed across the courts and tribunals. The judiciary are described as consultees[73] in relation to the development of the Action Plan, while HMCTS and the Judicial Office are described as 'key partners' with responsibility for ensuring that 'judicial needs and values are reflected in the responsible deployment of AI' (MoJ 2025). HMCTS are listed as one represented function within the MoJ AI Steering Group which sets standards and owns the risk register for departmental use of AI. Further reference is made to: 'tailored governance and assurance processes' developed by HMCTS to 'ensure that any use of AI in courts and tribunals is appropriate, safe and controlled and upholds the independence of the judiciary' (MoJ 2025). *However, no provision in the MoJ AI Action Plan states whether HMCTS, the judiciary or the Judicial Office can set the terms of pre-deployment testing, define acceptance criteria, or design and mandate ongoing evaluation, as opposed to being informed of, or commenting on, evaluation the MoJ has already designed*. Whilst the position statement on judicial use of AI references the judiciary: "testing functionality through pilot activity"- it is unclear who designed or conducted these pilots (Birss 2026a). Nowhere in the plan is it stated how the principles articulated by either the MoJ AI Action Plan or the HMCTS and Judicial AI Working Group are operationalised as part of the procurement process. For example, there is no published contract for the MoJ's purchase of Microsoft Enterprise Licenses, a nearly £400 million[74] spend within which Copilot most plausibly sits. This is likely because Microsoft Enterprise Agreements for government are procured centrally,

[73] Contrary to the approach recommended by the Council of Europe's Consultative Council of European Judges in its Opinion No. 23 which recommended that: 'to maintain consistency with judicial independence, impartiality and autonomy, judges whether through Councils of the Judiciary or otherwise, ought to be involved in the purchase, design and control of technology…and concur in its introduction and implementation'. The opinion goes on to state that: 'This is particularly important where the responsibility for court administration rests with Ministries of Justice or is a matter of partnership between the judiciary and the Ministry of Justice.' (Consultative Council of European Judges 2023)

[74] See: https://www.gov.uk/government/publications/ministry-of-justice-spend-control-data-for-april-2024-to-june-2024

through a mechanism that is structurally designed not to generate a disaggregated, publicly searchable, per-department notice[75]. Considering this arrangement, it is unclear the extent to which HMCTS or the judiciary have visibility into, or control over, what is purchased and under what terms. It is notable that a contract agreed by the Crown Prosecution Service for Microsoft Enterprise Licensing and Copilot combined, available publicly on GOV.UK Contracts Finder, defines quality and technical standards by reference to 'the Microsoft Enterprise Agreement standard of practice' rather than any CPS-specific or Copilot-specific technical standard – importing Microsoft's own commercial terms as the applicable standard rather than setting an independent, context-specific bar. As such, the *market*, rather than the *public body* sets the adequacy bar for the tool's performance in a high-stakes justice context.

Recommendation

The MoJ should create and consult on a justice-specific AI assurance framework – In developing this framework, the MoJ should commission a review of existing initiatives across government, with a view to developing/extending existing resources(see for example: https://testing-ai-standards.github.io/cross-gov-ai-testing-framework/.) At a minimum, this framework should cover pre-deployment safety assessment, procurement assurance, evidence standards, post-deployment monitoring and clear responsibility for failures. The standards for AI tools used across the family justice system should be determined through system-wide discussions, coordinated by the Family Justice Board, and including the perspectives of the judiciary, social workers, people affected by care processes and regulators who establish standards for professionals, including lawyers and social workers. Once developed, the performance of the framework should be assessed on an ongoing basis. Standards for AI tools used by judges fall outside this framework's remit; these are addressed separately below, to ensure the executive does not unilaterally determine the adequacy bar for tools that affect judicial decision-making.

[75] Contrast this with the Crown Prosecution Service, who published a redacted version of their 3-year contract with Trustmarque for Microsoft Enterprise Licensing and Copilot (see: https://www.contractsfinder.service.gov.uk/Notice/04e43234-6074-4f4b-b73c-2dac772c746d). The agreement is heavily redacted; however, under 'Alternative Clauses', buyer requirements in respect of AI ethical standards have been inserted, referencing the *AI Playbook for the UK Government*, the MoJ AI and Data Science Ethics Framework, an internal CPS policy – *How the CPS will use Artificial Intelligence* – and the Government Algorithmic Transparency Recording Standard. This precedent shows it is possible to attach AI-specific governance obligations to a contract called off from a larger, centrally negotiated framework agreement – but it does not evidence disaggregated AI-specific spend. The £6.8-million Copilot-specific value identified in the pre-procurement pipeline notice (Find a Tender 2025/S 000-024950) does not reappear as a separate line at award stage; the final Contracts Finder notice publishes a single bundled contract value of £19,576,284 for Microsoft Enterprise Licensing and Copilot combined, meaning the financial visibility achieved before procurement was lost once the contract was signed. It is also notable that "Quality and technical standards" are defined by reference to "the Microsoft Enterprise Agreement standard of practice" rather than any CPS-specific or Copilot-specific technical standard — importing Microsoft's own commercial terms as the applicable standard rather than setting an independent, context-specific bar.

Recommendation

Assurance standards for AI tools used by judges and court staff should be set jointly by the MoJ and the Lady Chief Justice, and overseen by the Judicial AI Oversight Committee – rather than by the MoJ alone. This should cover the same minimum elements as the MoJ's wider assurance framework (pre-deployment safety assessment, evidence standards, post-deployment monitoring and clear responsibility for failures), applied specifically to judicial-use tools such as Copilot. The Committee should be empowered to require evidence that a given tool meets this bar before further rollout is approved.

Recommendation

The MoJ should require justice- or court-specific AI standards to be written into procurement contracts – rather than deferring to the supplier's own commercial terms and publish contracts for centrally procured AI infrastructure.

The justice system can learn from the regulatory response in other sectors

As outlined above, publicly available information on the primary protections provided for children and families in the context of AI deployment in the family courts suggests a strong reliance on conduct-based approaches – specifically, guidance aimed at shaping the practice of judges and legal professionals. Unlike other sectors, such as health, this guidance is not underpinned by a mature ecosystem of product-focused regulation grounded in standards specifically developed for justice applications. To illustrate what such an ecosystem might look like, UK health technology regulation operates across multiple distinct levels, from before products are sold, to initial deployment and beyond. Pre-market, the Medicines and Healthcare products Regulatory Agency (MHRA) regulates software, including as a medical device where it meets the legal definition (MHRA 2025). Manufacturers are required to declare an intended purpose for their software which is used to determine classification – qualifying products must carry a UKCA mark and comply with requirements set out in the Software and AI as a Medical Device Change Programme (MHRA 2025), which issued tightened post-market surveillance obligations in June 2025. Notably, OpenAI's dedicated 'ChatGPT Health' product has been geo-blocked from the UK, EU and Switzerland since its 2026 launch – a decision that has been widely interpreted as the company anticipating regulatory friction with existing medical device regulatory frameworks (Pye 2026).

For products intended for use within NHS services, the NHS operates its own procurement assurance process, independent of the MHRA classification scheme. The Digital Technology Assessment Criteria (DTAC) (NHS England 2026) require any digital health technology being procured, piloted or embedded into an NHS pathway to be assessed against baseline standards for clinical safety, data protection, technical security, interoperability and usability. The DTAC were revised in February to specifically align with the National Institute for Clinical Excellence's (NICE) definition of digital health technologies and to reduce duplication with medical device requirements. Evidence and effectiveness standards are set by NICE, who maintain an Evidence Standards Framework (NICE 2022) describing what level of evidence a digital health technology must demonstrate before it is judged to be clinically and cost effective. The government's *10 Year Health Plan* (DHSC 2025), published in 2025, announced that NICE's technology appraisal process would be expanded to cover devices, diagnostics and digital products directly – including smartphone apps, standalone software and online tools for treating or diagnosing conditions, preventing ill-health or for *improving system efficiencies*.

At service level, the Care Quality Commission regulates the providers of specified activities – including triage and remote medical advice. The AI and Digital Regulations Service for health and social care guidance states that where a provider uses 'AI-driven technologies as part of delivering a service, [they] need to check if the adoption and use of the technology constitutes a regulated activity' (AI and Digital Regulations Service 2024). If the use of a technology constitutes a regulated activity – for example, where a tool generates a diagnosis and sends it directly back to the referrer without a clinician independently checking it – then the developer is treated as carrying on that regulated activity themselves, and must register with the CQC. It is a criminal offence to carry out a regulated activity without being registered with the CQC under Section 10(1) of the Health and Social Care Act 2008. If a provider is found guilty of an offence under Section 10, the court can impose an unlimited fine and/or a sentence of up to 12 months imprisonment (Hannah 2023). Where a registered healthcare provider contracts with a technology supplier based outside of England to use AI technology to deliver a regulated activity (e.g. reviewing X-ray, CT or MRI images), the registered provider will be held to account for both the way the service is delivered and quality assurance (Care Quality Commission 2025).

Health regulators have also issued direct-to-consumer guidance to help people to become informed consumers of digital well-being and mental health products, in response to the growing popularity of these tools, particularly among younger people. In January 2026, the MHRA, together with NHS England, published comprehensive advice to help the public select tools that are safe, effective and built on reliable evidence (MHRA 2026). The guidance also supports the public to

understand whether existing tools are regulated as a medical device. The public-facing guidance was developed following a three-year programme of work, funded by the Wellcome Trust and engaging NICE, NHS experts, researchers, healthcare professionals and people with lived experience. It is underpinned by substantive technical guidance which sets clear criteria for when digital mental health tools must be treated as medical devices under UK law and reinforces that regulatory status is not static but subject to review as products evolve.

Table 3. Summary comparison of regulatory ecosystem for health technology versus justice technology

Function	Health technology	Justice technology
Pre-market safety gate	MHRA: medical device classification and UKCA marking, triggered by declared intended purpose.	**None** identified. No regulatory body assesses legal or judicial AI tools for safety before deployment. LawtechUK tracker does not record detailed declared intended purpose.
Procurement assurance	DTAC: mandatory NHS due-diligence standard covering clinical safety, data protection, security, interoperability, usability.	**None** identified for HMCTS or judicial procurement.
Effectiveness/evidence standard	NICE Evidence Standards Framework, now expanded to cover digital products under the *10 Year Health Plan*, including digital technologies that aim to improve service efficiency.	**None**. No routine assessment of whether a legal AI tool actually works and to what standard before adoption. LSB-commissioned review of standards for consumer-facing AI powered LawtechUK (ox.ai 2026) found critical gaps in relation to accuracy, among other areas. No provision to assess technologies that aim to improve service efficiency beyond evaluation described in the MoJ AI Action Plan.
Service-level regulation	CQC regulates providers of specified regulated activities (e.g. triage requiring immediate action, diagnosis support tools), including developers of software where no clinician verifies the output.	Legal Services Act 2007 regulates reserved legal activities carried out by authorised persons; excludes legal information and advice services[76].
Direct-to-consumer guidance	MHRA/NHS England published consumer-facing guidance (Jan 2026) on what to check before using a mental health app.	**None** identified for users of consumer-facing LawtechUK.
Coordinated system-wide rethink	MHRA National Commission into the Regulation of AI in Healthcare (2025–26): public call for evidence, working groups, recommendations due summer 2026[77], following from MHRA consultation on *Software and AI as a medical device*.	**None**. No equivalent commission or review exists for the regulation of AI in justice or legal services.
Regulatory model	Hybrid: device-style pre-market gate (MHRA) plus principles-based service regulation (CQC). Synthesis of rows above.	Primarily conduct-based: guidance aimed at professionals' and judges' personal use, not at products.

[76] Legal Services Act 2007, Section 12 (meaning of 'reserved legal activity'): https://www.legislation.gov.uk/ukpga/2007/29/section/12

[77] GOV.UK (2025). *MHRA seeks input on AI regulation at 'pivotal moment' for healthcare*. 18 December 2025. https://www.gov.uk/government/news/mhra-seeks-input-on-ai-regulation-at-pivotal-moment-for-healthcare

Table 3 above presents a summary of key features of the regulatory ecosystem for both health and justice/legal technology. The comparison reveals significant gaps in the regulatory framework for legal and justice technology at all levels, which are inadequately addressed by existing conduct-based guidance. A further, significant difference between the two sectors relates to the urgency and energy with which regulators have responded to the governance challenge posed by digital technologies. From 2018 onwards key regulators in health have led successive initiatives aimed at developing the existing approach to regulation and governance of digital technologies, including software as a medical device (SaMD), which have accelerated in response to developments in AI. McGrath (2024) mapped initiatives related to AI governance in UK healthcare from 2018 to 2024, identifying ten separate projects or programmes of work spanning the entire regulatory landscape – workstreams have created definitions, established quality and evidence standards, reformed research ethics review processes, and strengthened post market surveillance approaches to support the safe development and deployment of digital health technologies (see summary table at Appendix B). These initiatives, which have engaged a wide range of stakeholders, have culminated in the adoption of new standards, guidance and procedures, many of which have been enshrined in secondary legislation. In contrast, the Legal Services Board continued to state as recently as 2023, that the framework established by the Legal Services Act 2007 was 'fit for purpose' (Justice Committee 2023), while statutory guidance for frontline regulators has been framed around the 'promotion' of technology, with explicit exhortations to avoid being 'unduly risk averse and thus inhibiting innovation' (Legal Services Board 2024).

The difference in approach is exemplified by the way in which regulators in health and legal services have approached the use of 'sandboxes' – safe, controlled and time-limited testing grounds created by regulators. In health, a CQC Regulatory Sandbox for AI – funded via the Department for Business, Energy and Industrial Strategy Regulators Pioneer Fund – was expressly framed around the development of regulation and quality standards and resulted in concrete outputs including changes to inspection and registration criteria. In contrast, a LawtechUK/Solicitors Regulation Authority Sandbox, also funded by the Regulators Pioneer Fund, resulted in limited tangible project outcomes at the point at which evaluation took place, with benefits framed around 'networking' and 'demonstrating that regulators are approachable' (BEIS 2021). The recent announcement of a new advisory sandbox, bringing together the Solicitors Regulation Authority, the Council for Licensed Conveyancers, the Information Commissioners Office and the Legal Services Board as part of the AI Growth Labs initiative, is framed around market acceleration, rather than consumer protection.

Analogous sectors are responding to the risk created by general-purpose LLM-based GenAI with greater urgency

In response to rapid developments in AI, in 2025 the MHRA launched a National Commission into the Regulation of AI in Healthcare chaired by Professor Alistair Denniston, with the England Patient Safety Commissioner as deputy chair. The National Commission, an expert, non-statutory body has partnered with the Health Foundation to deliver research, including public polling; National Voice to support engagement with underrepresented perspectives; and techUK and the Ada Lovelace Institute to deliver stakeholder roundtables. Four working groups – a cross-Whitehall working group, a devolved authorities working group, a health systems working group and a technology working group – have been created to provide the commission with specialist insight. A public call for evidence closed in February 2026 with over 760 responses from clinicians, industry, patients and the public. Direct-to-consumer AI tools and GenAI products are in scope and have been discussed by working groups, although the commission's chair has stated in a podcast that we are: 'barely catching up with the introduction of large language models' (Denniston in Dixon et al. 2026). The commission's recommendations, expected in late summer 2026 are intended to advise the MHRA on the development of a new regulatory framework for AI in healthcare, also expected in 2026. No comparable commission exists for justice.

Recommendation

The MoJ should create and resource a National Commission into the Regulation of AI in Justice modelled on the National Commission for the Regulation of AI in Health. The commission's terms of reference should include: i.) identifying gaps in and recommending reforms to the existing regulatory and governance infrastructure, including the Legal Services Act 2007, the Online Procedure Rule Committee, the MoJ AI Action Plan principles and the HMCTS and Judicial Working Group for AI principles among others; ii.) considering whether new bodies – for example, a NICE equivalent[78] for justice – may be required, to ensure that AI tools deliver in terms of cost effectiveness; iii.) reviewing findings from the AI Growth Lab sandbox, which should be adapted to explicitly consider what new consumer protection standards may be required iv.) identifying a body who might be tasked with developing use cases, quality standards, deployment standards, evidence standards, procurement standards and approaches to post market surveillance for technology including AI tools aimed at improving efficiency; drawing on emerging good practice from other sectors and standards bodies v.) suggesting new mechanisms for consumer redress and vi.) examining the changes that may be needed to policy and regulation to effectively respond to the growing popularity of GenAI tools.

The National Commission should be supported by a funded research partner, to deliver a programme of work which should include i.) public polling and public deliberation ii.) engagement with underrepresented stakeholders and impacted communities, iii.) stakeholder workshops and iv.) a public call for evidence.

[78] A NICE equivalent body for justice could lead in independently assessing new and existing technologies and interventions to see whether they are effective in increasing access to justice, promoting just outcomes and offer good value for money. The absence of empirical evidence to inform changes to practice, or revise and improve solutions has been noted by others including recently Professor John Sorabji, whose Nuffield commissioned report called for the creation of a permanent Civil Justice Reform Institute supported by an independent Access to Justice Institute funded and tasked with building the evidence needed to support reform (Sorabji 2026 June

Conclusion and recommendations

This report has sought to demonstrate that the MoJ, HMCTS and the senior judiciary are increasingly delegating the delivery of digital justice and AI-mediated services to the market through:

1. Incentivising private sector providers of specialist consumer-facing online information, advice and dispute resolution tools to adhere to voluntary standards and connect to the courts;
2. Procuring tools designed, built and managed by the private sector and deploying them within justice-system agencies; and,
3. Building justice-system-specific application interfaces on top of proprietary, licensed tools and models, integrating those tools with specific workflows and connecting them to curated data.

While this shift may be considered an understandable consequence of the failure of the HMCTS Reform Programme to deliver on its aims, wider economic realities and rapid developments in AI, the existing ecosystem of regulation and governance is wholly inadequate to safely support it – both pre and within court. Pre-court, the government risks entrenching a system whereby access to the justice system depends on the reliability of tools and systems that are untested, insufficiently evidenced and broadly unaccountable, exposing users to harm for which there is no effective redress. The stakes of this lacuna are acute in the family justice system, where existing evidence suggests that the harm created by reliance on inaccurate AI-mediated information, advice and dispute resolution will fall disproportionately on litigants in person, children and survivors of domestic abuse. Within court, the same absence of effective regulation and transparent governance leaves judicial use of AI tools inappropriately evidenced and under-scrutinised. Conduct-based guidance and existing principle-based frameworks inappropriately concentrate responsibility for identifying, contesting and mitigating harm on judicial users of the technology, and affected litigants. The unique opacity of family proceedings, combined with the consequential and emotive content of disputes, low levels of legal representation, high case volume, and the stark power imbalance between parties and the judiciary conspire to create a circumstance where existing safeguards are likely to prove particularly ineffective. In addition, it is unclear whether it is fair or realistic to make individual family court judges the primary safeguard against AI harms, when they are already operating under acute workload pressure. *The burden should not fall on individual users to discover, through their own vigilance, whether a product designed*

for a different purpose performs safely when repurposed for a judicial task; it should fall on the system to require that fitness for a particular, context-specific use case is demonstrated both before deployment and on a continuing basis.

In conclusion, investing in a trusted regulatory and governance ecosystem is vital to protect consumers and ensure that the promised benefits of AI and digital technologies for access to justice are realised. Nothing in this report should be read as an argument against digital reform or AI-mediated justice per se, or against the role of the private sector in delivering it. It is an argument that the current model, delegation by default, is a policy choice, not a neutral consequence of technological change, and that it can and *should be replaced by a deliberate approach that appropriately manages risk*: publicly funded and governed standards for safety, performance and evidence, matched to proportionate but effective oversight and accessible redress, within which a competitive market can safely operate.

Above all, this report is an argument against inertia in the face of change. If government fails to act now to impose effective governance and regulation, it will not simply forgo the benefits that AI and digital technology could bring for access to justice and the courts, it risks generating new and avoidable costs, negating rights, undermining already fragile public trust in the justice system and compounding the very problems that the shift to digital justice was meant to address.

The recommendations below set out what building a trusted regulatory and governance ecosystem will require in practice: closing the regulatory gaps this report has identified, fixing market failure in consumer-facing tools, building assurance and evaluation capability that currently does not exist, and governing the use of AI in court proceedings to ensure that users who rely on the justice system are effectively protected.

Recommendations

1. Close the regulatory gap

1.1 **The Ministry of Justice should work with the departments and regulators responsible for health and financial services to consult on new approaches to regulating general-purpose AI tools that provide legal, health and financial advice,** using the UK's 2027 G20 presidency as a vehicle to seek international agreement. At a minimum, any approach should reach providers wherever they are based; determine whether a tool is in scope by what it does, not how it is framed or disclaimed; require risk-based financial protection; and ensure consumers can access effective redress.

1.2 **The Ministry of Justice should, as an interim measure and without waiting for the review of the Legal Services Act 2007, develop a mandatory public register of unauthorised providers of legal services, as recommended by the Competition and Markets Authority (CMA 2020).** As a condition of registration, providers should be required to offer consumers access to mechanisms for complaints and redress and hold risk based financial protection proportionate to the services they provide. The MoJ should review the options for delivering redress, including extending the remit of the Legal Ombudsman or mandating alternative dispute resolution. The MoJ should explore options for funding the register, which could include a registration fee paid by registrants and case fees for redress. The legislation establishing the register should allow further requirements, including quality and evidence standards to be added as they are developed with funding from the MoJ.

1.3 **The MoJ should ensure that the wider review of legal services regulation recommended by Lloyd (2026) builds on the register in recommendation 1.2 rather than delaying it.** The review of legal services regulation should consider how domestic AI-facilitated legal advice tools can be regulated through registration rather than by making legal advice a reserved activity. It should determine how requirements for risk-based financial protection should apply (including exploring alternatives to insurance) and consider how not-for-profit providers can be supported to meet evidence standards for AI tools. It should also reshape the reserved activities around risk and explore options for consolidating the regulatory and complaints landscape (Legal Services Consumer Panel 2026) to make it easier for consumers to navigate. The regulation of mediation should also be considered through this review. In the interim, the Legal Services Board should include AI legal advice, including from general-purpose tools, in the first annual assessment of sector risk recommended by the independent review (Lloyd 2026).

1.4 **The MoJ should create and resource a National Commission into the Regulation of AI in Justice** modelled on the National Commission for the

Regulation of AI in Health. The commission's terms of reference should include: i.) identifying gaps in and recommending reforms to the existing regulatory and governance infrastructure – including the Legal Services Act 2007, the Online Procedure Rule Committee, the MoJ AI Action Plan principles and the HMCTS and Judicial Working Group for AI principles among others; ii.) considering whether new bodies – for example, a NICE equivalent for justice – may be required, to ensure that AI tools deliver in terms of cost effectiveness; iii.) reviewing findings from the AI Growth Lab sandbox, which should be adapted to explicitly consider what new consumer protection standards may be required; iv.) identifying a body who might be tasked with developing use cases, quality standards, deployment standards, evidence standards, procurement standards and approaches to post market surveillance for technology including AI tools aimed at improving efficiency; drawing on emerging good practice from other sectors and standards bodies; v.) suggesting new mechanisms for consumer redress; The National Commission should be supported by a funded research partner, to deliver a programme of work which should include i.) public polling and public deliberation, ii.) engagement with underrepresented stakeholders and impacted communities, iii.) stakeholder workshops, and iv.) a public call for evidence.

2. Fix the market failure in consumer-facing tools

2.1 **The MoJ should learn from initiatives that are being developed across sectors to address the impact of Google's AI Overview on access to high-quality sources of legal information and advice.** Following this review, they should urgently develop and publish their own approach.

2.2 **The MoJ should build or commission trusted, publicly funded advice tools –** hosted on or signposted from GOV.UK, continuing the MoJ/Accelerated Capability Environment (ACE) work, with long-term funding rather than pilot-and-discontinue cycles. The MoJ should consult with the FCA who are considering a range of approaches to delivering and resourcing a trusted public-interest AI enabled financial capability service.

2.3 **HMCTS and the MoJ should publish evaluations of previous and existing government-backed tools –** to ensure that new tools do not replicate previous issues.

2.4 **The HMCTS and the MoJ should design future reforms around vulnerable users –** litigants in person facing deprivation, domestic abuse, mental ill-health, low literacy, substance misuse or language barriers – digital self-service tools should not be assumed to meet their needs. Where digital self-service tools are contemplated, the MoJ and HMCTS should require that the business case is evidence-based. Considering that the rationale for investing in digital self-service tools rests on an assumption that the adoption of these tools will free up in-

person resource and capacity for vulnerable litigants this should be modelled using data about the existing system's actual user base. Without this, there is a risk that the proportion of litigants able to self-serve digitally may be smaller than assumed, meaning too few are diverted to meaningfully free up resources and physical capacity.

2.5 **The MoJ should create a monitoring mechanism to generate longitudinal evidence on how litigants in person actually use general-purpose GenAI** – quantitative research to establish prevalence, use over time and to test the performance of models in terms of their ability to deliver information that is accurate and fair, qualitative to explore whether GenAI's features can address the structural problems with online legal information and the impact of GenAI use on litigant behaviour and dispute resolution strategy. As a first step, the MoJ should commission researchers to review the range of available methodologies and data sources that could be used to deliver this mechanism, and recommend options.

2.6 **The MoJ should require LawtechUK to review the list of companies published on the LawtechUK tracker and include quality and evidence standards for those that are listed** – at present the tracker does not apply any quality filter – listing a firm whose practices previously triggered a CMA inquiry into misleading consumers. The tracker should be developed to list information regarding intended purpose, target population, accuracy, evidence of efficacy, and conformity to existing data protection, privacy and accessibility standards (mirroring the information provided for digital health tools by ORCHA).

3. Build assurance, evaluation and transparency

3.1 **The MoJ, HMCTS and the judiciary must immediately publish their evidence base for disregarding Microsoft's own advice against using Copilot where it could affect legal status or rights.** The judiciary should publish the list of approved AI tools, summaries of pilot evaluations, and the steering group's decisions on new use cases, consistent with their commitment to transparency and open justice.

3.2 **The Lady Chief Justice should immediately commission independent research to evaluate the performance of Copilot and comparable tools for judicial use cases in context before further rollout** – assessing the impact on accuracy, bias, semantic drift, procedural justice, case outcomes, judicial workload and public trust. This research should be funded by the MoJ.

3.3 **The Lady Chief Justice should commission research to test whether existing 'human in the loop' safeguards hold under real time and other pressures** – and separately monitor the impact on judicial well-being of relying on individual judges

as the primary safeguard. This work should be commissioned to an independent research organisation or organisations, and funded by the MoJ.

3.4 **The Lady Chief Justice should review and publish officially approved prompt templates in judicial training materials –** to ensure that prompt templates provided to the judiciary do not risk crossing into 'legal analysis' – a use case that existing judicial guidance does not recommend.

3.5 **The Lady Chief Justice should develop the centralised steering group announced in the Position Statement on the Judicial use of Artificial Intelligence into a Judicial AI Oversight Committee to oversee judicial use of AI and commission independent research into its impact.** Anonymised data on judicial use of AI tools, including Microsoft Copilot, should be provided to this committee for the purpose of understanding trends in adoption and use and ensuring that judicial guidance is complied with. The committee should be answerable to and report directly to both the Lady Chief Justice and the Lord Chancellor. The MoJ must ensure that the committee is sustainably funded with a budget of no less than £1 million per annum (benchmarked against the budget provided for the Domestic Abuse Commissioner, who has been tasked with developing a reporting mechanism to review the treatment of allegations of domestic abuse in private family law cases) and staffed with an expert secretariat to support the commissioning of independent, robust research and evaluation. The Committee should also contribute findings to an AI Incident Database, published by HMCTS, that records malfunctions, outages, errors and bias events.

3.6 **The MoJ should co-develop context-specific benchmarks and success and harm measures with affected families and court users –** consulting on the evaluation approach itself with technical experts and wider stakeholders. In particular, the MoJ should invest in socio-technical evaluation – evaluation that considers the performance of each technology within its system, and explores how that performance is mediated by processes and people. The MoJ should commit to publishing the findings of these evaluations as standard practice. Success criteria should be expanded beyond adoption and cost effectiveness. In addition, any analysis of cost effectiveness and value for money should be extended to model the impact of AI tools across the justice system, not just the individual agency deploying the tool.

3.7 **The MoJ should create and consult on a justice-specific AI assurance framework –** In developing this framework, the MoJ should commission a review of existing initiatives across government, with a view to developing/extending existing resources. At a minimum, this framework should cover pre-deployment safety assessment, procurement assurance, evidence standards, post-deployment monitoring and clear responsibility for failures. The standards for AI tools used across the family justice system should be determined through system-wide discussions, coordinated by the Family Justice Board, and including the perspectives of the judiciary, social workers, people affected by care processes and regulators who establish standards for professionals, including lawyers and social workers. Once developed, the performance of the framework should be assessed on an ongoing basis. Standards for AI tools used by judges fall

outside this framework's remit; these are addressed separately below, to ensure the executive does not unilaterally determine the adequacy bar for tools that affect judicial decision-making.

3.8 **Assurance standards for AI tools used by judges and court staff should be set jointly by the MoJ and the Lady Chief Justice, and overseen by the Judicial AI Oversight Committee** – rather than by the MoJ alone. This should cover the same minimum elements as the MoJ's wider assurance framework (pre-deployment safety assessment, evidence standards, post-deployment monitoring and clear responsibility for failures), applied specifically to judicial-use tools such as Copilot. The Committee should be empowered to require evidence that a given tool meets this bar before further rollout is approved.

3.9 **The MoJ and HMCTS should assess vendor lock-in and sovereignty risk before further embedding proprietary AI** – The MoJ should reduce dependence on a small number of foreign AI developers. It should also adopt AI more selectively, favouring open and interoperable infrastructure. Where frontier capability is genuinely needed, the MoJ should attach firmer conditions to access, including interoperability standards, guaranteed retention of IP and data generated, and preferential long-term access terms. More widely, the UK government should scale up in-house capability such as i.AI to avoid public sector lock-in. A What Works Centre for AI in Public Services, as proposed by the Ada Lovelace Institute (Parker and Carter 2025), could support smarter adoption and procurement, and enable government departments, including the MoJ, to extract fairer value from public sector AI partnerships.

4. Govern AI use in court and protect users

4.1 **HMCTS should not connect private or third-sector tools to the courts without published quality standards, monitoring and enforcement** – The MoJ should work with stakeholders, regulators and standards bodies to develop quality standards for private and third-sector online information, advice and dispute resolution tools. (see recommendation 1.2 above). Existing tools should not be connected to the courts without meeting these quality standards, and without ongoing monitoring and enforcement by a specified regulator once connected. As with Open Banking, once developed, these standards and arrangements should be enshrined in legislation that specifies i.) what data must be shared and ii.) a named regulator responsible for guarding against misuse of the Application Programming Interfaces (APIs) connecting providers to the courts – neither currently exists.

4.2 **The MoJ, HMCTS and the judiciary should agree an approach to ongoing monitoring of the impact of the use of GenAI tools on court capacity, rates of legal representation, the characteristics of litigants in person, case outcomes and public trust and confidence in the courts.** As a first step, HMCTS should commission a review of international approaches to measuring the impact of

GenAI tools on the courts – with a view to identifying and implementing any changes to the way in which data held in court files is collected, stored and shared that may be needed to support this monitoring. The approach proposed should be consulted upon with academic experts, stakeholders, user representatives and users of the justice system, focusing on people with experience of representing themselves in proceedings. The family courts should be prioritised in this exercise, with immediate attention given to the need to identify robust methods for identifying the impact of GenAI tools on vexatious or weaponised litigation. The Domestic Abuse Commissioner should be engaged in these discussions at the earliest possible stage.

4.3 **The Lord Chancellor and the Lady Chief Justice should reconcile the MoJ AI Action Plan with the HMCTS/Judicial AI Working Group principles – and the Position Statement on the Judicial Use of Artificial Intelligence**—the HMCTS/Judicial AI Working Group's 'reliable' and 'contestable' principles are absent from the former; and the role of HMCTS and the Judicial Office in specifying evaluation standards is not explained. One set of principles should be produced and published jointly by the Lord Chancellor and the Lady Chief Justice.

4.4 **The MoJ should meaningfully consult on AI use cases in court with stakeholders, court users and the public** – Existing and proposed applications should be put out for consultation before approval, not evaluated only after adoption. The MoJ should follow the example of the Home Office, who have invested in public deliberation exercises to test use cases for AI in policing (Thinks Insight and Strategy 2025). These findings should be shared with the judiciary, to support the development of guidance.

4.5 **The Lady Chief Justice should issue guidance requiring the documentation and disclosure of judicial AI use, drawing on emerging international practice.** Wherever AI is used to summarise evidence, or draft, edit or anonymise judgments, this should be made explicit in the file. The guidance should require judges to produce an adjunct memorandum as an annexe stating the name of the tool used, model and provider company; the date on which it was used; and that they read, understood and accepted the terms and conditions of use. The memorandum should also explain what the tool was used for and the details of how it was used and include the specific prompts or instructions used. In the memorandum, the judge should also account for the ways in which their reasoning engaged with or diverged from the outputs of the tool. Within any documents produced using the tool, judges should follow UNESCO guidance and refer to the specific location of the products or results reproduced, transcribed or incorporated, with inverted commas, bold, italics or any other method to clearly distinguish the texts that were produced by the tool (UNESCO 2025). This memorandum should be proactively shared with parties and their representatives to support contestability.

4.6 **The Lord Chancellor and the Lady Chief Justice should consult publicly on proposals for operationalising the contestability principle in the HMCTS/Judicial AI Working Group principles.** In devising an approach to

contestability, priority should be given to designing a mechanism that enables litigants in person – not only lawyers, who are better equipped to spot AI-related issues – to contest the use of AI in their case. Amendments to the guidance published by the Judicial Conduct Investigations Office could be considered as part of this approach.

4.7 **The MoJ should require justice- or court-specific AI standards to be written into procurement contracts** – rather than deferring to the supplier's own commercial terms and publish contracts for centrally procured AI infrastructure.

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Nuffield Family Justice Observatory

Nuffield Family Justice Observatory (Nuffield FJO) turns research, collaboration and new ideas into better experiences for children and families in the family justice system in England and Wales.

Nuffield FJO was established by the Nuffield Foundation, an independent charitable trust with a mission to advance social well-being. It funds and undertakes rigorous research, encourages innovation, and supports the use of sound evidence to inform social and economic policy and improve people's lives. The Nuffield Foundation is also the founder and co-funder of the Nuffield Council on Bioethics and the Ada Lovelace Institute.

We are always keen to expand our network of partners and would invite anyone who is interested in improving the lives of children and families in the family justice system to get in touch.

For further information or to get involved:

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