

CONSULTATION RESPONSE

The AI of The Possible: Developing Scotland's Artificial Intelligence (AI) Strategy 2020

May 2020

A. INTRODUCTION

The SLCC welcomes the opportunity to respond to the consultation on **The AI of The Possible: Developing Scotland's Artificial Intelligence (AI)**¹.

We have responded briefly to all questions, but have focussed on those on which we have specific experience or thoughts: Q3 (benefits), Q4 (overarching vision), Q7 (confidence in AI), and Q8 (other comments). Our responses are based on our work and experience as a regulator and complaints body, and as a public body operating in Scotland. Sections C and D explain our role and current interest in AI, and give additional detail to support our recommendations.

B. SUMMARY RECOMMENDATIONS

We recognise the strategy will be a high-level document, and will not wish to specify approaches in too much detail. However, we believe even references to the points below will be important in setting markers around some of the changes needed to meet the stated aims of the strategy.

We suggest the following are added:

- **the concept of anticipatory regulation**, even if only as one option, but to make clear the concept of what good regulation is may need to evolve to support the strategy.
- **reference to 'evaluation and audit' within in the eco system diagram** as an additional factor to make clear capacity and skills for independent assessment will be required.
- **a high-level summary of key harms which must be prevented** – for example, bias in decision making impacting unfairly on certain groups, or breaches of data privacy. This will help set regulatory priorities, and support proportionality and consistency.
- **that the public should always know when AI is being used** to provide services or to process their data.
- **that significant AI based services deployed on the public should ideally build in internal evaluation and audit to ensure these harms do not occur**, aiding external audit and regulatory oversight.
- **new governance skills, recruitment methods, and remuneration on public boards will need to be considered** to ensure effective oversight.
- **diversity in leadership and governance** should be monitored and promoted.
- **that any new Scottish legislation on regulation in any field should be fully enabled to support the regulation of AI** – we think there is a specific opportunity fast approaching to use planned reform of legal regulation in Scotland as a flagship opportunity for empowering regulators to be an effective part of an AI ecosystem which encourages innovation and has appropriate safeguards.

¹<https://www.scotlandaistrategy.com/s/The-AI-Of-The-Possible-Developing-Scotlands-Artificial-Intelligence-AI-Strategy-Scoping-Document-Jan.pdf>

C. ABOUT US

The Scottish Legal Complaints Commission (SLCC) is an independent statutory public body providing a single point of contact for all complaints against legal practitioners operating in Scotland. We are wholly funded by levies on the legal sector.

We deal with around 1,300 complaints per year. We can award up to £20,000 compensation for inadequate service. Issues about the personal conduct of a lawyer are referred to the relevant professional organisation, and we have oversight of certain aspects of their complaints handling processes. We have statutory duties to monitor trends in complaints and to oversee the operation of the indemnity arrangements of the profession (1,300 firms, 12,500 practitioners).

Our [annual report](#)² and [website](#)³ have more information on our work.

We would be delighted to offer support to this work in any way we can, by providing further information on the points we make.

New legislation on the regulation of legal services in Scotland, and changed roles and remits for various regulatory bodies, is anticipated in 2021/22 (with Scottish Government currently suggesting a public consultation in summer 2020)⁴. This would be an early opportunity to create a regulatory structure fit for purpose for encouraging and overseeing AI within this significant devolved market for legal services.

D. OUR RESPONSE

Our interest in AI

The SLCC has several areas of interest in AI, through our expertise as a **regulator and complaints body** operating in the legal sector:

- If lawyers start using AI, complaints about its use and outcomes will fall within our jurisdiction
- If lawyers fail to explore or challenge AI, where a client has been impacted by it, this may also lead to a complaint
- If those providing indemnity start to use AI, it will be within our remit in overseeing these functions
- If the relevant professional bodies start to use AI in their complaints processes, it will be within our remit in overseeing those processes.

We also have an interest in terms of our own internal operations:

- could it improve our handling of complaints?
- could it improve our oversight of indemnity arrangements?

² <https://www.scottishlegalcomplaints.org.uk/about-us/who-we-are/our-annual-report/>

³ <http://www.scottishlegalcomplaints.org.uk>

⁴ <https://www.gov.scot/policies/access-to-justice/regulation-legal-services/>

- could it allow us to spot trends and patterns not visible through current approaches which help manage risk or identify improvement?

We are in a position where we may already be handling complaints where AI has been a part of the process and we are not aware, and may have to contend with visible and non-visible use of AI in the legal services market in the near future.

Finally, we also have a more general interest and experience as a **public body** within Scotland. For example, drawing on experience of:

- internal audit and quality assurance of complex decision making
- external audit, under the supervision of Audit Scotland
- trying to increase our transparency of decision making as a public body (going beyond Freedom of Information, GDPR, and public records)
- working within prescriptive inflexible legislation, now ill-suited to a changing market
- public scrutiny of decisions made – having decisions subject to intense public scrutiny through parliament, stakeholder lobbying, and in the media and social media.

Question 1: What do you think of the proposed definition of AI for the purposes of the strategy?

We welcome the definition of AI provided in the document, although this is not our area of expertise.

Question 2: Do you agree that the strategy should be people-centred and aligned with Scotland's National Performance Framework?

We welcome the concept of a people centric approach to AI aligned to the National Performance Framework. As an organisation we align our work to the National Performance Framework and have found the focus on outcomes, not outputs, both helpful and liberating. We strongly advocate a service design approach to the AI strategy, based on the Scottish Government model, to ensure public services meet users' needs and expectations.

Question 3: How do you think AI could benefit Scotland's people, and how do we ensure that the benefits are shared and no-one is left behind?

As a **regulator and complaints body** we have an overview of certain aspects of the legal services market.

AI could potentially benefit Scotland's people by opening up new legal advice and support services.

For example, AI might support:

- a new generation of websites or apps may be able to provide more tailored legal advice, and better responses to ‘natural language’ questions, at an improved price point.
- a change in the ‘place’ and ‘time’ within which service are delivered. Websites such as the above could also reduce inequality due to remote/rural settings, and open up 24 hours services for shift workers and those with caring commitments. Apps may deliver advice remotely, allowing real-time advice to be delivered as situations unfold.
- more empowered consumer choice, by facilitating comparisons of price or quality of legal services through AI
- the translation of face to face, telephone, or online advice reducing inequality due to language barriers. This might also aid interpretation for BSL (for example, an advanced animated avatar able to present BSL).
- the reduction in cost of commercial litigation, commercial leasing and contracting, and due diligence by bringing AI to document management (searching, indexing, identifying common themes, etc).
- conciliation or mediation, trying to bring parties closer together via online exchanges to narrow the points of contention or to resolve a dispute
- a thriving legal market – with benefits in the supply of advice but also through job and wealth creation. If Scotland can create that right regulatory environment to support and encourage innovation it may have the ability to become a significant market player, as has happened in Fintech (where Edinburgh is in the top 20 Fintech cities in Europe, and is a fast riser just outside the top 100 worldwide).

Many of these developments may be private sector led. However, a recent review of the Legal Aid system in Scotland noted that technology was likely to be a key part of future publicly funded services, and recommended that funding should support its development.⁵

As a **public body** we believe there are opportunities through AI to benefit Scotland’s people:

- more efficient regulation – reducing the cost passed on in client fees or allowing a greater focus on proactive work
- more effective regulation – better assessing and targeting of risk, more sophisticated ‘lessons learnt’ from large volumes of complaints, allowing faster response times to reduce the period of public risk between an issue being identified and an investigation being concluded.
- more accessible regulation – for instance by offering 24 hours service through an AI enhanced ‘chatbot’.

In all of these there is both opportunity and risk, with one of the risks being ‘leaving people behind’. We note this could come from digital exclusion, high product costs in the early years for AI based products, lack of skills to engage with AI services, or lack of provision (for commercial

⁵ <https://www.gov.scot/publications/scottish-government-response-independent-review-legal-aid-scotland/>

or other reasons) to certain populations (a legal app covering property law, but not crofting law, and so leaving behind a rural community, or new lower cost services available in English, but not other languages excluding those groups).

Question 4: What do you think of the proposed overarching vision of the strategy, and the two strategic goals that are proposed to underpin this?

We welcome the vision for AI provided in the document, the two strategic goals, and the concept of a people centric approach AI aligned to the National Performance Framework.

Question 5: Do you agree with the representation of Scotland's AI ecosystem outlined in the scoping document? Is it missing anything?

The eco system diagram is helpful in expressing the context, and we agree that the strengthening of all elements of 'the diamond' is important.

In the context of our response to Question 7 we suggest an overt reference is made to 'evaluation and audit' and provide our reasons for this.

Question 6: Do you have any comments on the strategic themes that will be explored in detail?

The strategic themes appear to be appropriate.

Our response to Question 7 (below) emphasises our particular interest and experience in the 'Ethical and Regulatory Framework' strand.

We support the concept of 'joining the dots'. Our reason for engaging in this consultation is because we believe it is important regulatory bodies are part of the creating the eco system for AI to flourish rather than an afterthought (creating a greater risk of them becoming a barrier). Whilst this does, to some extent, take us out of our comfort zone, that is also exactly what is needed if regulation is to be forward looking rather than historically based.

Question 7: How can confidence in AI as a trusted, responsible and ethical tool be built?

We believe the public will expect and believe there is some effective oversight of AI, and that this will be a key part of them believing AI can be trusted, responsible and ethical.

Bespoke regulation and existing regulators

Bespoke regulation and regulators may be part of this, however, we believe the existing regulatory community needs to be engaged and empowered. Irrespective of bespoke approaches of legislation many aspects of AI may already fall within the scope of regulators in relation to industries, entities providing service, and individual professionals providing service who may be using AI to support work or decision making.

These regulators may need to start dealing with AI issues prior to other developments in regulation or governance, and are likely continue to do so even once new arrangements are in place. They then have potentially significant influence in supporting or inhibiting the development and deployment of AI.

There are already some very useful concepts which can inform the discussion on AI regulation.

Anticipatory and agile regulation

In 2017 the NESTA report on **A working model for anticipatory regulation**⁶ noted:

“In general, regulation has struggled to be more future-facing, largely unequipped to cope with more fluid, fast moving technological development, preferring to let markets decide the direction of travel and intervening later as issues begin to surface.”

The report concluded a move to ‘anticipatory’ regulation would better support and regulate disruptive innovation.

This also requires government to see regulators in a new light. This will mean not necessarily prescribing detailed regulations and powers but focussing on outcomes to allow regulators to be quicker and more agile at responding to new developments. Such a focus also allows a ‘sandboxing’ approach where a fully-fledged regulatory model is not developed before a new approach in a market is authorised, but special collaboration, support and monitoring is put in place to allow the innovation and help it inform the future regulatory model whilst still managing risk.

This anticipatory approach is also consistent with the growing global movement of ‘agile’ regulation. The co-chairs of the Global Future Council for Agile Governance⁷ (World Economic Forum) recently published a helpful ‘ten top tips’ on agile regulation.⁸

In such a models, evaluation becomes critical. This point was developed in the 2019 NESTA report on **Renewing Regulation: ‘anticipatory regulation’ in an age of disruption**⁹ which recognised:

“Few individual regulators have the technical capabilities, market insight or leverage to cope with the broad range of issues that such general- purpose technologies create in their domains. There is a growing capability and power asymmetry between regulators and, in particular, global technology firms, with the latter having a virtual monopoly on the best technical talent and immense financial firepower with which to protect their commercial interests. An effective response requires new models of coordination and cooperation between regulators and other organisations where such general-purpose technologies create shared challenges.”

This report also made various recommendations at UK level, including:

“Any government-funded project should include defined funding and support for robust evaluation (least 10 per cent of the total value of the fund).

⁶ https://media.nesta.org.uk/documents/working_model_for_anticipatory_regulation_0_TpDht7z.pdf

⁷ <https://www.weforum.org/communities/global-future-council-on-agile-governance>

⁸ <https://www.weforum.org/agenda/2020/01/regulation-for-the-fourth-industrial-revolution-in-2020/>

⁹ <https://www.nesta.org.uk/report/renewing-regulation-anticipatory-regulation-in-an-age-of-disruption/>

UK Research and Innovation should lead a wider research programme looking at the impact of regulation and regulatory practice on meeting the UK's Industrial Strategy priorities including Grand Challenges, sector deals and innovation investment targets. This could be partly be achieved through specific research funding from the research councils, drawing on wider academic and industry expertise.

A new hub for expertise bringing together theory and practice in regulatory innovation could be set up to collate and provide well-evidenced advice to regulators.”

The relevance of these to the Scottish context and AI strategy should be considered. We support the concepts of building in evaluation and of creating a hub of regulatory expertise in AI.

Voluntary codes or an audit and evaluation based model?

We note discussion on the concept of voluntary codes (for example in relation to specific AI uses like facial recognition¹⁰, and more generally).¹¹ The effectiveness and credibility of voluntary codes is much contested, and we would reference studies by the Organisation for Economic Co-operation and Development.¹² Two key factors in building credibility is whether there are clear statements of what must not be done (rather than general aspirational statements) and whether there is an effective mechanism to monitor or hold to account.

We believe Scotland has the opportunity to lead the way in an evaluation-based model, which provides governance and oversight not by setting parameters in advance, or at least in allowing these parameters to be broad and focussed on the biggest issues (for example, public safety), but ideally by ensuring evaluation and audit is built into any deployed AI model. This addresses a key issue that the way AI makes a decision may not be fully understood, or assessable, but the outcome of a ‘decision’ may be auditable against how an appropriately trained and skilled professional would have previously take a decision.

This accords not just with the NESTA model and recommendation on evaluation, but with the neatly summarised position from the Brookings Institute and their work on AI and bias.¹³ They note that already and increasingly, algorithms and the automation of certain processes are being incorporated into important decision-making processes. Whilst in none of these is it likely there was deliberate bias built in, nevertheless there have been high profile examples of bias being the outcome around, for example, gender and race. They note:

“algorithmic bias was an unanticipated consequence of following the standard methodology of machine learning: specifying some objective (usually a proxy for accuracy or profit) and algorithmically searching for the model that maximizes that objective using colossal amounts of data. This methodology produces exceedingly accurate models—as measured by the narrow objective the designer chooses—but will often have unintended and undesirable side effects. The necessary solution is twofold: a way to systematically discover “bad behavior” by algorithms before it can cause harm at scale, and a rigorous methodology to correct it.”

¹⁰ <https://www.politicshome.com/news/uk/technology/data/opinion/house-lords/109632/lord-clement-jones-ai-technology-urgently-needs>

¹¹ [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/640163/EPRS_BRI\(2019\)640163_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/640163/EPRS_BRI(2019)640163_EN.pdf)

¹² Gordon, K. and M. Miyake (1999), “Deciphering Codes of Corporate Conduct: A Review of their Contents”, *OECD Working Papers on International Investment*, 1999/02, OECD Publishing. <http://dx.doi.org/10.1787/174727273520>

¹³ <https://www.brookings.edu/research/ethical-algorithm-design-should-guide-technology-regulation/>

As context, it should be noted that human decisions are also obviously subject to bias. The SLCC has experience of developing processes, and providing training, to reduce bias – not just in terms of the debate which tends to be seen in public in terms of race and gender, or the debate intrinsic to our sector in terms of whether we have a bias to lawyers or the public when settling complaints, but all ‘cognitive biases’¹⁴ such as ‘availability heuristics’, ‘congruence bias’ and ‘reactance’.

Thus whilst there is a risk in AI bias, there is also a huge opportunity to deliver decision making with reduced bias, and this surely must be an overt aspiration.

Getting a provider to record in advance their audit and evaluation methodology (including on bias) and their budget and monitoring period, will help confidence and ease of regulatory approval but also ensure rigor and public protection. For example, if AI were to be used in assessing insurance cover applications, or claims, in the legal market, the SLCC could use its oversight powers to ensure the decisions were being tested against the previously used human based methodologies and results analysed and published.

Such an approach would also allow regulation to be more hands off, scrutinising the internal assurance process (rather than detail) except where concerns trigger any intervention. It also gives greatest scope for industry involvement and co-production. Those at the cutting edge of the technology will develop the internal methodologies with regulators and auditors informing their own external scrutiny processes informed by best practice in the industry as well as providing independent oversight.

A clear identification of harms

However, as noted above, this approach in part relies on a clear specification of harms to avoid and what must not be done rather than on a purely aspirational code. For example, key harms may be things like bias on the basis of gender, race, or background, or more complex issues such as a balance between individual and community rights or benefits/ detriments. This focusses audit on the reduction or harm, safety, and public protection.

A public who knows when AI is being used

This also links to our belief that individuals should always know when AI is being used to processes their person data and/or make decisions, this informs their own choices and allows them to question that part of the process if an issues emerges, and ensure wider transparency to regulators, academia, interest groups and the media, all of which provide counterbalancing perspectives. This is the position already promoted by the Information Commissioner’s Office in relation to personal data and automated decision making¹⁵, but there should not be a ‘get out’ for non-personal data (for example, a first stage of a loan application which does not request personally identifying data but does request income, job type, etc., or a legal problem solving website requiring only details of the transaction).

Audit – ad hoc or integrated?

¹⁴ https://en.wikipedia.org/wiki/List_of_cognitive_biases

¹⁵ <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/automated-decision-making-and-profiling/>

So far, proper audit and 'A/B' testing for bias or other unintended outcomes has primarily been done by academics, interest groups or the media, and not as part of regulatory or government strategies. The public may well ask why, if harm is being found, governments are leaving the identification of issues to the *ad hoc* interventions of the third sector or academic communities. As AI's use becomes more pervasive a more coherent and integrated state response may be expected through both regulation or, for example, the building of capacity and capability in public and private audit of organisations.

In the public sector, there could be a role for bodies such as Audit Scotland in ensuring appropriate 'internal audit' is in place for AI deployed in the public sector, and if regulators also adopted this approach there would quickly be coverage of many key market areas. We noted the Information Commissioner's Office has recently consulted around an audit based approach to the data privacy implications of AI.¹⁶ In the private sector large audit and consultancy bodies are likely to have an interest in developing work in this area. Consumer regulators (Competition and Markets Authority, or the new Consumer Scotland) may also need to consider their role. There may be a need to consider public funding or support to the academic or NGO community to develop AI scrutiny expertise.

Governance and skills

Our final point is on governance and the new skills and competencies which may be required. Boards of public bodies are already contending with digital transformation and cyber security, and reports by Audit Scotland the Scottish Government may indicate Boards do not yet fully have the skills and competence to oversee these complex issues. AI is a step further in terms of complexity.

Two specific examples might be procurement and assurance. Is there a risk 'IT' solutions are purchased which, unbeknown, have an AI element that is not understood or monitored? Conversely, is there risk 'IT' is sold as AI, when not in fact containing any real element of AI meeting accepted definition? Do public bodies understand 'what is behind the curtain'? In terms of assurance, do Boards have the skills to evaluate the outcomes of AI decision making and the necessary safeguards when exercising their assurance role?

Attracting talent to the governance tier which can assist with the application of appropriate digital governance may require different approaches to recruitment and different remuneration. This overlaps with the wider reskilling agenda referenced in the scoping document and which the likes of Skills Development Scotland and Data Lab are supporting. Those with the analytical and technical skills required are often in high demand by industry, and the model of public sector governance may not be attractive. Flexibility may be required to allow co-option of expert members and to vary standard terms of appointment (such as remuneration, or term of office) for those bodies where oversight of AI becomes a significant part of business operations.

Diversity of thought

As well as ensuring competence technically, consideration must be given to the need for diversity of thought and external credibility to the public, especially where the public sector is

¹⁶ <https://ico.org.uk/about-the-ico/ico-and-stakeholder-consultations/ico-and-the-turing-consultation-on-explaining-ai-decisions-guidance/>

considering the use of AI. In the legal sector in the UK, Christina Blacklaws, a former President of the Law Society of England and Wales, has led the call to ensure diversity in governance, stating:

*“In a computerised world, it [diversity] should get better,” she said, but warned “it could get an awful lot worse” if bias in society was “hardwired into decision making”.*¹⁷

This diversity needs to be present in both AI ‘makers’ and AI regulators.

Scotland has already taken a strong stance on the need for greater diversity in governance, including through the 50:50 by 2020 aim for public boards. We would suggest governance in AI needs encouraged to keep *diversity of thought* under consideration, and that it may be worth monitoring to ensure single viewpoints are not being hardwired into oversight of the AI. *Diversity of thought* is wider concept than just gender, or indeed just ‘protected characteristics’¹⁸ it covers diversity of identity, cognitive diversity (different ways of thinking) and experiential diversity (from different professional backgrounds to the experience from growing up ‘care experienced’).

We would note that since this consultation was launched the European Commission has also published its single European strategy for data¹⁹, and ‘excellence and trust’ in AI²⁰. It may be appropriate to consider these documents as submissions to the consultation to ensure their thinking is captured at this stage of the development process, or to review them at the working group stage set out in the scoping document.²¹

Question 8: Please comment on any other aspect of AI that you feel it is important for Scotland’s AI Strategy to address.

The legal services sector in Scotland has been subject to two recent major independent reviews looking at legal aid provision and regulation generally. It is likely new legislation will be brought forward in the next parliamentary session. This may be the first opportunity to create a fully prepared model for AI regulation within a key Scottish market.

The recent review of legal aid in Scotland noted barriers to innovation in technology in legal provision should be identified, and where these related to regulation this should be done by the review of the regulation of legal services, which was happening at the same time²².

The review of regulation concluded:

¹⁷ <https://www.globallegalpost.com/big-stories/top-lawyer-calls-for-more-women-in-legal-tech-to-stop-bias-being-hardwired-into-decision-making-95730357/>

¹⁸ Aspects of the equality and diversity mentioned in the Equality Act 2010

¹⁹ https://ec.europa.eu/info/files/communication-european-strategy-data_en

²⁰ https://ec.europa.eu/info/files/white-paper-artificial-intelligence-european-approach-excellence-and-trust_en

²¹ <https://www.scotlandaistrategy.com/s/The-AI-Of-The-Possible-Developing-Scotlands-Artificial-Intelligence-AI-Strategy-Scoping-Document-Jan.pdf>

²² <https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2018/02/rethinking-legal-aid-an-independent-strategic-review/documents/rethinking-legal-aid-independent-strategic-review-pdf/rethinking-legal-aid-independent-strategic-review-pdf/govscot%3Adocument/Rethinking%2BLegal%2BAid%2B-%2Ban%2BIndependent%2Bstrategic%2Breview.pdf> at page 83

I consider that the current regulatory system is not sufficiently able to support a forward-looking, dynamic and innovative legal services sector of the future. This includes understanding the role of technology in design and delivery of legal services.²³

The SLCC has strongly supported radical regulatory reform²⁴, and believes any new legislation could be a flagship for a move to anticipatory and agile regulation to support innovation and growth whilst still ensuring safeguards.

Our own submission²⁵ to the review focussed on the need for both an integrated approach to data and the right environment to empower new technological innovation within the market, for example in our summary ‘roadmap’ for a new system we promoted:

2. Enabling a focus on the needs of consumers and clients, including reducing risk and improving quality: using data sharing, co-production, and consumer research to identify issues, and then target interventions	The legislation must focus on risk to the public and the integrity of the justice system: <ul style="list-style-type: none">▪ Moving the focus of regulation to ongoing assurance, and quality improvement▪ Encouraging regulatory resources to be directed according to risk▪ Allowing data sharing between all bodies involved in the regulation of the sector▪ Ensuring co-production of rules, professional standards, and standards of service by all involved in regulation and underpinned by consumer research▪ Responsibility for consumer research should be allocated, with funding arrangements made clear
3. Affording opportunities to innovate, and delivering greater and more informed choice: legal services can be provided in a variety of ways and innovation is encouraged, leading to greater consumer choice, adaptation to globalisation, and a sustainable market	Innovation and sustainability are critical for regulators and markets: <ul style="list-style-type: none">▪ The ‘digital first’ approach now taken across government should be enabled by the new framework – relating to both how regulation is delivered, and in ensuring the growth of the digital market in legal services can be encouraged and accommodated▪ The act should enable regulated businesses and persons without trying to predict what the market will need, instead allowing flexibility to accommodate that▪ Flexibility should be given on regulatory fee structures, subject to rigorous consultation▪ Market regulation requirements should be introduced – to promote competition and choice▪ A move to data driven regulation allowing greater targeting (and therefore efficiency)

We believe the preparation for a new regulatory model in legal services could be a chance to explore what sectoral AI regulation could look like in the future more generally.

D. CLOSING COMMENTS

We hope these reflections are useful. As noted at the start, we are keen to provide further information or support the debate (for example, could we assist in convening a meeting of regulators in Scotland to discuss this issue?).

As a relatively small jurisdiction Scotland has the opportunity to work quickly and collectively to encourage and empower regulatory and complaints bodies to be an active part of an AI eco system which meets the stated aim of:

AI to benefit Scotland’s people and organisations, and help to achieve the transformational change envisioned in the National Outcomes.

Such a focus will assist in encouraging the use of new AI technology and removing barriers, whilst ensuring regulation and risk is managed.

²³ <https://www2.gov.scot/About/Review/Regulation-Legal-Services> at page 31

²⁴ <https://www.scottishlegalcomplaints.org.uk/about-us/news/slcc-welcomes-proposed-radical-reform-of-legal-regulation-as-long-overdue/> and <https://www.scottishlegalcomplaints.org.uk/about-us/news/slcc-welcomes-scottish-government-s-response-to-the-roberton-review-of-the-regulation-of-legal-services/>

²⁵ <https://www.scottishlegalcomplaints.org.uk/media/1469/reimagine-regulation-a-roadmap-for-improvement.pdf>

We believe that focussing on anticipatory governance and regulation, backed by an audit and evaluation based approach ensuring the minimisation of key harms, and overseen by governance tiers with the appropriate skills and competence, may best support the development of the eco system envisaged in the consultation and should be reflected in the final strategy.