

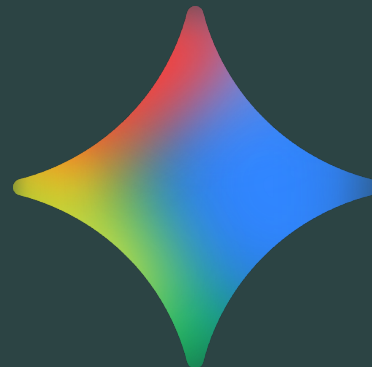
Decision making machines?

The uses and abuses of AI in public law

Matt Lewin and Rowan Clapp

June 2026

An AI revolution



“Britain faces a clear choice: shape the AI revolution or let it shape us.”

Sir Keir Starmer

Resources

- HoC Reports: '[Use of AI in Government](#)' and '[AI in Government](#)'
- 'Artificial Intelligence [Playbook](#) for the UK Government'
- 'Generative [AI Framework](#) for HM Government'
- Equality and Human Rights Commission [Report](#) on AI in Public Services
- Lord [Briggs](#): 'AI and Civil Justice: Preparing for the Tsunami'
- Lord [Sales](#): 'Automated Decision-making in Government'
- Sir Geoffrey [Vos](#) MR: 'AI and the Judiciary'
- OECD: [Governing with AI](#): The State of Play and Way Forward in Core Government Functions

Upside – present and future use

- Money saving – e.g. Government's use of AI tool [Consult](#)
- Speed up delivery of services – e.g. processing of letters, routing email correspondence
- Reduce staff workload – facial recognition at airport?
- Improve accuracy - predictive analysis
- Government [Incubator](#) for Artificial Intelligence



Tool not decision-maker

- Will AI become responsible for taking decisions?
- See Lord Briggs' speech: emphasis on qualities of Judges central to rule of law and public confidence in the judicial system.
- Identification of present role in assisting decision makers, not replacing them
- Ultimately a political not a legal question – importance of preservation of public confidence in the legal system
- But clear scope for AI to continue to assist in administrative decision making in certain respects
- Note recent high profile examples of when this has gone awry: Re: A, B C, D (Extension of assessment; use of AI: hallucinations) [2026] EWFC 71 (B), Cork and another v Smith [2026] EWHC 1199, and R(Ayinde) v LB Haringey [2025] EWHC 1383


Key considerations in AI use



Automation
bias



Bad data



Bias and
determination

Key considerations in AI use



Hallucination

Transparency

Accountability

Governance

Data Security



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The next 12 months

How might AI affect your day-to-day work as a public lawyer?



The short-term AI impacts for public lawyers

**The AI-
generated
decision**

**The AI
fishing
expedition**

**The AI
duty of
candour**

**The AI-
generated
claim form**



The AI-generated decision



Forms of automated decision-making

01

Decision support

02

Triage

03

Fully automated

Challenges for traditional judicial review

01

Duty to give reasons

02

**Unlawful
delegation?**

03

**Fettering of
discretion?**

New safeguards for automated processing

01

Information
about
automated
decision

02

Enable
representations

03

Right to request
human
intervention

04

Right to contest
automated
decision



2

The AI fishing expedition

Hurfurt v ICO, DWP [2026] UKFTT 326 (GRC)

01

**Strong public
interest in
disclosure**

02

**But not a fully-
automated
decision**

03

**Privacy notice
inadequate**

04

**DPIAs not
focussed on
personal data
risks**

Proactive disclosure about AI use

AI-use statement

When and why AI will be used

Principles for responsible AI use

What products and systems are used

Commitment to notify affected individuals?

Guidance for making AI-generated FOI requests

Ensure request is only seeking information you are genuinely looking for

Keep request as short as possible (use AI)

Check for inaccuracies

Check the tone is appropriate



The AI duty of candour



Planning Inspectorate guidance on use of AI

01

**Drafting or
substantially re-
writing text**

02

**Producing a
summary or
analysis**

03

**Generating or
altering images
or videos**

04

**Creating content
beyond
straightforward
formatting or
presentation**

4



The AI-generated claim form



... there are now a group of competing open AI (LLM) platforms available to the public, either for free or a very modest subscription. When in the hands of a non-legally qualified complainant with reasonable computer skills, those platforms can be used to generate passable Particulars of Claim from the user's stream of consciousness description of their grievance. It may not be as good as a draft prepared by a qualified lawyer, but it will certainly be sufficient to get the complainant through the court door as a LIP."

Lord Briggs JSC, "AI and Civil Justice: Preparing for the tsunami" (May 2026)





Thank you

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