# Lawtech and consumers

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# Content

## Introduction

In recent years there has been a wide range of technological innovations applied to the delivery of legal services, also known as 'lawtech'. Lawtech aims to help small business and individual consumers to (directly) access legal services via self-service.[1] Many of the lawtech innovations are based on artificial intelligence (AI). In the context of legal services, we agree with the following definition for AI: *a wide concept that displays intelligent behaviour by analysing datasets and taking actions, with some degree of autonomy, to achieve specific goals.*[2] Some AI systems can include machine learning, where algorithms detect patterns in data and use them to automate certain tasks.[3] Other AI systems can take the form of algorithmic decision-making, chatbots[4] and deep learning.[5]

These technological innovations have the potential to lead to new and more responsive legal services *(see Case Study I)* from improved access, positive consumer outcomes and competition, to increased profitability for businesses.[6] However, lawtech also raises a number of risks for consumers, legal service providers and regulators *(see Case Study*

**Case Study I**

A study conducted by LawGeex in collaboration with Duke and Stanford Law Schools in 2018 pitted AI against 20 top US trained lawyers with decades of experience, specifically in reviewing non-disclosure agreements. The legal AI system took 26 seconds to complete the review, while human lawyers took an average of over 92 minutes. The AI system achieved a 94% accuracy rate at surfacing risks, while the experienced human lawyers averaged 85% accuracy for the same task.

*II).*[7] These risks can be mitigated if good consumer outcomes and ethics are central to the development of lawtech, supported by a robust regulatory framework.

The use of lawtech in delivering services to individual consumers is in its early stages.[8] This is therefore an opportune time for policy makers and regulators to shape and encourage an ethical approach to it. This discussion paper examines the regulatory framework needed to maximise the opportunities presented by lawtech, while ensuring it delivers the necessary protection for consumers, including those in vulnerable circumstances.

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[1] This is sometimes seen as different from legaltech, which is a technological solution created for lawyers in law firms or businesses to help them simplify and automate their own operations. For more see Is There a Difference Between LawTech and LegalTech?, 6 December 2018. Last accessed on 9 May 2019.

[2] AI technology: a lawyer's guide, by Giles Pratt and Sam Hancock. Last accessed on 17 April 2019.

[3] Law Society, Artificial Intelligence and the Legal Profession, May 2018 and Lexis Nexis, Legal technology: looking past the hype, October 2018.

[4] A computer program in the form of a virtual correspondence via instant messages.

[5] Deep learning is a subfield of machine learning, which takes an input and produces an output, and

then this output is used as the input for the next layer of processing. It is 'deep' because of its many layers, each layer being a separate algorithmic function.

[6] For the benefits of legal technology please see SRA, Technology and legal services, December 2018, p. 4-7.

[7] Journal of the Oxford Centre for Socio-Legal Studies, Unpacking the Black Box: Addressing the 'Social' to Make Construction of AI-Powered Legal Technologies More Transparent and Unbiased, Siddharth Peter de Souza, June 2018.

[8] The Law Society, Lawtech Adoption Research, 2019, and Artificial Lawyer, UK Gov + MoJ Back Major Research Project to Boost Legal AI Use, November 2018. Last accessed on 18 April 2019.

This paper prioritises individual consumers and the services delivered to them. Its focus is on the regulatory frameworks of solicitors and licensed conveyancers because, by volume of use, these are the largest providers in England and Wales.[9] However, the Panel's reflections apply to all legal services regulators.

In assessing the regulatory framework, the Panel considers whether the existing frameworks reflect the regulatory objectives of promoting and protecting the interest of consumers and promoting competition.

> **Case Study II**
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> A study was done on an algorithm called COMPAS used by judges in the USA to determine the reoffending propensity of a criminal defendant. It found that black defendants were incorrectly judged to be at a higher risk of reoffending than they actually were, whereas white defendants were found to be less at risk of recidivism than they actually were.

## Methodology

*Stage 1: Desk research*

The Panel reviewed referenced materials and considered several research studies on AI and regulation within legal, financial and health sectors. The Panel also considered the innovation policy frameworks published by the two regulators under focus, i.e. the Solicitors Regulation Authority (SRA) and the Council of Licensed Conveyancers (CLC.) It is important to note that the CLC's regulatory focus is in conveyancing and probate, while the SRA regulates more activities.

*Stage 2: Outlining the issues through the consumer lens*

The Panel considered whether the SRA and the CLC's regulatory frameworks support lawtech while protecting consumers. It did so by using the well established Consumer Principles to explore the following:

**Access** – Does regulation support the widest possible range of access to consumers, including access to vulnerable consumers?

**Choice** – Do consumers have a choice over whether to use lawtech-based services or not?

**Information** – Does regulation ensure there are clear transparency standards for the use of lawtech?

**Quality** – Are lawtech services of sufficient quality and safety?

**Fairness** – Are the risk factors that can exploit consumer vulnerability identified and addressed?

**Redress** – Can consumers access redress when services go wrong?

**Representation** – Do regulators provide good practice guidance around consumers' involvement in product development, testing and evaluation?

The Panel also considered whether regulation supports providers in the use of technology to deliver legal services. Specifically, we asked the following questions:

- Does regulation constrain innovation?

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[9] Legal Services Consumer Panel, Tracker Survey, August 2018.

- Are service providers prompted/supported to use lawtech through their Continuing Professional Development (CPD)?

The paper considered how similar forms of new technology are regulated within the finance and health sectors.

*Stage 4: Follow up desk research and engagement with relevant stakeholders.*

The Panel had meetings with the SRA, the CLC and the Legal Ombudsman (LeO), to gain insight into how their regulatory frameworks accommodate lawtech.

## Consumer Principles

### *Access*

The Panel believes that regulators could explore incentivising providers to use lawtech, to widen access to legal services.

In 2018, the SRA won £700,000 from the Government's 'Regulators Pioneer Fund', aimed at helping regulators to develop innovative products and services to unlock the long-term opportunities identified in the recent Industrial Strategy. The SRA partnered with the global innovation foundation 'Nesta', to run the Legal Access Challenge. This is an open competition to advance the development of technological solutions, with a particular focus on access to justice for consumers. The SRA's winning bid has potential to stimulate market developments from a diversity of bidders. However, it will be important for the winning bids to explicitly address the issue of widening access to legal services.

### *Choice*

Consumers should be given a clear choice over whether to use lawtech-based services.[10] At present, most lawtech is complementary to human interaction at some stage in the process. As the technology develops, it may become the default option in some cases. There is a risk that this could exclude consumers who lack IT literacy, digital equipment, access to the Internet or prefer to have human contact when services are delivered. We would therefore encourage the regulators to consider choice in tandem with access, especially in relation to vulnerable consumers.

The SRA says it is committed to addressing these challenges, as part of its Testbed[11] initiative. The SRA has confirmed that it will work towards ensuring that consumers using lawtech services (without human legal input) have understood the information provided, and are in a position to make informed decisions. Through our interaction, the CLC has confirmed that its regulatory framework will state that consumers should be informed about services provided via lawtech and given a choice. This will be through the usual guidance and compliance-support process.

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[10] The House of Lords Select Committee on Artificial Intelligence, AI in the UK: ready, willing and able? 16 April 2018.

[11] Testbeds are the use of live experiments by regulators to test out potential regulatory problems with new services/products.

## Information - Transparency standards for lawtech

Some AI technologies can learn and develop independent of human influence. This can end up generating layers of complexity (see deep learning at page 2), which can be difficult even for their developers to comprehend.[12] Some AI technology will need ongoing supervision and review, and regulation could be vital in this respect. Also, the opaqueness of the technology might lead to unintentional consumer harm or limit accessibility. Thus, regulators may want to explore issues around how best to ensure that transparency of data used to inform the algorithm is a key element in the development of AI solutions.[13]

Regulators may want to consider how they can assist providers who use lawtech, to ensure the data used to inform algorithms is both traceable and auditable. There is also scope for exploring whether providers need tools to communicate the basis of decision-making, and how technology meets data protection requirements. Moreover, it is crucial that the providers of lawtech solutions can explain to consumers in a meaningful way and in plain language how the algorithm(s) used arrive at particular conclusions, the reasoning behind automated decisions, and the risks and responsibilities of different parties involved. Such transparency would be useful to consumers before purchasing the service. It would also aid investigation by the regulators or LeO when something goes wrong. To achieve these aims, regulators may wish to consider a minimum set of regulatory guidance for providers using lawtech and software developers.

Consumers should have sovereignty over their personal data, i.e. consumers should have the right to access, amend and decide who can use their data. This is the essence of the EU General Data Protection Regulation and the UK Data Protection Act 2018, and is applied by the financial sector in the Open Banking scheme.[14] Any service provider using innovative technology, such as lawtech, that uses personal data, should deliver Data Protection Impact Assessments (DPIA) required under the GDPR/DPA 2018. We understand that the Information Commissioner's Office is carrying out work with legal services regulators and others on general AI regulation, and on how this should interact with sector-specific AI. We look forward to seeing the development of DPIAs tailored for legal service providers.

The Panel supports the SRA's commitment to explore how to resolve the potential conflict between providers' transparency obligations, and the desire for commercial confidentiality on the part of developers. Ultimately, increasing the transparency and auditability of the lawtech solutions are crucial steps to building consumer trust and confidence in AI.

> **Reflection**
> Are lawtech services transparent, traceable and auditable? Is there a plain English guide for providers on how to explain automated decisions to consumers?

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[12] Journal of the Oxford Centre for Socio-Legal Studies, Unpacking the Black Box: Addressing the 'Social' to Make Construction of AI-Powered Legal Technologies More Transparent and Unbiased, Siddharth Peter de Souza, June 2018.

[13] Ibid.

[14] The Economist, The future of big tech - Why big tech should fear Europe, 23 March 2019. Last accessed 8 April 2019.

## Quality

The Panel is aware that poor quality in services delivered by AI may be due to poor quality and/or biased data, or data sets that are inappropriate to the consumer base or incomplete.[15]

Both the SRA and the CLC have confirmed that the same quality standards will apply to lawtech as to regular services. To promote this, the SRA recommends that providers have ongoing quality assurance checks for the lawtech they buy or use, and pilot the technology before using it across their operations.[16] The Panel supports the SRA's ongoing testing and assurance approach. The SRA is considering providing guidance on how existing regulations apply to technology-driven legal services. Moreover, following a review, the regulator has identified a number of potential pinch points between their own rules and the use of AI solutions by the regulated community. The SRA has said that it will explore these pinch points during the Testbed initiative, looking at how regulation can best support the safe use of lawtech solutions now and in the future. In contrast, the CLC is not considering further recommendations around quality, but is undertaking work to understand in detail how new products operate and the risks and opportunities they present and will inform the regulated community about these.

> **Reflection**
> Do regulators require any ongoing quality assessment of lawtech solutions?

## Fairness – Bias and liability of legal services delivered by lawtech

Bias. In many ways, technologies can reflect the worldview of their creators. AI technologies may have built-in biases which, combined with quick learning capability and hidden layers of complexity, can influence the final outcomes of the service in ways that are not fair to some consumers (see *Case Study III*), especially for lawtech used to predict outcomes (see *Case Study II).* It is noteworthy that the Centre for Data Ethics and Innovation (CDEI) has identified bias in algorithmic decision-making through design or underlying data as a priority area for consideration. Currently, they are looking into the potential risk that automated decision-making solutions used by police forces can emulate racial prejudice and other human biases.[17]

The Panel would encourage all regulators to consider how they could develop regulatory guidance to minimise the risk of biases in the datasets used. This might include, for example, requiring lawtech systems to comply with certain standards or quality marks or to explore the use of open source software that would require peer review. We also welcome the proposal[18] to make the biases used by algorithms explicit, to increase their accountability. However, the challenge would be to make biases

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[15] Deloitte, AI and risk management. Innovating with confidence, 2018, and The Law Society, Lawtech Adoption Research, February 2019.
[16] SRA, Technology and legal services, December 2018.

[17] Law Gazette, Government probes justice algorithm bias, 20 March 2019. Last accessed on 25 March 2019.
[18] The House of Lords Select Committee on Artificial Intelligence, AI in the UK: ready, willing and able? 16 April 2018.

hidden within processes that support the data, explicit.

The Panel supports the SRA's view that the onus is on providers to show that their services are fit for purpose when

> **Case Study III - Algorithm bias**
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> An MIT grad student was working with facial analysis software when she noticed a bias in machine learning - the software did not detect her face because the people who coded the algorithm had not taught it to identify a broad range of skin tones and facial structures.

delivered using lawtech.[19] We believe providers should actively and continuously seek to identify bias within AI systems. In our engagement with the SRA, they confirmed they are willing to learn and adapt their regulatory approach to enable lawtech to be introduced safely. The SRA has also confirmed that they intend to raise the issue of in-built bias with applicants for the Testbed initiative, as part of the application process, to see if bidders have considered this potential problem. The SRA also plans to learn from the CDEI's expertise.

> **Reflection**
>
> Has the regulatory framework been adapted to deal with potential biases in the data sets used in lawtech services?

Accountability/Liability. Both the SRA and the CLC[20] affirmed that providers are solely responsible for the service they deliver, and they cannot outsource this responsibility to a third party, regardless of whether or not they use lawtech. While the technological neutrality of the

regulation does help reduce the risk of rules becoming obsolete quickly, it also reduces its ability to address specific risks with the technology itself. Looking at the financial sector, the Financial Conduct Authority (FCA) has issued detailed and technology-specific guidance to clarify its expectations from providers. It is important to note that the Law Society believes that the FCA's approval of certain technologies has provided a level of trust in fintech that is missing in the lawtech space.[21]

> **Case Study IV – Determining liability**
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> This is not a lawtech example, but highlights how establishing liability by LeO (or regulators) might not be straightforward when using technology. A conveyancing firm used a portal system to allow consumers to upload documents required for transactions. However, the portal had gone down when a consumer tried to upload the documents. They made the firm aware, which meant the work has been delayed. The firm's response was that they couldn't progress the work because they were waiting for the documents.
>
> LeO's decision was that the poor service wasn't that the portal was not working, but that the firm had no alternatives mechanisms for documents and information to be shared.

We would encourage the regulators to consider collaborating on developing guidance similar to the FCA's as a way of clearly setting out their expectations to providers, including expectations about the measures needed to protect consumers using lawtech-based services. This could reduce the possibility

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[19] SRA, Technology and legal services, December 2018.
[20] Legal Futures, Regulating the robots, preparing for a conveyancing revolution, July 2017.

[21] The Law Society, Lawtech Adoption Research, February 2019.

of situations arising where liability is hard to identify when something goes wrong, particularly where several parties are potentially liable: the consumer, the software designers, the software developers, operators and the legal services provider. Such guidance could also enhance providers' confidence in using lawtech, and increased confidence would lead to higher use attracting further investment, benefitting all stakeholders.

> **Reflection**
> Have regulators considered adapting their regulatory framework in determining where liability lies, especially for non-clear-cut circumstances?

## Redress

The SRA has said that consumers can seek redress in the usual way from LeO or make a negligence claim.[22] However, there is a lack of clarity about whether professional indemnity insurance policies cover services delivered by lawtech.[23] The SRA has confirmed that it is working with insurers to provide guidance on the extent to which AI-driven services are covered by mandatory insurance policies. We understand that to date no complaints have been raised with LeO primarily about lawtech. But the Ombudsman expects these types of complaints to be more frequent once the use of lawtech becomes widespread. Additionally, the SRA has said that it will undertake research, to understand how consumers think lawtech solutions are regulated and what protections they have when using these services.

> **Reflection**
> Does the existing redress mechanism need to be adapted to protect consumers?

## Representation

For lawtech to be fair, available and accessible, it is crucial for regulators to monitor the use and impact of these services.

> **Case Study V - Testing without consumers**
> Uber's experiment with driverless cars in Arizona (USA) is a classic example where there was no public involvement in the process of regulation. A single deadly accident, which might have been caused by human not machine error, led the whole programme to be abandoned.

This must involve a diverse group of consumers, ideally from the introduction and evaluation stages of lawtech services to testing the results. The regulators could take steps to promote and facilitate engagement by developers with diverse consumer representatives to participate in the design and development of lawtech solutions and to assess complex cases.[24] The SRA has said they will engage with their network of stakeholders to consider consumer representation in their Testbed initiative. They will also run consumer focus groups, and have ongoing engagement with consumers and consumer organisations.

> **Reflection**
> Are consumers represented at all stages of developing the lawtech solutions?

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[22] SRA, Technology and legal services, December 2018.

[23] Artificial Lawyer, UK Gov + MoJ Back Major Research Project to Boost Legal AI Use, November 2018.

[24] European Commission, Draft ethics guidelines for trustworthy AI, Working Document for stakeholders' consultation, December 2018. The House of Commons, Science and Technology Committee, Algorithms in the decision-making, 15 May 2018.

## Innovation and usage of lawtech in delivering legal services

### *Does regulation constrain innovation?*

The delivery of lawtech services to consumers is less mature than the technology for delivering services between businesses. Nevertheless, the consumer market has considerable potential for growth. The area of law that has been the most responsive to consumer lawtech services is conveyancing.[25] Automation and digitisation of conveyancing is considered to be particularly attractive to new entrants due to multiple parties involved having high value and high-volume transactions where there is an established process.

The Legal Services Board's (LSB) recent research[26] shows that the overall level of innovation and use of technology has not changed in the last three years. It actually fell on some measures in 2018. That said, the proportion of solicitors saying regulation is a barrier to innovation has dropped from 53% in 2015 to 44% in 2018. However, the research also shows the proportion of organisations that have a culture that supports new ideas has fallen from 81% in 2015, to 75% in 2018. Solicitors say that the top four barriers they face in adopting technology and other innovation are: risks involved in using unproven technology, lack of IT expertise, availability of finances and legal services regulations.

To prevent regulation from stifling innovation, the SRA has committed to a reformed regulatory model that better supports innovation. It has created an innovation hub called 'SRA Innovate' to provide guidance to help firms deal with any regulatory barriers. This hub also creates a safe space for testing ideas that are likely to benefit the public and consumers, also called a 'sandbox'.[27] In the LSB's 2019/20 Business Plan, the oversight regulator said it will promote wider use of regulatory sandboxes in the sector. While the Panel supports the sandbox initiative, a significant challenge will be ensuring that these regulatory sandboxes protect consumers

Flexibility and adaptability of regulation is essential for enabling innovation in the legal sector, but we believe consumer involvement in the process is important (see *Case Study IV)*. Our Tracker Survey shows the top two perceived barriers for consumers in using AI-based legal services are the technology not being friendly (49%) and a lack of trust in AI technology (47%).[28]

> **Reflection**
> Are you aware of any regulatory barriers that might hinder providers to innovate?

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[25] The Law Society, Lawtech Adoption Research, February 2019.

[26] LSB, Technology and Innovation in Legal Services, November 2018.

[27] Regulatory sandboxes are the use of simulations to work out how regulation can adapt to new products and services that bring together innovators and regulators. For example, the SRA would allow firms to innovate and if they get into technical breach of the SRA's current rules in circumstances where there are currently no waiver provisions, the regulator would guarantee firms that they will take no enforcement action. It would only apply to the SRA's regulatory action, and is not intended to limit any other liabilities, including to consumers.

[28] The question we asked in our tracker survey to be published in June 2019 was: Thinking about using 'Artificial Intelligence' (AI) to access services, such as legal services. Which of the following, if any, do you consider to be barriers to you personally using services delivered through AI?

## Are service providers supported in their use of lawtech through their CPD?

A survey by Lexis Nexis in 2018 shows that 60% lawyers lack understanding of lawtech solutions available in the market.[29] Another study reveals that half of junior lawyers are not aware of what lawtech is, and 66% do not think that advancement of lawtech and the increase of its use will affect their job responsibilities.[30] However, the SRA outlined the benefits of lawtech and the ways it will change the roles and responsibilities of solicitors in the future in its recent report.[31]

The Panel welcomes that lawtech modules have been introduced in some law schools to prepare postgraduates for legal practice in the future.[32] The Panel believes it is equally important for regulators to consider how solicitors and conveyancers can use the CPD framework to develop the skills needed to use lawtech in their practice.

The SRA has moved away from a formal and structured CPD scheme for solicitors. It believes this gives solicitors more flexibility and choice in the training they find appropriate. However, the SRA recently confirmed that they are carrying out a review of their CPD system. [33] In 2017, CLC completed a review of their CPD framework which did not cover any recommendations on lawtech. We understand that they are planning another review in 2020 and they would consider its introduction.

We note that the Chartered Institute of Legal Executives Regulation is proposing to introduce legal technology and emotional competencies into their educational standards, a move we very much support.

> **Reflection**
> Are regulators using the CPD framework to support the profession to use lawtech safely and effectively?

# Regulatory developments in other sectors

## Financial Services - Fintech

AI-based applications in the financial services industry typically consists of robo-advisors, pattern recognition, virtual agents and intelligent automation.[34] While lawtech usage is more advanced in services delivered to other firms, the most established fintech companies are also offering services to individual consumers.[35] *Annex A* summarises the maturity of the lawtech and fintech sectors across a range of key criteria.

In developing regulation for AI solutions, the FCA has worked towards balancing innovation, consumer protection, market integrity and financial stability.[36] The FCA has taken a proactive approach to the development of fintech. It regulates many of the start-ups directly, and has issued detailed technology-specific guidance to

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[29] Legal technology: looking past the hype, Lexis Nexis, October 2018.

[30] The Law Gazette, Lawtech is a puzzle to junior lawyers, JLD survey shows, 28 January 2019 (Last accessed on 26 March 2019).

[31] SRA, Technology and legal services, December 2018.

[32] Robert Gordon University teams up with Addleshaw Goddard to launch legal tech module, 27 February 2019. Last accessed on 26 March 2019.

[33] Solicitors Journal, The great training conundrum, 2 April 2019 (Last accessed on 30 April 2019).

[34] The Law Society, Lawtech Adoption Research, February 2019.

[35] Ibid.

[36] Deloitte, AI and risk management. Innovating with confidence, 2018.

clarify their expectations from service providers, including on robo-advice[37] and algorithmic trading.[38]

The FCA's actions have arguably built trust with the sector, weeded out sub-standard providers, encouraged investment and innovation within a clearly defined framework. That said, we recognise that some argue that this intervention stifled early stage innovation, but to a longer-term benefit. Over the past five years, regulation has become a great focus for the FCA in pushing for the use of technology.[39] To support providers to innovate safely, the FCA set up an innovation hub and a regulatory sandbox, organised industry roundtables and TechSprints.[40] In 2016, the FCA piloted the first TechSprint event where it identified potential solutions to help overcome consumer access issues.[41] We

would encourage legal services regulators to play a similarly proactive role.

*Healthcare services – Healthtech*

The potential for technology in healthcare is vast. We know that data collected via apps and social media is linked with remote patient monitoring and patient electronic health records, for example. Aggregated data is also used to predict future activities and model scenarios using simulation and forecasting.[42] Learnings from the analysis of aggregated data makes it possible to offer more personalised healthcare, as shown in the example below. However, it has been noted that if the technology is badly designed it can be dehumanising and become a barrier to good healthcare.

For healthcare providers, the Care Quality Commission offers lines of inquiry for digital services on its website and operates an online forum for providers on primary care.[43] In 2016, the medicines regulator, the Medicines and Healthcare Products Regulatory Agency, issued guidance to help app developers to comply with regulation.[44] The guidance explained the processes that should be in place to achieve acceptable safety standards and performance. The guidance also sets out reporting responsibilities for when things change or go wrong. Users of the apps (e.g. patients) can also use the guidance to

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[37]https://www.fca.org.uk/publication/consultation/cp17-28.pdf
[38]    https://www.fca.org.uk/publications/finalised-guidance/fg16-5-guidance-firms-outsourcing-cloud-and-other-third-party-it
[39] The Law Society, Lawtech Adoption Research, February 2019.
[40] TechSprints are two-day events that bring together participants from across and outside of financial

services to develop technology-based ideas or proof of concepts to address specific industry challenges.
[41] https://www.fca.org.uk/firms/ regtech/techsprints
[42] PWC, AI in healthcare in 2017.
[43] Online primary care, information for providers.
[44] MHRA, Is your App a medical device? It's healthy to know: regulator issues updated guidance, August 2016.

check if the health apps are regulated and safe to use.

## Further developments

Lawtech aimed at consumers is still developing and we acknowledge that progress has been made in creating an environment supportive of innovation. Nevertheless, regulators in legal services must continue to explore how they can support future innovation with appropriate consumer protection.

Regulators should consider the proposed checklist included at the end of this paper as an aide to lawtech regulation. In addition, future tests and research into the effects of lawtech will be crucial to enabling innovation and protecting consumers. Moreover, consumers should be represented at all stages from concept design to testing.

We welcome the LSB's upcoming research into technology. We hope regulators begin to consider what must be in place for innovation to thrive. We would also suggest that legal services regulators consider any potential regulatory gaps that could be exploited by providers and cause consumers harm, e.g. recent/new market entrants with a completely tech-based service model. We would encourage the SRA to consider how the use of lawtech by freelance solicitors or solicitors working in unauthorised firms, would affect consumers.

We would also encourage regulators to continue learning by engaging with a range of stakeholders, to discuss the use of AI in legal services. Furthermore, as AI technology is developing in many other sectors, we would recommend collaboration to address any common ethical issues.

**A checklist for all frontline regulators supporting the profession and consumers with lawtech.**

1. Have you incentivised providers to use lawtech in widening access to legal services?

2. Have you considered the issue of consumer choice?

3. Have you taken steps to ensure that:
   a. consumers have access to plain English explanations of how lawtech arrives at particular conclusions
   b. the data inputted in AI systems is transparent, traceable and auditable?

4. Have you required any ongoing quality assessment of lawtech solutions?

5. Have you adapted the regulatory framework to deal with:
   a. potential biases in the data sets
   b. determining liability for non-clear-cut circumstances?

6. Have the existing redress mechanisms been adapted adequately to safeguard consumers?

7. Is the consumer interest represented at all stages of developing, testing, evaluating and monitoring lawtech?

8. Have you considered any regulatory barriers that might stifle innovation for the profession?

9. Are you using the CPD framework to support the profession in using lawtech safely and effectively?

## Annex A – Market maturity across areas of lawtech and fintech

| | Fintech | Lawtech |
|---|---|---|
| **Size of the ecosystem and start-ups** | Well established and thriving UK cluster.<br><br>Global centre of expertise | Lots of companies ripe for consolidation. |
| **Funding environment** | Extremely well-funded with high-quality companies. | 2018 most active year to date, but embryonic. |
| **Current level of disruption** | Different operating models that are tech enabled.<br><br>New consumer and corporate services. | Mostly focused on delivering efficiencies.<br><br>Few genuinely disruptive approaches to the law. |
| **Regulatory Environment** | FCA a driving force for adoption. | Some disconnect between regulations and technology. |
| **Business to Consumer adoption** | Many providers gaining traction and crossing over into mass market | Embryonic market although one with large potential customer base. |
| **Business to Business adoption** | Active market but with fintech often still finding it hard to engage with large FS providers. | Gaining traction in large law firms but adoption within firms still inconsistent. |

| Key Stages | Early stages | Maturing | Most Mature |
|---|---|---|---|

Adaptation from the Law Society, Lawtech Adoption Research, February 2019.