

# Artificial Intelligence and Scots Law: Transforming the Future

## RSE Collaboration Grant - First Workshop Highlight

### “Scene Setting, General Principles, Contract, Agency, and Regulation”

#### University of Dundee 17.02.2025

The first Workshop noted that there was a role for the UK’s devolved nations, with the important question of the applicability of the EU AI Act in Northern Ireland. The priorities at UK level are economic innovation and capability. The complementary priorities in Scotland, subject to any updated AI Strategy, could be safety, privacy, and ownership.

On contract, there were various questions on how to treat acts of speech in AI systems. Functional equivalence must focus on access to justice and supporting SMEs. New regulatory ideas are a problem when technology cannot claim to work across border differences in jurisdiction and applicable law. Accountability is also a particular issue when AI systems engage with third parties. There is a tension in the platformisation paradigm on user responsibilities arising from terms and conditions in relation to data protection, data ownership, and liability. The use of AI in robotics will demand greater attention to health and safety, security and privacy and data protection compliance, via coherence between different regulations across borders. In terms of legal practice, identification of the parties is key when AI systems are used. For law firms at this early stage, a balance must be struck between efficiencies and trust versus training, due diligence, and overdependence. Finally, on contract, parties may be more concerned with output over basic contract formation issues. The core questions are what is the technological differentiators between with AI and current electronic platforms, which party is responsible for generating content via AI systems and are regulations already behind the technology?

In terms of performance of automated contracts, vicarious liability and duty of care issues arise. There must be efforts to prevent damage when AI systems have been used to perform a contract. Vicarious liability is a solution where AI systems cause greater risks than human activities would generate. Where there is a risk of incidents beyond the operator of AI systems through change of use of contracts and change of performance, a duty of care to maintain, audit and control should apply. The risks in use of AI systems require moderation of platforms and establishing liability through the AI value chain. Finally good governance of AI should be based on social licence, compatibility with community values, and recognition of existential risks.