



Civil Mediation Council (CMC) Response to the Civil Justice Council Consultation on the Use of AI for Preparing Court Documents: Interim Report and Consultation

A: Introduction

1. This is the response of the CMC to the Consultation by the Civil Justice Council's Interim Report and Consultation on the Use of AI for Preparing Court Documents.
2. The CMC is a registered charity, with a mission to promote and encourage the use of mediation in the resolution of conflicts and disputes. Established in 2003, the CMC liaises with government, the Civil Justice Council (CJC), the judiciary, mediation organisations, employers and other stakeholders to promote mediation as an effective means of conflict resolution and address issues of concern within the mediation process.
3. With over 980 registered individual members and 49 organisational members including registered service providers and registered mediation training providers, the CMC is the largest registering and self-regulatory organisation for practising non-family mediators in England and Wales. The main mediation providers and trainers are members of the CMC, including Centre for Effective Dispute Resolution (CEDR), Independent Mediators, Global Mediation, Ciarb and RICS.
4. The CMC provides the public with a trusted register of mediators across various practice areas including civil and commercial, workplace, community and education. Mediators on the CMC's register must have obtained a mediation qualification which meets the CMC's requirements for mediation training, must comply with the CMC's standards for mediation, must apply a Code of Conduct, have professional indemnity insurance, and maintain CPD (including as to mental health). CMC mediators are subject to the CMC's complaints and disciplinary procedures¹.

¹ See <https://civilmediation.org/concerns/>

5. The CMC sets standards for civil and commercial mediation, including its current work on standards for mediation in the county court. It also sets standards in its other areas of work, such as in community, SEND and peer mediation.
6. The CMC has established a Mediation Standards Board (“MSB”), drawn from a wide range of the mediation industry with experience in standards and regulation. The MSB’s remit is to consider, and advise the CMC, on standards and guidance that the CMC might adopt.
7. The MSB is currently charged with producing guidelines in relation to the use of AI in mediation. Our recent conference had a specialist panel on this topic, and a sub-committee of the MSB has been formed to draft guidelines for the CMC to adopt.

B: Consultation Response

8. The CMC wishes to make the following general observations on the Consultation, and to respond to question 5 of the Consultation, so far as it is relevant in the context of mediations.
9. Following *Churchill v Merthyr Tydfil*, the consequent changes to the CPR, and the potential for further integration of mediation into the civil justice system, the CMC considers that taking steps to ensure that mediation processes work smoothly and integrate coherently with those in the civil justice system will be of benefit to users of mediation, whether they are lay clients or professionals.
10. Some of the documents identified in the consultation as court documents may be useful in a mediation and, in our experience, often form part of the bundle prepared for a mediation. These include some of the documents in the category “Skeleton arguments, and other advocacy documents”, such as chronologies, lists of issues and case summaries. Depending on when the mediation is, the mediation may take place before those documents are due to be filed, and some of the groundwork done for a mediation may well be used later on to produce these documents for use before the courts.
11. There is plainly the potential for time and costs to be saved if what is produced for a mediation can be reused if the matter proceeds to trial. Further, a system is more user-

friendly if there is consistency of approach to matters that arise in both proceedings and in mediation, such as how AI is to be treated.

12. For this reason, we will consider the final report from the CJC, in particular as to what elements could be reflected in CMC standards for mediation.

Question 5

13. This question concerns skeleton arguments and other advocacy documents, which are not verified by a statement of truth. The CMC notes that the question is asked in respect of these documents being used in proceedings.
14. One matter which comes up specifically in the context of negotiations and mediation are tools which predict the outcome of a dispute, and those predictions being cited in negotiations or mediation².
15. In order for mediators and parties to the mediation faced with these types of arguments to be able to interrogate them properly, we regard it as important that the fact that AI has been used to be declared, as well as potentially which AI tool, in order to ensure effective discussion of the point.
16. We recognise this issue does not arise for the types of documents referred to in the Consultation, so we note our current thinking in relation to the use of that material in mediation for completeness.

Civil Mediation Council

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² An example of this type of tool is [blueJ](#), which can be used to analyse a client's case and predict an outcome. This tool has been [adopted](#) in the UK already.