



Future  
Workspaces

# Keep the horse in front of the cart

The risks employers take by letting employees out-**AI** them.

We brought together more than 200 people and business leaders to explore - among other things - the impact of AI.

What many didn't realise was that in early 2025, the first obligations of the EU AI Act had already kicked in - with an outright ban on any AI deemed an 'unacceptable risk'. In practice, most of us won't be using tools that stray anywhere near these regulations – but it does pose an interesting question.

What level of risk will you accept from AI usage in your business?



Getting a few things wrong, for the sake of speed and efficiency?

Pumping more data into decisions, at the cost of nuance and creativity?



A reduction of the human touch in the workplace?

A reduction of humans altogether?



In 2025, there were several false summits where the pinnacle of AI was higher than we thought possible. Not long ago, we were all working with OpenAI's o3-mini. Now we have GPT-5 with Deep Research. We've got AI Agents, capable of full autonomy without the need for a handler to review and approve decisions. We've got audio and visual production nigh-on indistinguishable from the real thing. Every new peak comes with a new impact on the workplace.

It's becoming clear that a plateau is unlikely to emerge any time soon, there isn't going to be a chance for us to stop and catch our breath. It's a run-or-get-left-behind game in which employees, unfettered and unburdened by policy, are pulling ahead of employers.

# AI isn't a new tool, it's a new dimension.

Whenever a ground-breaking technology emerges, we understand it best via comparison. We made sense of cars by measuring them against what they replaced – horsepower. Databases were electronic card catalogues, spreadsheets = electronic ledgers, the internet = a global library. For Generative AI, this just isn't possible – and that makes it difficult to fully imagine where it fits into the modern workplace, but there it is nonetheless.



In October 2023, **0.05%** of UK job listings on Indeed mentioned GenAI<sup>1</sup>. By March 2025, this had climbed to **0.33%**<sup>2</sup>. Two months later, in May 2025, we saw figures hit **0.5%**<sup>3</sup>. And whilst that's a **10x** jump, it pales into insignificance compared to the number of businesses and employees actually using AI in the workplace.



**21%** of businesses now report using some form of AI in their operations<sup>4</sup>, and **78%** of knowledge workers are using AI right now<sup>5</sup>.

It's no new challenge for workers to be more individually skilled, knowledgeable, or active than their leaders. The garage's owner is rarely a better technician than his mechanics – but that's a closed loop system with policies and procedures in place. The risk of going off-script is known, so they work with an approved set of tools and equipment that are tested and understood.

When 78% of workers are using AI, but only 21% of businesses think they are and just 0.5% of job listings include it – what are the risks?

## LEGAL INSIGHT: Risk

Those numbers scream shadow-AI risk: unchecked usage means confidentiality and IP leakage, unlawful UK GDPR processing and overseas transfers, biased or hallucinated outputs driving decisions, licensing breaches, porous security and no audit trail.

With only 0.5% of ads flagging AI, skills and governance won't match reality – raising negligence, misrepresentation and HR issues. Expect Information Commissioner's Office scrutiny, contractual liability and, if you operate in the EU, AI Act exposure. Mitigate now: clear policy, approved tools, DPIAs, logging, vendor due diligence, and targeted training.



**Frank Jennings**  
Partner  
Technology & Innovation



**Nicola McNeely**  
Partner  
Head of Technology Services

## LEGAL INSIGHT: Fallout

We know it's more than this, but as far as the law is concerned AI is just another tool in your business. If an employee uses it and something goes wrong, you can still be responsible if it's in the course of their job. A simple, practical AI policy won't remove liability, but it shows you took reasonable steps: set boundaries, trained people, checked outputs, and logged decisions.

Combine that with clear contracts, data-protection basics, and sensible oversight. Start small, keep it proportionate, and review regularly – this is good governance, not tech wizardry.



## The 'BYOAI' problem

Bring-Your-Own-AI, or BYOAI, is the natural outcome to employees pulling ahead of employers.

If you've got Microsoft 365, but aren't letting workers use Copilot – they'll turn to alternative tools and backdoor the results into their work.

If you're blocking access to a preferred tool like ChatGPT, in favour of Gemini – they'll find a way to access it outside of your network.



The vast majority (**78%**) of employees using AI in the workplace are doing so with their own tools.



Only **39%** of those have received appropriate company training (and just **25%** of firms are planning to offer it within the next year)<sup>6</sup>.



So there's good reason why **32%** are keeping it secret from their employer<sup>7</sup>.

Blocking usage might come from a place of responsible compliance, but at present it's an unrealistic prospect. 'Ask ChatGPT' is becoming as ubiquitous as 'Just Google It' and – whilst search engines don't pose the same risks – ask yourself if banning or restricting their usage would be possible within your business.

And beyond compliance, the other question to ask is one of competing in your marketplace. If you're taking a softly, safely approach – you're probably not going to fall foul of the mistakes that your more adventurous competitors risk making. But are they risks worth taking?

### LEGAL INSIGHT: Relevance

Playing it ultra-safe trades legal comfort for competitive drift. The aim isn't zero risk; it's smart, priced risk with guardrails. Be bold where outputs are internally reviewed and data is masked; be cautious with customer-facing advice, regulated decisions and IP-sensitive content.

Tier use cases, pilot in sandboxes, contract hard on IP, data use, audit and liability, keep humans in the loop, log and measure. Set board-level risk appetite and an accountable owner. Take targeted, reversible bets – the opportunity cost of inaction is now a real legal and commercial risk.



**Catherine Mitchell**  
Partner  
Employment & Immigration

### LEGAL INSIGHT: Governance

Yes – people will improvise with AI, often on personal accounts. Assume "shadow AI" already exists and act to govern it. Legally, you're responsible for what's done in your business' name, so focus on: (1) data protection (lawful basis, DPIAs, notice, limits on monitoring), (2) confidentiality/trade secrets (ban pasting sensitive data into unvetted tools), (3) IP/licensing of outputs, (4) discrimination/automated decisions, and (5) contract accuracy and audit. Publish a short AI/BYOAI policy, approve tools via a register, require human review, training and logging. If you operate in the EU, check EU AI Act 'deployer' duties and timelines.



**Frank Jennings**  
Partner  
Technology & Innovation

# Employees using AI are better employees, but at what cost?

Organisationally, it can feel easier to resist change and retain control. ‘The way we’ve always done it’ is a path with much less resistance.

But putting aside the operational risks of AI for a moment, there is a mounting body of evidence that employees are better, happier, and more productive when using AI. In any other scenario that produced these results – like the introduction of new benefits or incentives – both parties would rejoice. But in this situation, there is a caveat:



AI users complete **12.2%** more tasks, work **25.1%** faster, and produced **>40%** higher quality outputs<sup>8</sup>.



**80%** say that AI improves their performance<sup>9</sup> and **63%** say that it increases their enjoyment of work<sup>10</sup>.



But as a result of this, **3** in **5** worry about job loss to AI in the coming decade – and **2** in **5** expect wage pressure<sup>11</sup>.

That in itself presents a tricky situation for employees. The more they use AI, the better they perform and the better they feel. There isn’t a comparable historic scenario where these benefits could feasibly come with a risk (or perceived risk) of replacement. Companies strive for happy, productive employees as a win-win scenario – but are we now facing one where it isn’t a win for workers?



**Catherine Mitchell**  
Partner  
Employment & Immigration

## LEGAL INSIGHT: Reality

“It’s important to keep perspective. Using AI effectively doesn’t automatically make a role redundant. The law looks at whether the job itself has genuinely disappeared, not whether technology helps an employee perform it more efficiently. Provided employers follow a fair process and comply with their obligations under the Employment Rights Act 1996 and Equality Act 2010, redundancies driven by efficiency gains alone are unlikely to amount to unlawful conduct.”



**Rachel Roberts**  
Partner  
Joint Head of Employment  
& Immigration

## LEGAL INSIGHT: Release

“Where AI adoption does lead to a reduced need for certain roles, employers must treat this as a potential redundancy situation under section 139 of the Employment Rights Act 1996. That means consulting meaningfully with affected staff, exploring suitable alternatives, and, where 20 or more redundancies are proposed, triggering collective consultation under section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992. The key is fairness and transparency – failing to follow due process risks unfair dismissal and discrimination claims under the Equality Act 2010.”



## How to move forward

### 1 Adopting and implementing AI effectively – to drive business performance and maintain advantage

Getting left behind (by your talent and your competition) is the price to pay for playing it safe. AI represents one of the biggest changes to workplaces in a century, so the transition will be challenging, but don't lose your edge out of fear of change. Whilst we can't ignore the very real compliance and risks posed by AI – it's not going away. Seek legal advice and get policies in place to protect all parties, then release the brakes and allow your teams to innovate.

### 2 Managing employee behaviour – to keep operations compliant and morale stable

There is growing sentiment among employees that AI is here to replace them. Even those who actively use and understand it are worried, so take a moment to consider the feelings, morale, and wellbeing of staff across your organisation. Be clear in your communications about AI's role in the workplace (including BYOAI) and review job descriptions across your organisation. Be ready for AI-pushback when non-AI related redundancies occur, as it may become the scapegoat of the moment.

### 3 Staying on the right side of the law – to future-proof your interests

The EU AI Act timeline is locked. Any UK AI Act will likely borrow heavily from this legislation, so it's worth familiarising yourself with the kind of hoops you may be expected to jump through in the future. From August 2026, EU companies will need to declare AI usage, guarantee human oversight, keep meticulous logs, offer appropriate training, and report serious issues – at the risk of significant fines.

## Key contacts:






Nicola McNeely, our Head of Technology Services, is a Band 1 Ranked IT lawyer – and our Cardiff Office is also Band 1 Ranked for IT (Chambers and Partners 2026).



Frank Jennings, our Technology Partner in London, is an award-winning Cloud and AI Specialist with 25+ years of legal experience.

## Related articles:

-  [A guide to using AI within your in-house legal team](#)
-  [Harnessing the benefits of AI as an employer](#)
-  [The role of AI checkers in schools](#)

## Appendix

- 1 - <https://www.hiringlab.org/uk/blog/2023/12/07/indeed-2024-uk-trends-report/>
- 2 - <https://www.euronews.com/business/2025/06/29/genai-job-postings-rise-across-europe-which-countries-lead-the-way>
- 3 - <https://www.hiringlab.org/uk/blog/2023/12/07/indeed-2024-uk-trends-report/>
- 4 - <https://www.ons.gov.uk/businessindustryandtrade/business/businessservices/bulletins/businessinsightsandimpactontheukeconomy/3july2025>
- 5 - <https://www.microsoft.com/en-us/worklab/work-trend-index/ai-at-work-is-here-now-comes-the-hard-part>
- 6 - <https://blogs.microsoft.com/blog/2024/05/08/microsoft-and-linkedin-release-the-2024-work-trend-index-on-the-state-of-ai-at-work/>
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- 8 - [https://www.hbs.edu/ris/Publication%20Files/24-013\\_d9b45b68-9e74-42d6-a1c6-c72fb70c7282.pdf](https://www.hbs.edu/ris/Publication%20Files/24-013_d9b45b68-9e74-42d6-a1c6-c72fb70c7282.pdf)
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