

Employment & AI: Navigating a new technological frontier

International Employment | Event Summary Notes

2024

Opening Keynote: Responsible AI for the workforce of the future

In the keynote address, Emily Campbell-Ratcliffe, Head of AI Assurance at the Department of Science, Innovation and Technology, provided an in-depth look at the role of AI assurance in building trust in AI technologies.

Emily focuses on supporting the creation of an effective AI assurance ecosystem, emphasising the development of governance frameworks, research incorporation, and international operability. She presented the UK's forward-thinking regulatory framework that seeks to balance innovation with safety and highlighted the UK's nuanced approach to regulation —positioned between the EU's stringent regulations and the US's voluntary measures.

Emily spoke about the importance of sector-specific regulation with overarching oversight to ensure consistency of approach between sectors. She examined the differences in the rate of AI adoption across sectors, which can be broadly grouped into three categories:

- (i) Sectors with a large amount of traditional AI and machine learning (e.g. finance) which have been ahead of the game for decades;
- (ii) Organisations which hold a lot of data (e.g. retail logistics) but which historically may not have been in the AI space; and
- (iii) Manual sectors (e.g. manufacturing, agriculture) where there may be an assumption that AI means replacing roles but where there are many positive use cases for AI.

AI assurance is an important aspect of good AI governance and is fundamental to the implementation of AI systems. It is important to assure the data used to train models, the models used in AI systems themselves, and the systems as a whole in the context they're being used. In practical terms, this is more than just an "audit" and employers can start taking steps now to support their business such as:

- measuring and evaluating systems to demonstrate they are trustworthy to consumers, staff, regulators and the government;
- upskilling internally on different methods of testing AI;
- carrying out risk and impact assessments; and
- engaging with suppliers on their own assessments and processes.

For businesses implementing AI, the following **risk management tips** should be followed:

1. understand the technology's purpose and why the AI system is being implemented;
2. focus on the pain-points within your business and work out where AI could help;

3. ensure sound governance through clear internal guidelines to identify who is responsible for AI tools and how employees can escalate issues or report misuse;
4. utilise pilots to understand systems, their performance and what, if any, potential misuse may arise;
5. maintain clear and transparent vendor communication to manage liability effectively and fully understand what tool the business is procuring; and
6. work with internal teams implementing AI systems to understand what is it they want to achieve i.e. to automate entire roles or augment roles? Is there a need to upskill? Where will training and development be needed? How will roles change, and will there be a need to hire in new roles e.g. prompt engineers?

Department of Science, Innovation and Technology Resources

- [Introduction to AI assurance](#)
- [Responsible AI in Recruitment guide](#)

Session 1: Mind the gaps – deploying AI-driven HR solutions in Europe

In this session, the panel, featuring Miguel Pastur (Partner, Bird & Bird Spain), Catharina Klumpp (Partner, Bird & Bird Germany), Chris Ivey (Partner, Bird & Bird France), and Dee Masters (Barrister, Cloisters Chambers), tackled the pressing legal questions surrounding AI regulation.

The discussion began with an exploration of AI's definition, emphasising its role as a "prediction machine" and its attempt to replicate human intelligence. The panellists highlighted AI's unique challenges, such as its data-driven nature and the difficulties in explaining AI decisions in human terms.

They presented a comparative legal perspective, with insights into German, Spanish, and French regulatory environments, showcasing diverse approaches to AI in the workplace, which we have summarised in the table below. The importance of works councils and unions in negotiating AI's implementation in Europe was a recurring theme.

Spain	France	Germany
<p>There has been a right (in place for several years) for worker representatives to access the algorithms of tech companies when workers are impacted (e.g. determining how tasks are allocated).</p> <p>Unions are struggling to keep up with the rapid pace of change, making it hard for them to ask the right questions and lobby in the right way.</p>	<p>Unlikely to be additional AI specific legislation - existing provisions in Labour Code are currently being used to cover the scope of AI in the workplace.</p> <p>Unions are, however, seeking to extend existing obligations to adapt the workforce to focus specifically on workforce reskilling as a result of the impact of AI.</p> <p>May in future see nationally negotiated collective agreement on AI.</p>	<p>Adopted a standard approach to push responsibility for AI onto works councils.</p> <p>Companies that plan to implement AI tools need to reach agreement with works councils – a powerful regulatory tool in Germany.</p> <p>Not expecting any future employment related AI regulation or legislation – currently AI is governed by existing regulations.</p> <p>AI monitoring is already prohibited, and existing laws do not permit the use of AI in selection for dismissal.</p>

When dealing with the organisational introduction of AI, employers and HR functions should take all or some of the following actions:

- invest in infrastructure and people who understand AI across all areas of the business;
- create internal bodies, populated with people at all levels from technical roles to C-suite, that understand what AI is and the associated risks;
- evaluate existing policies and procedures to determine whether they are appropriate for use in an AI-integrated organisation and create a culture where people can raise concerns (e.g. does your whistleblowing policy cover misuse of AI?);
- use pilots to learn what is and what isn't needed from AI tools across your business;
- implement policies on how to use AI tools within your business and if individuals use private tools, address how you will manage that;
- implement a framework agreement with works councils so that whenever the business wants to implement something new, there is a common framework to build on; and
- determine where your 'redlines' are when it comes to the use of AI.

Session 2: AI in the workplace: a risk or an opportunity?

This session involved a panel including Matt Briggs (Senior Director, Lead Labour and Employment – EMEA at Salesforce), Jenny Shiers (Chief People Officer at Unily), Julian Bohm (Director, Legal – Employment Law at ServiceNow) and Toby Bond (Partner, Intellectual Property, Bird & Bird UK).

The panel shared practical experiences and strategies related to AI governance. Discussions revealed the varied approaches organisations take in developing AI governance frameworks, from principles of trust and transparency as well as the development of acceptable use policies to more fluid, case-by-case decision-making process. The panellists agreed on the need for broad stakeholder engagement and the critical role of clear communication, particularly as workforces experience apprehension and excitement about AI's impact. Strategies for engaging employee representative bodies, such as works councils, were debated, emphasising the importance of early engagement and education to address concerns and manage expectations.

The discussion highlighted that employers should focus on the following factors when implementing AI in the workplace:

- **Governance:** Important to ensure that you have the right stakeholders around the table and the right processes and workflows in place to manage the internal implementation and use of AI tools; and make sure the framework and processes are communicated clearly to all employees.
- **Messaging:** Managing the internal landscape will be important from an employee engagement perspective to ensure a positive dialogue around AI can take place. There is overall excitement about the opportunities that AI presents, and messaging and piloting will be crucial to fully understand the benefits and limitations of the tools.
- **Early engagement** is crucial with employee representative bodies or works councils to identify the issues that concern them most, educating them about your overall AI strategy, and giving them a seat at the table when developing your internal AI related policies.
- **Reskilling and workforce planning:** AI will inevitably lead to a huge amount of transformation and evolution in job roles and how work is done. Thought must be given to job descriptions and employment contracts to allow for flexibility and a degree of change in job roles to take place. There will be a reasonable expectation of upskilling – such as ensuring that you have the skills and talent internally to manage AI; thinking about how to upskill managers if they are using an AI tool to make a preliminary selection for redundancy. An important piece will be skills identification – which skills might the business no longer need? Is it a risk to lose those skills completely or should they be preserved?
- **Education:** There is likely to be a diverse workforce population in terms of knowledge of and interest in AI, so consideration must be given about how to educate and train the workforce.

The discussion concluded with thoughts on AI's potential to augment the roles of legal and HR professionals, provided organisations can navigate the challenges of data governance and litigation risk effectively.

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