HOW CAN PENSIONS HARNESS AI?

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If artificial intelligence (AI) was a horse, few would deny it has bolted. It is too late for the pensions industry to close the stable door. So what can and can't AI do? How will trustees and regulators use it and approach its use by others? We explore how to harness AI's potential without getting too carried away by it.

We spoke recently at the PMI's Annual Conference about the use of AI in pensions. The debate was engaging and lively. A topic which just a few years ago many in pensions would have ignored, been baffled by, or perhaps just dismissed as fanciful, is starting to take centre stage.

Unsurprisingly, service providers to trustees are already starting to consider how AI can be used in the delivery of services. Some obvious "use cases" are already emerging. The human "minute taker" at a trustee board meeting may soon be a thing of the past. AI is also innovating how members might more efficiently interact with and get information from schemes; will chatbots soon be a standard feature of any administration interface?

From the member perspective, it seems inevitable that more tech savvy members might also start deploying AI, to help them to understand their pension benefits or to communicate or complain.

Regulators are also embracing AI. We know that the Pensions Regulator has been using *machine learning* in its review of data for a few years. One might expect ever more sophisticated AI tools to be continually under consideration, particularly with the increasing swathe of valuation and covenant data that the Regulator will be receiving from schemes once the new funding regime beds in. We may in future see other public bodies, including the Pensions Ombudsman and the Pension Protection Fund, consider AI tools to help with their remits and work – for example assessing jurisdictional or eligibility requirements.

So how should trustees consider using AI, and what do they need to consider when they, or others, do?

The questions are, in many ways, no different from how trustees would assess the use of any other new technological product before adopting it. And they are exactly the same questions that any potential business user of AI would ask:

"Does this technology allow me to do something better?"

"What is the risk/cost/benefit analysis of using this technology?"

More specifically, in light of the range of pension trustees' legal duties, doing something better could mean achieving a range of outcomes, such as better decision-making, improved cost efficiency, or reducing risk.

There is, in the UK, no specific regulatory framework for using AI. This in contrast to other jurisdictions, including the EU, where specific regulations apply. The approach taken in the UK is that our pre-existing legal and regulatory frameworks are sufficient to address any potential harms that might result from the use of AI. These include GDPR governing use of data, equality legislation prohibiting discrimination, and of course trust law and pension law and regulation which provide trustees with a framework for decision-making.

So if trustees use AI to help communicate with members, review or process data, write meeting minutes or other documents, make a decision or implement a project or a change, then all the same legal duties apply – as the human user of AI – as if AI had not been used at all. Importantly, trustees cannot delegate decisions to AI – any decision that might have involved any AI use is still the trustee's and it will be for the trustee to demonstrate that it was made properly.

And it is the trustee oversight that will be critical when considering AI use. Unlike other types of technology, the resulting outputs of AI are not formula-driven in a way that always easily lends itself to external data testing and verification. Indeed that is the whole point of AI – it is intentionally *more* than just a form of technical programming. Much AI is a 'black box', which means its outputs cannot be interrogated or analysed. Different methods will therefore be needed to test whether AI is performing the task set for it and the quality of its output. This will be particularly key where trustees have to demonstrate *how* a decision has been made, including the factors which have been taken into account. This suggests that the use of AI in discretionary decision-making would need very careful thought.

There are other effective ways of managing other risks that are inherent in AI in the design itself. For instance, by limiting datasets, restricting the AI from capturing new data (including personal data from members), or limiting the functions that AI can perform, or can perform without further human intervention.

Although the law itself around AI is not yet changing, legal practice is. We are already helping to update contracts for trustees to reflect the use of AI by service providers and clarify the responsibilities around this.

So returning to our original questions – *does AI allow you to do something better? What is the risk/cost/benefit analysis?* The questions are likely to remain continually in flux as AI use continues to develop. But, acknowledging that the AI horse has well and truly bolted, we might at some point soon need to add a third question – *can you justify not using AI?*

(No AI was used or harmed in the making of this article.)