



Existing regulations do apply. Regulators have emphasised this. For example: UKGDPR; sector-specific regulation such as financial services, medicines, transport and product safety regulation.

Monitor regulatory reviews and developments in response to the UK White Paper.

Identify existing legal framework that applies.

This may provide guidance as to what the cross-sectoral principles look like in practice. For example: Equalities Act 2010; Human Rights Act 1998.

Also consider how third party suppliers are regulated, and in future could be regulated, in their relevant jurisdiction/s. This may impact how they deliver their products / services.

The UK's framework is concerned with AI due to its adaptivity and autonomy. The White Paper explanation of them includes:

Adaptivity: Al systems are 'trained' – once or continually – and operate by inferring patterns and connections in data which are often not easily discernible to humans. Through such training, AI systems often develop the ability to perform new forms of inference not directly envisioned by their human programmers.

Autonomy: Some AI systems can make decisions without the express intent or ongoing control of a human.

However, the definition remains flexible and subject to change.

Section 3.2.1

The UK's framework prioritises regulatory intervention in connection with high-risk AI systems. High-risk is not defined. However, lower risk AI systems may also be subject to AI specific regulation either directly or if they or their use changes and they become high risk.

The UK's framework is concerned with regulating the use of AI systems (not the technology) and on the outcomes.

This will depend on how and in what context the AI system is used. Regulatory responses should be proportionate to the AI system risk.

Section 3.2.2

The draft, non-statutory cross-sectoral principles:

Principle: Safety, security, robustness

Al systems should function in a robust, secure and safe way throughout the Al life cycle, and risks should be continually identified, assessed and managed. Regulators may need to introduce measures for regulated entities to ensure that AI systems are technically secure and function reliably as intended throughout their entire life cycle.

Principle: Appropriate transparency and explainability

Al systems should be appropriately transparent and explainable. Transparency refers to the communication of appropriate information about an Al system to relevant people (for example, information on how, when, and for which purposes an AI system is being used). Explainability refers to the extent to which it is possible for relevant parties to access, interpret and understand the decision-making processes of an AI system.

An appropriate level of transparency and explainability will mean that regulators have sufficient information about AI systems and their associated inputs and outputs to give meaningful effect to the other principles (for example, to identify accountability). An appropriate degree of transparency and explainability should be proportionate to the risk(s) presented by an AI system.

Principle: Fairness

Al systems should not undermine the legal rights of individuals or organisations, discriminate unfairly against individuals or create unfair market outcomes. Actors involved in all stages of the AI life cycle should consider definitions of fairness that are appropriate to a system's use, outcomes and the application of relevant law. Fairness is a concept embedded across many areas of law and regulation, including equality and human rights, data protection, consumer and competition law, public and common law, and rules protecting vulnerable people.

Principle: Accountability and governance

Governance measures should be in place to ensure effective oversight of the supply and use of AI systems, with clear lines of accountability established across the AI life cycle. AI life cycle actors should take steps to consider, incorporate and adhere to the principles and introduce measures necessary for the effective implementation of the principles at all stages of the AI life cycle.

Principle: Contestability and redress

launched a review into foundation models.

Where appropriate, users, impacted third parties and actors in the AI life cycle should be able to contest an AI decision or outcome that is harmful or creates material risk of harm.

Section 3.2.3

The White Paper framework expects that the regulators will publish guidance on how the cross-sector principles apply in practice within their remit and with existing legislation, illustrating what good practice looks like. Regulators are also expected to collaborate to produce clear and consistent guidance, including joint guidance where appropriate.

Note that regulators have already published guidance on procuring, developing and using AI. Existing guidance may be directly applicable or indirectly applicable, for example, by demonstrating good practice in certain sectors or AI use cases.

For example, see the Information Commissioner's Office work on Al. Also note that regulators may take their own action related to Al indirectly related to the White Paper. For example, the Competition and Markets Authority has

Section 7.1

Section 3.3.1

The White Paper proposes new central functions to support the framework. It sets out functions which are anticipated and are being considered.

Next steps include:

Government will publish 'an AI Regulation Roadmap with plans for establishing central monitoring and evaluation functions, including monitoring and coordinating implementation of the principles. This roadmap will set out key partner organisations and identify existing initiatives that will be scaled-up or leveraged to deliver the central functions. It will also include plans to pilot a new AI sandbox or testbed.'

Government will subsequently 'agree partnership arrangements with leading organisations and existing initiatives to deliver the first central functions.' Government will also 'publish proposals for the design of a central M&E framework including identified metrics, data sources, and any identified thresholds or triggers for further intervention or iteration of the framework'. This will be published for consultation.

In the longer term (March 2024 onwards) government will: 'deliver a first iteration of all the central functions required to ensure the framework is effective; publish the first monitoring and evaluation report. This will evaluate how well the cross-sectoral principles are functioning and the delivery of the central functions; publish an updated AI Regulation Roadmap which will set out plans for the future delivery of the central functions."

Section 7.1

The White Paper says that the UK 'will work closely with international partners to both learn from, and influence, regulatory and non-regulatory developments'. Examples include: membership of the OECD Al Governance Working Party and Global Partnership on Al; engagement in G7 discussions; position on the Council of Europe Committee on AI. The White Paper says the UK aims to promote interoperability and coherence between different approaches. The White Paper also says that its principles-based approach builds on, and reflects commitment to, the Organisation for Economic Co-operation and Development (OECD) values-based AI principles, which promote the ethical use of AI.

Section 6.1

See UK AI Standards Hub and Roadmap to an effective AI assurance ecosystem in the UK. Government will launch a 'Portfolio of AI assurance techniques' potentially including: impact assessment; audit; performance testing; and formal verification.

The White Paper notes that in implementing the principles regulators will want to consider technical standards.

Section 4.1

Examples include - for safety, security and robustness: ISO/IEC 24029-2, ISO/IEC 5259-1, ISO/IEC 5259-3*, ISO/IEC 5259-4*, and ISO/IEC TR 5469*; for appropriate transparency and explainability: IEEE 7001, ISO/IEC TS 6254, ISO/IEC 12792; for fairness: ISO/IEC TR 24027:2021, ISO/IEC 12791*, ISO/IEC TR 24368:2022; for governance: ISO/IEC 23894, ISO/IEC 42001, ISO/IEC TS 6254, ISO/IEC 5469, ISO/IEC 25059*. * = under development

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Section 4.2 and Annex A: Implementation of the principles by regulators

Looking to navigate AI regulation further? Visit our:

- EU Al Act flowchart;

- Al and Law blog; - Al Law, Regulation and Policy glossary covering existing and anticipated UK and EU regulation; - one page UK, EU, US AI regulation horizon scan. Based on the White Paper published 29 March 2023. This diagram is not intended to be a statement of law. Although we have taken care over the information, you should not rely on it as advice. We do not accept any liability to anyone who does rely on its content. Copyright Burges Salmon LLP 2023.