One in vogue corporate discussion point is Artificial Intelligence ("AI"), which can be attributed to AI's rapidly improving capabilities. AI, whilst challenging to summarise, has been neatly described as "the study and development of computer systems that can copy intelligent human behaviour" by the Oxford Dictionary. However, to illuminate this concept, it is probably best to look at some practical examples of AI in action. Take for instance AI-powered assistants like chatbots which serve as a first point of contact for consumers when seeking customer assistance, or in the financial services space where AI is used in preventing fraud by analysing various data sets to create an understanding of normal customer behaviour and thereby being able to accurately flag anomalous behaviour for further investigation by natural persons.

AI Law and Europe:

Generally, as technology continues to develop at a rapid rate, so do regulatory efforts to implement effective guard rails and AI is no exception in this regard. Accordingly, the European Union ("EU") has recently passed the Artificial Intelligence Act ("AI Act"). The aim of the artificial intelligence act is to establish a legal and regulatory framework for AI within the EU.

An important feature of the proposed legislation is that it classifies AI into separate prospective levels of risk:

- Unacceptable
- High
- Limited
- Minimal
- General-purpose AI

Naturally, AI deemed to fall into the unacceptable category will be banned with AI falling within the other categories being subject to different requirements which are contingent on their risk level.

This is perhaps unsurprising because AI is a broad church of different systems with variant applications.

Clear parallels can be drawn between the AI Act and the General Data Protection Regulation 2016/679 in that the proposed law will apply extraterritorially i.e. it will be applicable to providers from outside the EU to the extent that they have products within the EU and that an overarching regulatory body (in the case of AI, the European Artificial Intelligence Board) will be established to oversee it.

The UK and AI Law:

As with the EU, the UK has made strides in regulating AI. However, the framework being developed in the UK is somewhat different to what is envisaged in the EU. In 2023, the UK Government released a policy

paper in which it clarified that it intends to put in place a new framework to bring clarity and coherence to the AI regulatory landscape and explained that:

> "This regime is designed to make responsible innovation easier. It will strengthen the UK's position as a global leader in AI, harness AI's ability to drive growth and prosperity, and increase public trust in its use and application. We are taking a deliberately agile and iterative approach, recognising the speed at which these technologies are evolving. Our framework is designed to build the evidence base so that we can learn from experience and continuously adapt to develop the best possible regulatory regime. Industry has praised our pragmatic and proportionate approach."

This new framework will be based on five principals which the UK government outlined are intended to guide and inform the responsible development and use of AI in all sectors of the economy:

- Safety, security and robustness
- Appropriate transparency and explainability
- Fairness
- Accountability and governance
- Contestability and redress

Initially, the framework is not to be put on a statutory footing and instead will be issued on a cross-sector, non-statutory basis and will be implemented by existing regulators. The UK government have explained that the rationale is that this approach makes use of regulators' domain-specific expertise to tailor the implementation of the principles to the specific context in which AI is used. The UK Government has also outlined that during the initial implementation period that it will continue to collaborate with regulators to identify any barriers to the proportionate application of the principles, and evaluate whether the non-statutory framework is having the desired effect.

Notwithstanding the Government's belief in the non-statutory approach, they have not ruled out a codified law governing AI. Indeed, the UK Government has come under pressure from peers to support the Artificial Intelligence (Regulation) Bill which was tabled by Lord Holmes of Richmond. The pressure put on by peers to implement legislation has been attributed to the belief, amongst other concerns, that the UK has lost momentum when it comes to trying to establish itself as a world leader in the sector, especially because others such as the EU have already set out their legislative framework for AI. However, the UK Government has rebutted suggestions that it has lost momentum on the issue with Technology Minister Viscount Camrose highlighting:

> "It's always been the Government's position that it's better to have a deeper understanding of the specific risks of AI across each sector and across all sectors before legislating too narrowly, and that there is a real advantage to waiting for the right moment to have judicious legislation that addresses specific risks rather than blanket legislation that goes to all of them"

What is clear is that the both the technology and the legal frameworks being used to address it are ever developing. Accordingly, for those wanting to harness the power of AI, it will be critical to keep abreast of these developments.

Jersey and AI Law:

Whilst Jersey does not currently have a specific AI Law, we take the view that it will not be too far behind in developing either a statutory or non-statutory framework to regulate the use of AI.

Indeed, as with other areas law, any changes in this space are likely to be coloured and moulded by the developments in other larger jurisdictions such as the EU and the UK. Demonstrative of this on a microscale, is that a principle based framework has been used in Jersey by the Government of Jersey Children Young People Education and Skills Department in its recently published Artificial Intelligence (AI) Policy – Generative AI in (Jersey) Education, which provided an ethical framework which was to be followed for use of AI (particularly generative AI) in education based on principals of fairness, transparency, accountability and inclusivity. This is indicative that the rapid developments within AI are already impacting islanders lives and will no doubt be an issue under the consideration of legislators.

Jersey Finance have highlighted that AI offers the islands financial service sector some key benefits:

> "there are also opportunities for the finance industry to improve efficiency, create deeper client relationships, and better protect the stability of the sector."

For those in professional services, the natural question will be how can our organisation integrate or further integrate AI into our workspace to create greater efficiencies and accuracy in our service offering.

With that in mind, there is still trepidation when it comes to incorporating AI, not least because of the legal risk that comes with it. Indeed, a 2023 UK Finance survey found that 65% of finance firms are concerned by jurisdictional differences in the rules governing AI. That's why it is pivotal professional service providers get sound, jurisdictionally specific, advice when adopting or further expanding their usage of AI.

Whether we see an expanse of the principle based approach or whether Jersey adopts its own codified AI legislation remains to be seen, but regardless Voisin Law LLP remains on hand to advice our clients on the developments of law impacting the use of AI in Jersey.

This note is intended to provide a brief rather than a comprehensive guide to the subject under consideration. It does not purport to give legal or financial advice that may be acted or relied upon. Specific professional advice should always be taken in respect of any individual matter.