The Use of Generative Artificial Intelligence (AI) Guidelines for Responsible Use by Non-Lawyers

Introduction

These guidelines apply to civil and criminal proceedings in Queensland courts and tribunals, including the Supreme Court, District Court, Planning and Environment Court, Magistrates Courts, Land Court, Childrens Court, Industrial Court, Queensland Industrial Relations Commission and Queensland Civil and Administrative Tribunal.

Before using Generative AI chatbots, or any other AI tool, make sure you have a basic understanding of their capabilities and their limitations.

Queensland courts and tribunals have noticed that some users are starting to use Generative AI chatbots (such as ChatGPT, Microsoft Copilot or Google Gemini) to help prepare court documents.

These guidelines for the responsible use of Generative AI chatbots in court and tribunal proceedings have been developed to assist non-lawyers (including self-represented litigants, McKenzie friends, lay advocates and employment advocates) who represent themselves or others.

It is important to note that Generative AI is not a substitute for a qualified lawyer and cannot give you tailored legal advice. Currently available Generative AI chatbots have been known to provide inaccurate information on Australian law. Using Generative AI chatbots is not an alternative to seeking legal advice.

If you choose to use Generative AI chatbots to help you with your court case, you should not rely on this as your sole or main source of legal information.

You should also seek legal advice from a lawyer (if possible) or refer to publicly available legal resources such as:

- Australasian Legal Information Institute (www.austlii.edu.au)
- Queensland Judgments (www.queenslandjudgments.com.au)
- Queensland Legislation (www.legislation.qld.gov.au)

For information about applying for legal aid, refer to Legal Aid Queensland's website (www.legalaid.qld.gov.au).

A list of common terms used in these guidelines, and answers to frequently asked questions are set out in Appendix A.

1. Understand Generative AI and its applications

Before using Generative AI chatbots (or any other AI tool) make sure you have a basic understanding of their capabilities and their limitations.

Despite the name, Generative AI chatbots are not actually intelligent in the ordinary human sense. Nor is the way in which they provide answers analogous to the human reasoning process. It is important to note:

- Generative AI chatbots are built on Large Language Models (LLMs). LLMs analyse a large amount of training text to predict the probability of the next best word in a sentence given the context. Just as Google offers to autocomplete your search, LLMs autocomplete repeatedly to form words, sentences, and paragraphs of text.

- LLMs have been further trained on ideal human written responses to prompts, and on survey results, about which responses sound most natural or best mimic human dialogue.

- This means the answers which Generative AI chatbots generate is what the chatbot predicts to be the most likely combination of words (based on the documents and data that it holds as source information), not necessarily the most accurate answer.

- And because their responses are on probability-derived calculations about the next best word in context, these tools are unable to reliably answer questions that require a nuanced understanding of language content. They have no intrinsic understanding of what any word they output means, nor a conception of truth.

Some capabilities of Generative AI chatbots

Generative AI chatbots cannot give you reliable legal advice that is tailored to your specific case. However, they may be able to help you by identifying and explaining laws and legal principles that might be relevant to your situation.

Generative AI chatbots may be able to help you prepare some basic legal documents. For example, they may be able to help you organise the facts into a clearer structure or suggest suitable headings. They can also help with formatting and provide suggestions on grammar, tone, vocabulary and writing style.

Some limitations of Generative AI chatbots

Generative AI chatbots are not search engines. They do not provide answers from authoritative databases, but rather generate new text using a complex algorithm, based on the prompts they receive and the data with which they have been 'trained'. Generally, the text used to train public Generative AI chatbots comes from various internet sources, such as webpages, online books, and social media posts.

This means the output which Generative AI chatbots generate is what the chatbot predicts to be the most likely combination of words (based on the documents and data that it holds as source information), not necessarily the most correct or accurate answer.

The currently available Generative AI chatbots have limited 'training' on Australian law and court procedure. Even when the training for Generative AI chatbots improves, there will be a limitation based on the currency of the data on which they have been trained.

Generative AI chatbots **cannot:**

- understand the unique fact situation in your case

- understand your cultural and emotional needs

- understand the broader Australian social and legal context

- predict the chance of success or the outcome of your case

- be trusted to always provide legal or other information that is relevant, accurate, complete, up-to-date and unbiased.

The helpfulness of any answers you receive from a Generative AI chatbot depends on the questions or "prompts" which you ask.

Anyone using AI must bear in mind that Generative AI chatbots cannot distinguish between facts, inferences and opinions contained in their source datasets. This means that text which they generate in response to a prompt may contain incorrect, opinionated, misleading or biased statements presented as fact.

2. Consider confidentiality, suppression, and privacy

Do not enter any private, confidential, suppressed or legally privileged information into a Generative AI chatbot.

Some Generative AI chatbots will remember every question that you ask them, as well as any other information you put into them. That information could then be repeated in response to queries from other users. As a result, anything you put into a Generative AI chatbot could become publicly known. This could result in you unintentionally breaching suppression orders, or accidentally disclosing your own or someone else's private or confidential information.

3. Ensure accuracy

You are responsible for ensuring that all information you rely on or provide to the court or tribunal is accurate. You must check the accuracy of any information you get from a Generative AI chatbot before using that information in court or tribunal proceedings.

Information provided by Generative AI chatbots may be inaccurate, incomplete, or out of date. It may also be based on overseas law that does not apply in Australia. Generative AI chatbots can:

- make up fake cases, citations and quotes, or refer to legislation, articles or legal texts that do not exist

- provide incorrect or misleading information about the law or how it might apply in your case

- get facts wrong.

Fake material produced by Generative AI chatbots can seem like it has been taken from a real source even when it has not.

You should check any legal information you get from a Generative AI chatbot with a lawyer (if possible). You can also refer to publicly available legal resources such as those referred to in the introduction.

4. Be aware of ethical issues

AI tools based on LLMs generate responses based on the dataset upon which they are trained. Information generated by such tools will inevitably reflect whatever gaps, errors and biases are contained in their training data. You should always have regard to this possibility and the need to correct this.

The use of AI tools based on LLMs may also raise copyright and plagiarism issues. For example, Generative AI chatbots can be very useful in condensing or summarising information or presenting the information in a different format. However, the following should be considered:

- using a chatbot to summarise a portion of a textbook or other intellectual property could breach the author's copyright

- any such use would need to be carefully reviewed to ensure the summarised passage carries the same meaning as the original content

- depending on context, the source may need to be acknowledged and citations added.

Similarly, Generative AI chatbots can be a helpful tool in planning a speech and producing an outline of potential speaking points. They could then be used to elaborate further on potential content for a specific speaking point. However it would be important to ensure that any AI-generated material was accurate and supported by reliable sources. And, again, depending on context, the source may need to be acknowledged and citations added.

5. Maintain security

Find out and follow general cyber-safety best practices for maintaining your own security and that of the courts and tribunals.

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APPENDIX A

Common terms

Artificial intelligence (AI)	Computer systems able to perform tasks normally requiring human intelligence
Generative AI	A form of AI which enables users to generate new content, which can include text, images, sounds and computer code
Generative AI chatbot	A computer program which simulates online human conversations using Generative AI
ChatGPT	OpenAI's Generative AI chatbot. ChatGPT stands for "**C**hat **G**enerative **P**re-**T**rained **T**ransformer"
Google Gemini	Google's Generative AI chatbot
Microsoft Copilot	Microsoft's Generative AI chatbot
Large language model (LLM)	An LLM is an AI model which, through sophisticated pattern recognition and probabilistic calculations, learns to predict the next best word or part of a word in a sentence. An LLM generates responses to questions or "prompts"
Non-lawyers	Include: Litigants in person: people who represent themselves in a court or tribunal (sometimes also called self-represented or unrepresented litigants) McKenzie friends: non-lawyers who attend a court to support someone who does not have legal representation Lay advocates: non-lawyers who appear for people in some courts or tribunals, where that is allowed by legislation or with leave of the court or tribunal. Employment advocates: non-lawyers who represent people involved in employment disputes
Prompt	A short instruction entered to a generative AI chatbot to obtain an answer or output.

Frequently asked questions

What are Generative AI chatbots and how do they work?

Generative AI chatbots, such as ChatGPT, Google Gemini and Microsoft Copilot, are AI tools that have been trained to respond in a conversational, online chat style. You can enter prompts (questions) to get the chatbots to do things like generate or summarise text or answer questions. You can also enter more prompts to refine the chatbots' response.

These chatbots are built on AI algorithms called Large Language Models (LLMs). LLMs analyse a large amount of training text to predict the probability of the next best word in a sentence given the context. Just as Google offers to autocomplete your search, LLMs autocomplete repeatedly to form words, sentences, and paragraphs of text.

What information is used to answer my questions?

The answers provided by Generative AI chatbots depend on the content of the datasets from which they are trained. Generally, the text used to train public Generative AI chatbots comes from various internet sources, such as webpages, online books, and social media posts. There is limited Australian legal information in the training text, which to date does not include a significant body of Australian cases. This impacts the accuracy of any Australian legal information an AI chatbot may provide.

AI chatbots cannot tell the difference between facts and opinions contained in their source information. This means that the text generated by AI chatbots may include incorrect, opinionated, misleading or biased statements presented as fact.

In addition, the training data used by some AI chatbots may be out of date. For example, as at the date of issue of this guideline, ChatGPT was based on information last updated in April 2023.

Why am I receiving incorrect information?

As Generative AI chatbots base their responses on probability-derived calculations about the next best word in context, they are unable to reliably answer questions that require an understanding of the meaning of the text. These tools have no genuine understanding of what a word actually means or any idea of truth.

Generative AI chatbots are known to produce false information which may appear true — this is called "hallucinating". In the legal field, this may lead to Generative AI chatbots making up non-existent cases, changing facts, and producing incorrect citations. By their very nature, LLMs will produce answers that sound convincing even when they are entirely fictitious.

What tasks are Generative AI chatbots best used for?

Generative AI chatbots are best at text processing tasks. These tasks include summarising text by making it shorter or changing its tone or format and generating new text (or a plan for new text) in a specific format. They can also provide useful information about certain topics and answer questions. However, whenever you use Generative AI chatbots for these purposes it is important to remember that they can get information wrong.