



# Supreme Court of Victoria

## Practice Note SC Gen 25

### The Use of Artificial Intelligence by Court Users

#### 1. INTRODUCTION

- 1.1 The Chief Justice has authorised the issue of the following Practice Note.
- 1.2 The purpose of this Practice Note is to provide Court users with guidance about the use of Artificial Intelligence (AI).
- 1.3 AI can enhance access to justice and Court users' participation in Court processes.
- 1.4 AI use also presents limitations and risks of which Court users must be aware.
- 1.5 Court users can utilise AI in the preparation of Court documents if they comply with this Practice Note.

#### 2. COMMENCEMENT AND APPLICATION

- 2.1 This Practice Note was issued and commences on 14 May 2026.
- 2.2 This Practice Note applies to all Court users.

#### 3. DEFINITIONS

- 3.1 In this Practice Note:

*Artificial Intelligence (AI)* means a machine-based system that, for explicit or implicit objectives, infers from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments. Different AI systems vary in their levels of autonomy and adaptiveness after deployment. AI is an umbrella term that captures the following:

- (a) *generative AI (GenAI)*: Software systems that generate content as text, images, music, audio and videos, based on a user's prompts.

- (b) **public AI:** AI tools that are openly accessible to the public, typically via the internet. Public AI tools are trained on broad, often public datasets, most commonly for general purpose use.
- (c) **closed AI:** The phrase ‘closed AI’ is defined in contrast to public AI. Closed AI tools are generally not openly accessible to the public and information used in closed AI tools remain within a controlled environment. When an AI tool is ‘closed’ there are controls to reduce risks related to privacy or confidentiality settings that protect information from being made publicly available or used to train the AI tool.

**Court document** means any document a Court user files or provides to the Court, including pleadings, submissions, affidavits, witness statements and expert reports.

**Court user** includes lawyers, litigants (whether legally represented or self-represented), and lay and expert witnesses.

**training data** means the ‘inputs’ used for a machine learning algorithm with which a model is developed to perform classifications or make decisions about other data subsequently. The training data that is used heavily affects the outputs that a model can be used to produce, meaning any biases or undesirable features present in the training data can therefore also be present in the outputs produced by a system that uses the resulting model.

**model** means the information used by an AI system to draw inferences or make decisions. The model is generated from the application of machine learning algorithms to a set of training data.

## 4. GUIDING PRINCIPLES

4.1 The content of this Practice Note has been informed by the following principles:<sup>1</sup>

- (a) access to justice;
- (b) impartiality and fairness;
- (c) accountability and independence;
- (d) privacy and data security;
- (e) transparency and open justice;
- (f) contestability and procedural fairness;
- (g) efficiency and effectiveness; and

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<sup>1</sup> These principles were formulated by the Victorian Law Reform Commission, *Artificial Intelligence in Victoria’s Courts and Tribunals* (Report, October 2025).

(h) human oversight and monitoring.

## **5. THINGS TO BE AWARE OF**

5.1 AI can produce outputs which are incorrect, biased and misleading. This is because AI:

(a) produces responses based on its training data. This means the responses it generates will reflect any biases (cultural or ethical) or geographical information or misinformation in the training data.

(b) produces responses based on a statistical prediction of what the most likely combination of words are. It does not have an ability to critically examine the patterns it identifies in data. This can result in it drawing inaccurate or biased conclusions.

5.2 Court users must be aware that content generated by AI for the purpose of Court documents may be:

(a) Out of date: the model used may only have been trained on data to a certain point in time and therefore will be unaware of any more recent jurisprudence or other developments in the law that may be relevant to a case.

(b) Incomplete: the tool may not generate material addressing all arguments that a party is required to make or all issues that would be in a party's interests to cover, and summaries generated by such tools may not contain all relevant points.

(c) Inaccurate or incorrect: the tool may not produce factually or legally correct output (for example, in some situations, Court users have been adversely affected by placing reliance on made-up cases, legislation or incorrect legal propositions).

(d) Inapplicable to the jurisdiction: as the data used to train the underlying model might be drawn from other jurisdictions with different substantive laws and procedural requirements.

5.3 There are also privacy and data risks associated with using AI tools. Some AI tools retain the information you input and can use it to train the AI system and to respond to queries from other users.

## **6. USE OF AI**

### **Duties of all Court users**

6.1 Court users are responsible for the content of their Court documents. This is the case whether or not a Court user has utilised AI.

- 6.2 Court users must be careful that their use of AI does not directly or indirectly mislead another participant in the litigation process or the Court about the nature of any work undertaken or the content produced by that AI tool.
- 6.3 Court users in civil proceedings are subject to the obligations imposed by the *Civil Procedure Act 2010* (Vic), including certifying that claims have a proper basis.
- 6.4 Court users should be aware that filing a Court document which contains inaccuracies could result in costs orders.

**Additional duties of lawyers**

- 6.5 Lawyers should be aware that they have professional duties to act with competence and diligence, and to provide independent advice. This means that irrespective of the AI tools used, lawyers must exercise oversight and verify the accuracy and suitability of the information provided by any AI system.
- 6.6 The use of AI by lawyers to assist in the completion of legal tasks is subject to the obligations of lawyers in the conduct of litigation. This includes the obligation of candour to the Court and, where applicable, to obligations imposed by the *Civil Procedure Act 2010* (Vic).
- 6.7 Lawyers should be aware that if they rely on unverified AI outputs in Court documents they may be referred to the Victorian Legal Services Board and Commissioner and may be subject to personal costs orders.

**Privacy matters**

- 6.8 For public AI tools:
  - (a) Court users should be aware that any information entered into a public AI tool could become publicly available.
  - (b) Court users should not enter any information which is confidential or sensitive (including information subject to a non-publication or suppression order) into a public AI tool.
  - (c) Lawyers must comply with their obligations to maintain client confidentiality.
- 6.9 For closed AI tools:
  - (a) If Court users input private, confidential or sensitive information into closed AI tools they need to exercise caution and satisfy themselves by reviewing the contractual terms or privacy and confidentiality settings that the information they input will be kept within a secure environment.

**Preparation of evidence**

- 6.10 Particular caution must be exercised if GenAI tools are used to assist in the preparation of affidavit materials, witness statements or other documents which form the evidence or potential evidence of a witness.

- 6.11 The relevant Court user must ensure that Court documents are sworn/affirmed or finalised in a form that reflects that person's own knowledge and words.
- 6.12 Particular caution must be exercised if AI is used to assist in the preparation of an expert report. Expert reports must be prepared in compliance with the relevant Code of Conduct or Practice Note.<sup>2</sup>

## 7. VERIFICATION REQUIREMENT

- 7.1 Content produced using AI must be verified with meaningful human control.
- 7.2 Court users are responsible for ensuring that content produced by AI is current, complete, accurate and applicable to the jurisdiction.
- 7.3 Court users should be alert to the risk of bias and discrimination when reviewing AI outputs.
- 7.4 If GenAI has been used to produce material to be submitted to the Court, to ensure its accuracy, Court users should:
- (a) Fact-check and proofread.
  - (b) Edit and adapt the content to suit the situation.
  - (c) Verify that any references to case law, legislation, textbooks or articles exist and stand for the legal positions attributed to them. Any extracts or quotes must be verified as accurate and attributed to the correct source.
  - (d) Note that when checking the materials referred to in (c), use a source that is known to have accurate content. For self-represented litigants, this includes AustLII for case law,<sup>3</sup> authorised websites for legislation,<sup>4</sup> and resources available from the Law Library Victoria.<sup>5</sup>
  - (e) Note that it is not sufficient verification to ask an AI tool to confirm that the materials exist or contain the content that GenAI says they do. One AI tool cannot be used to confirm the content generated by another AI tool. However, Court users may verify GenAI content by referring to original source material housed within a GenAI tool.
- 7.5 The Court may direct Court users to provide further information about Court documents they have produced with the assistance of AI.

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<sup>2</sup> Expert Witness Code of Conduct applicable to civil trials (Supreme Court (General Civil Procedure) Rules 2025 (Vic), Form 44A) and Practice Note SC CR 3 Expert Evidence in Criminal Trials.

<sup>3</sup> <https://www.austlii.edu.au/>.

<sup>4</sup> <https://www.legislation.vic.gov.au/>; <https://www.legislation.gov.au/>.

<sup>5</sup> <https://www.lawlibrary.vic.gov.au/>.

7.6 Court users must be prepared to identify the specific portions of Court documents which were produced using AI and be able to explain how the output was verified.

#### **AMENDMENT HISTORY**

14 May 2026: This Practice Note was issued replacing the Guidelines for Litigants: Responsible Use of Artificial Intelligence in Litigation of May 2024.

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14 May 2026