



AGS Policy on using generative AI language models

(October 2025)

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The use of generative artificial intelligence (AI) language models (generative AI) is rapidly becoming widespread, including in the delivery of legal services. It is essential that AGS staff quickly develop the skills and experience necessary to successfully harness the potential benefits of generative AI and to avoid the very real risks that can arise from over-reliance on and uncritical use of these platforms.

This document sets out the Policy on using generative AI in the delivery of legal services by the AGS Group. It should be read alongside the department's [Responsible Use of Public Generative AI Guidance](#) and the [Commonwealth Government's Policy for the Responsible use of AI in Government](#).

Policy

It is permissible to use your department issued device to access generative AI platforms for work purposes, provided you do so in accordance with this policy.

All AGS staff are expected to

- familiarise themselves with generative AI platforms, and
- consider the use of generative AI in their work, including where it may facilitate the efficient conduct of legal matters. For AGS lawyers, this includes the appropriate use of generative AI for legal research and other matter-related tasks.

Our use of generative AI must be consistent with our duties as legal practitioners (including the expectations of courts) and as APS employees. Accordingly, when using generative AI, all AGS staff must adhere to the general requirements below.

These requirements reflect the principles relevant to the use of generative AI by AGS staff, including the National Professional Standards, the department's guidance and the Commonwealth Government's policy (both linked above). Further detail on those principles is at **attachment A**.

General requirements

All non-corporate Commonwealth entities (including AGS) are expected to comply with the Policy for the Responsible use of AI in Government, released by the Federal Government in September 2024. You should familiarise yourself with this policy and ensure that you comply with it when using generative AI.

When using any generative AI for any purpose, you must not:

- Input information (including detailed prompts or questions) that references or might reasonably identify specific clients or fact scenarios or otherwise discloses privileged, classified, personal or other sensitive information.
- Input information from which it would be reasonably possible to infer that the information is provided by, or in relation to, a particular matter. For example, depending on the way an input is phrased, it may be possible to deduce from the terms of a query by a lawyer that it relates to a particular matter, giving rise to the need to consider LPP. As a starting principle, when using AI, lawyers should use information that might have traditionally informed a simple internet search.
- Input information that is subject to non-publication or suppression orders, the implied (*Harman*) undertaking or any material that is the subject of a statutory prohibition on publication.
- Utilise or install DeepSeek AI products, applications or web services on corporate devices including laptops, iPhones or iPads, or use these services in relation to AGS or departmental work (see PSPF Direction 001-2025 and the [message from the department's Chief Security Officer](#)).

When using any generative AI for any purpose, you must:

- Carefully consider potential risks associated with the use of generative AI, and take steps to mitigate those risks (in particular, AGS lawyers must have regard to specific risks identified in **attachment A**).
- Consider whether it is more appropriate to use a closed system AI tool, where available.
- Independently confirm the output produced by a generative AI platform before relying on it (including by testing any of the underlying assumptions it appears to have made, and verifying the accuracy of information through independent sources such as case law).
- For publicly available platforms: where possible use the platform without logging into an account. However, if an account is required, use your corporate credentials to sign up or log in (i.e. use your work email as your user ID and create a new unique password). Some platforms (e.g. Google platforms such as Gemini and NotebookLM) require a personal account. It is permissible to log in to a personal account to use these products for work purposes. Be aware that once you use your corporate or personal credentials to sign up, you cannot assume anonymity of your prompts.

When using generative AI for matter-related purposes you must:

- Consult with the Responsible Lawyer (RL) before using a generative AI platform, **except** where using platforms approved by AGS (refer to **Schedule 1**). You should discuss with the RL whether the proposed use is consistent with this policy and appropriately balances the risk and benefit to use generative AI and the availability of established AGS precedents or templates.
- Ensure the person for whom any research or document was prepared is aware of

any content in the document which has been developed with the benefit of generative AI. The RL must exercise an appropriate degree of care and diligence in settling or otherwise relying on the research or document, consistent with their duties as a legal practitioner and APS employee.

- If AI is used in the conduct of litigation, ensure that such use conforms with applicable court rules, practice directions, and AI-specific guidance issued by the relevant court. Consider in particular whether there are any positive requirements that you must comply with in your jurisdiction, or requirements to include disclosures that generative AI has not been used in the preparation of a document.¹
- Consider any requirements in your jurisdiction connected with the use of AI, or expectations for disclosure, by counsel or experts.²
- When using generative AI for any purpose, establish appropriate record-keeping practices consistent with your professional obligations. This includes keeping a record of any information produced by generative AI on which you rely for a matter related purpose. Such a record should note, at a minimum:
 - the generative AI platform used
 - the question(s) asked
 - the answer(s) produced
 - the date of the query.

Version	Type of Change	Approved By
1	Original Version	Issued by Matthew Blunn 30 April 2024
2	Updated to include reference to guidance released by the Supreme Court of Victoria	Issued by Nerida Nelson 12 August 2024
3	Updated to include reference to the Commonwealth Government's Policy for the Responsible use of AI in Government	Issued by Clare Derix 17 December 2024

¹ NSW Supreme Court Practice Note SC Gen 23 requires that an affidavit, witness statement or character reference must contain a disclosure that generative AI was not used in generating its content. If generative AI is used in the preparation of written submissions or summaries of argument in NSW courts, the Practice Note requires practitioners to verify in the body of the document that all citations, legal and academic authority and case law and legislative references exist, are accurate and are relevant to the proceedings.

² NSW Supreme Court Practice Note SC Gen 23 also makes specific provision for the use of generative AI in expert reports. Relevantly:

- Generative AI must not be used to draft an expert report without leave of the Court.
- If leave is granted, the expert must disclose in the report what parts were prepared using generative AI, and identify in an annexure to the report a record of how the generative AI tool or program was used.
- Legal practitioners must draw the requirements of NSW Supreme Court Practice Note SC Gen 23 to the attention of experts when instructing them.

4	Update to include reference to guidance released by the Supreme Court of NSW	Issued by Clare Derix 17 December 2024
5	Update to include requirement to keep a record of generative AI activities	Issued by Nerida Nelson 25 March 2025
6	Update to reflect clarified approach of AGD to record keeping and requirements when using Westlaw Precision	

Attachment A

What is a generative AI language model?

Generative AI refers to a type of AI that uses input data to respond to queries by creating new and original content. Generative AI language models are specifically designed to produce human-like text responses, including in specific formats such as emails, research notes, or even contractual clauses. They include publicly available tools such as OpenAI's ChatGPT, Google's Gemini and Microsoft's Copilot, as well as proprietary models such as LexisNexis's Lexis+.

These models are now sophisticated enough that they can be useful in legal practice, as well as ubiquitous and easy to use. Most software that has made it to market pulls data from across the internet, but there are some more specific language models emerging (including models that pull data from specific legal sources).

It is important to note that:

- Although large language models generate lexically cogent sentences in response to prompts or queries, they produce responses based on statistical algorithms. They do not perform logical reasoning.
- These models are a form of 'machine learning': they may retain input data to iteratively 'learn from' prompts/searches. That is, once a query is complete it is not necessarily deleted.

Principles relevant to the use of generative AI

It is important to consider and take steps to reduce the risks that attach to use of generative AI. This document addresses 5 core principles of legal practice at AGS that must be maintained when using generative AI and guidance about how to manage related risks. This is not intended to be an exhaustive list. AGS staff must consider whether any additional risks arise in relation to a particular use of generative AI.

Competence, diligence and independence

AGS lawyers have an obligation to act with competence, care and diligence in the delivery of legal services and a fundamental duty to avoid any compromise to our integrity and professional independence. Further, all AGS staff owe similar obligations in connection with their APS employment.³

A common vulnerability associated with using generative AI is that it relies on (or itself creates) incorrect or outdated information, giving rise to the risk that AGS could provide inaccurate legal advice or services. The outputs of generative AI are often confidently presented as factually correct, even in circumstances in which there may be some doubt as to the correctness of the information (or the information is in fact wholly incorrect, sometimes referred to as AI 'hallucinations').

³ *Public Service Act 1999* (Cth) s 13.

How can I discharge these responsibilities when using generative AI?

- Develop skills and knowledge to become an informed user of generative AI.
- Where appropriate and available, use closed system AI tools rather than open AI to retain greater visibility over sources.
- Always independently confirm the output produced by a generative AI platform (including by testing any of the underlying assumptions it appears to have made and verifying information contained in its responses using trusted, verifiable sources including case law, textbooks and journal articles).

Confidentiality and legal professional privilege

AGS staff deal with sensitive information on a day-to-day basis. We all have obligations as public servants⁴ to maintain the confidentiality of this information. Further, AGS lawyers have additional professional obligations to maintain confidentiality.

Sensitive information includes:

- legally privileged information
- personal information
- classified information
- confidential commercial information.

How can I protect the confidentiality of sensitive information when using generative AI?

- Do not input information (including detailed prompts or questions) that references or might reasonably identify specific clients or fact scenarios, or points of information that could be triangulated to re-identify specific clients or fact scenarios. This may include details about an unnamed person which a user could put together with other information available to them to work out the first person's identity (potentially allowing the identification of the subject matter of particular advice or advice regarding the conduct of a particular matter) or details which, because of the particular topic and because they come from an AGS lawyer, might allow the matter in which the information is being sought to be identified.
- Do not input information that mentions AGS or the department, or from which it would be reasonably possible to infer that the information is provided by, or in relation to, AGS or the department.
- Do not upload client or AGS documents (including templates or precedents) onto any AI platform.
- Do not use or install DeepSeek AI products, applications and web services on corporate devices including laptops, iPhones or iPads, or use these services in relation to AGS or departmental work. This is because those products pose an unacceptable level of security risk (see PSPF Direction 001-2025).

⁴ See, eg, *Public Service Act 1999* (Cth) s 13(6); *Public Service Regulations 2023* s 7; Protective Security Policy Framework (available [here](#)).

Case study

Roger has received a request for advice from the Department of Innovation. He has identified that the advice may need to discuss the equitable duty of confidence. Roger has not provided advice on this legal issue before. Can Roger use generative AI to assist him?

- Roger should consult with their RL before using a platform other than Westlaw Precision AI (e.g. ChatGPT) for their research.
- Roger could not ask any platform, including Westlaw Precision AI, a question such as: 'The Department of Innovation has received information about a computer program that has not been released to the public from a tech entrepreneur in response to a tender. Is this information protected by an equitable duty of confidence?'
- Roger could ask a question like: 'Explain when an equitable duty of confidence arises in respect of information received by a government'.
- Roger must apply his own professional judgement and verify the research results before relying on them.
- Roger must not simply copy and paste the response into an advice. Roger could use that response to identify areas for further research.
- Roger should, at a minimum, keep a record identifying how the particular generative AI platform was used, including query terms and responses, to inform the preparation of the advice.

Transparency and accountability

AGS must maintain transparency and accountability as to the way AGS staff go about their work, and the costs charged for AGS services.

How can I uphold these principles when using generative AI?

- Team members should proactively engage with each other and, where appropriate, clients, about potential use cases for generative AI.
- Use of generative AI for matter-related work must be discussed in advance by the RL, except where team members are using AI platforms approved by AGS (refer to Schedule 1) or conducting basic legal research.
- The discussion should include the purpose for which the generative AI tool is to be used and the general approach to be taken. The discussion may also cover the proposed wording of the initial search query.
- Team members using AI in the conduct of litigation should consider and apply relevant court rules, practice directions and guidance.⁵ For example, the Supreme Court of Victoria's 'Guidance for Litigants: Responsible Use of Artificial Intelligence in Litigation' (see: [link](#)) indicates that '[w]here appropriate (for example, where it is necessary to enable a proper understanding of the provenance of a document or the weight that can be placed upon its contents), the use of AI should be disclosed to other parties and the court'. The Supreme Court of NSW's practice note is more prescriptive. While it allows the use of generative AI in the preparation of certain documents (such as chronologies and briefs), leave from the Court is required before generative AI is used on affidavits, witness statements or other evidentiary material. Further, if generative AI is used, the legal practitioner must be satisfied that the information entered into the generative AI program meets various requirements (see paragraph 9A).
- Team members should establish appropriate record keeping practices. This includes keeping a record of any information produced by a generative AI platform that is relied on for a matter-related purpose including the prompt(s) that were used, the answer(s) produced, and the date of the query.
- Staff will be contacted periodically to provide information about their AI use, so the department can meet its transparency obligations.

⁵ See, eg, Supreme Court of Victoria, 'Guidance for Litigants: Responsible Use of Artificial Intelligence in Litigation' (May 2024) (see: [link](#)); County Court of Victoria, 'Guidelines for Litigants: Responsible Use of Artificial Intelligence in Litigation' (3 July 2024) (see: [link](#)); Supreme Court of NSW, 'Supreme Court Practice Note SC Gen 23 – Use of Generative Artificial Intelligence (Gen AI)' (28 January 2025) (see: [link](#)); Land and Environment Court of NSW 'Practice Note – use of generative Artificial Intelligence (AI)' (21 November 2024) (see: [link](#)). The Supreme Court of Queensland's 'The Use of Generative Artificial Intelligence (AI) Guidelines for Responsible Use by Non-Lawyers' (13 May 2024) (see: [link](#)) and comments by the Chief Justices of the Supreme Court of South Australia in [April 2024](#) suggest that courts in other jurisdictions are carefully considering the issues raised by the use of AI in the courtroom. Further guidelines are likely to be released for practitioners in future.

Case study

Natalie needs to prepare an email to a client providing a cost estimate for a migration matter in the Federal Court. Can she use ChatGPT to assist?

- Natalie could not input matter-specific or commercially sensitive information into ChatGPT. She could not ask ChatGPT to prepare an estimate based on the actual hourly rate for a Senior Lawyer by reference to specific tasks that might reveal the client or context of the matter, such as 'include in the estimate # hours to prepare a response to an application for judicial review of a migration decision'.
- Natalie could ask ChatGPT to generate a scaffold that she can adapt for her purposes. For example, she could give ChatGPT a prompt such as: 'Generate an email to a client setting out an estimate of costs involved in running a litigation matter in the Federal Court of Australia.'
- If Natalie proposes to use generative AI in the conduct of the matter she must first consult with the RL and, where appropriate, disclose the proposed use of AI and any impact on the matter (including impact on costs) to the client. For example:
 - Natalie would not need to disclose to the client if she uses generative AI to generate a basic scaffold for a document, or where any AI-generated information is independently verified for accuracy.
 - Natalie should disclose more substantive use of generative AI for client work (e.g. to generate images or presentations etc).

Avoid bias and discrimination

AGS lawyers are under a duty not to engage in conduct that constitutes discrimination or harassment, or to act in a manner that is prejudicial to or likely to diminish public confidence in the administration of justice.

How can I manage the risk that generative AI may produce content that is biased or discriminatory?

- Carefully review the content produced by generative AI for any underlying or overt biased, discriminatory or offensive language.

Compliance with Australian law⁶

What are some legal risks I need to be aware of when using AI?

- **Copyright and privacy:** the input data that a generative AI model uses to respond to a query may include copyrighted or personal information. Using AI-generated content that substantially reproduces this information accordingly risks infringement of copyright and privacy legislation. Caution should also be taken when using de-identified personal information, as it may be possible for a generative AI platform to

⁶ Self-evidently, we have a duty to comply with the law: *Public Service Act 1999* (Cth) s 13(4).

re-identify personal information if a number of different data points are given over the course of the platform's use (and those data points are 'learned').

- **Breaches of professional duties:** as indicated above, generative AI models may, in particular circumstances, lead to breaches in our professional duties as solicitors.

How can I mitigate these risks?

- If the particular platform allows, try to trace the original source of information a generative AI produces (this can sometimes be done by asking follow-up questions, including directly asking for the sources of particular assertions).
- Do not simply copy and paste substantive content produced by AI.
- If you intend to rely on information produced by generative AI, ensure that you can independently verify that information through dependable sources (i.e. ensure that you have separately checked references to case law, journal articles or other resources). If you cannot, do not rely on it: generative AI tools have been shown to invent false but accurate looking references which are compliant with legal referencing guides.
- Stay informed and seek further guidance as needed (including through training and development opportunities, the resources or the contacts listed below) in relation to the appropriate use of generative AI in the work context.
- Where possible, seek to use generative AI tools that include references so that underlying sources can be verified and referenced if needed.

Consistency

All outputs generated by AI tools must be transferred into AGS's approved corporate templates, adhering to the prescribed styles in Word, approved formatting guidelines and the [AGS Editorial Style Guide](#). This ensures consistency and professionalism across all

documents, aligning with AGS's corporate standards.

Case studies

Sam needs to prepare an internal presentation to staff about the importance of recycling as part of the department's Sustainability Awareness Week. Can she use Bing Chat and Bing Image Creator to assist?

- Sam could ask Bing Chat to generate a scaffold for the presentation that she can adapt for her purposes. She could give Bing Chat a prompt such as: 'Generate the content for a presentation to my organisation about the importance of recycling as part of Sustainability Awareness Week'.
- Sam could ask Bing Image Creator to generate an image using a prompt such as: 'Generate an image depicting a person recycling paper at work, digital art'. Sam should ensure that the image is accompanied by a description of the prompt used, the tool used to generate the image and the date of generation.
- In using the generative AI tool to prepare content for the presentation, Sam should not refer to any person, including e.g. the Sustainability Champion, by name in the prompt.

Further resources

As well as the department's [Responsible Use of Public Generative AI Guidance](#) and the [Commonwealth Government's Policy for the Responsible use of AI in Government](#), there are several external resources that have informed the development of this policy and may be of interest, including:

- Policy for the Responsible use of AI in Government released by the Commonwealth Government in September 2024 (see: [link](#)).
- NSW Supreme Court Practice Note SC Gen 23 on the Use of Generative Artificial Intelligence, 28 January 2025 (see: [link](#)).
- The guidance released by the NSW Bar Association on 12 July 2023 (see: [link](#)).
- The guidance released by the Supreme Court of Victoria in May 2024 (see: [link](#)).
- The Digital Transformation Agency and Department of Industry, Science and Resources' *Interim guidance for agencies on government use of generative Artificial Intelligence platforms* (see: [link](#)).
- MIT Computational Law *Task Force on Responsible Use of Generative AI for Law* (see: [link](#)).

Contact and feedback

If you are using generative AI in your work we are keen to hear about your experiences, ideas and/or suggestions. Please send any feedback to Bec Daumont and to the AGS AI Working Group.

Please contact Nerida Nelson (National Practice Manager), your National Manager, or Bec Daumont (National Manager, Legal Technology and Innovation) with any questions or comments.

Schedule 1 – Approved AI legal research platforms

- Westlaw Australia Precision