



COURTS OF NEW ZEALAND | NGĀ KŌTI O AOTEAROA

# GUIDELINES FOR USE OF GENERATIVE ARTIFICIAL INTELLIGENCE IN COURTS AND TRIBUNALS

## Non-lawyers

7 December 2023

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*These guidelines for the use of generative artificial intelligence (GenAI) chatbots (such as ChatGPT, Bing Chat or Google Bard) in court/tribunal proceedings have been developed to assist non-lawyers (including self-represented litigants, McKenzie friends and lay advocates) who represent themselves or others.*

*This guidance applies in relation to the courts and tribunals listed on page 6.*

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GenAI chatbots are not a substitute for a qualified lawyer and cannot give tailored legal advice. Unlike GenAI chatbots, lawyers have professional obligations and must uphold ethical standards to their clients and to courts and tribunals.

GenAI chatbots can provide inaccurate information. If you choose to use a GenAI chatbot to help you with a dispute or with a case in a court or tribunal, you should not rely on it as your sole or main source of legal information.

Free legal resources are available on the [Ministry of Justice website](#), the [Citizens Advice Bureau website](#), the [Community Law website](#), or the [New Zealand Law Society website](#). For information about applying for legal aid, see [here](#).

## COMMON TERMS

**Artificial Intelligence (AI):** the theory and development of computer systems able to perform tasks normally requiring human intelligence.

**Generative AI (GenAI):** a form of AI that enables users to quickly generate new content — can include text, images, sounds and other data.

**GenAI chatbot:** computer programme for simulating online human conversations using generative AI.

**ChatGPT:** OpenAI's GenAI chatbot — “Chat Generative Pre-Trained Transformer”.

**Google Bard:** Google's GenAI chatbot.

**Bing Chat:** Microsoft's GenAI chatbot.

**Large Language Model (LLM):** an AI algorithm which, through sophisticated pattern recognition and probabilistic calculations, learns to predict the next best word or part of a word in a sentence. Generative AI chatbots generally use LLMs to generate responses to “prompts”.

**Prompt:** short instructions entered to a generative AI chatbot to obtain the desired answer/output.

**Non-lawyers** includes:

- **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 or tribunal to support someone who does not have legal representation.
- **Lay advocates:** court-appointed non-lawyers who appear in the Youth and Family Courts, or non-lawyers who appear (and sometimes represent) people in some tribunals.
- **Employment advocates:** non-lawyers who represent people involved in employment disputes.

# GUIDELINES FOR USE OF GENERATIVE AI IN COURTS AND TRIBUNALS

## 1) Understand GenAI and its limitations

Before using GenAI chatbots ensure you have a basic understanding of their capabilities and limitations.

GenAI chatbots cannot give you reliable legal advice that is tailored to a specific case.

GenAI chatbots are not search engines. They do not provide answers from authoritative sources. Rather, they put words together based on what you tell them and information they have previously been given. This means the output generated by a GenAI chatbot is what it predicts to be the most likely combination of words, not necessarily the most correct or accurate answer.

*Some capabilities:*

- GenAI chatbots may be able to help you by identifying and explaining laws and legal principles that might be relevant to a situation, but the information generated may be inaccurate.
- GenAI chatbots may be able to help you draft some basic legal documents - for example, by helping you organise the facts into a clearer structure or suggesting suitable headings. They can also help with formatting and provide suggestions on grammar, tone, vocabulary and style.

*Some limitations:*

- The currently available GenAI chatbots appear to have limited 'training' on New Zealand law and court or tribunal procedure. Currently, they cannot generate documents that meet the requirements of New Zealand courts or tribunals.
- GenAI chatbots **cannot**:
  - Understand the unique fact situation in a specific case.
  - Understand cultural and emotional needs.
  - Understand the broader Aotearoa New Zealand social and legal context.
  - Predict the chance of success or the outcome of a case.
  - Be trusted to always provide legal or other information that is relevant, accurate, complete, up-to-date and unbiased.
  - Reach logical conclusions, even when given relevant facts.
- The helpfulness of any answers you receive from a GenAI chatbot will depend on the questions asked.

## 2) Uphold confidentiality, suppression, and privacy

Generally, you should not enter any information into an AI chatbot that is not already in the public domain. Do not enter any information that is private, confidential, suppressed or legally privileged information.

Some GenAI 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 an AI chatbot could become publicly known. This could result in you unintentionally breaching suppression orders, statutory prohibitions on publication, or accidentally disclosing your own or someone else's private or confidential information that may have the potential to cause serious harm.

If you are concerned that you may have disclosed private, confidential or suppressed information, contact the court/tribunal registry as soon as possible.

The use of GenAI may raise copyright issues. Compliance with the law of copyright is your responsibility.

Further information about privacy and AI tools is available on the [Privacy Commissioner's website](#).

### 3) Ensure accountability and accuracy

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

Information provided by GenAI chatbots may be inaccurate, incomplete, or out of date. It may also be based on overseas law that does not apply in New Zealand.

GenAI chatbots may:

- 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; and
- confirm that information is true if asked, even when it is not.

Fake material produced by a GenAI chatbot can look as though it has been taken from a real source even when it has not.

You should check any legal information you get from a GenAI chatbot with a lawyer (if possible). See also the free legal resources available on the [Ministry of Justice website](#), the [Citizens Advice Bureau website](#), the [Community Law website](#), or the [New Zealand Law Society website](#).

### 4) Be aware of ethical issues

Consider ethical issues – particularly biases and the need to address them.

- GenAI chatbots generate responses based on the data they are trained on (which is generally information from the internet). Information generated by a Gen AI chatbot will reflect any biases or misinformation in its training data.
- GenAI chatbots generally do not account for New Zealand’s cultural context including cultural values and practices of Māori and Pasifika.

### 5) Disclosing GenAI use

You do not need to disclose use of a GenAI chatbot by default – unless asked by the court or tribunal.

- Provided these guidelines have been followed (in particular, checking for accuracy), the key risks associated with GenAI should have been adequately addressed.
- However, a court or tribunal may ask or require you to disclose GenAI use.

## FAQs

### ***What are GenAI Chatbots and how do they work?***

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

GenAI 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?***

Generally, the text used to train GenAI chatbots comes from various internet sources, such as webpages, online books, and social media posts. There appears to be limited New Zealand legal information in the training text, which to date does not include a significant body of New Zealand cases. This impacts the accuracy of any New Zealand legal information a GenAI chatbot may provide.

GenAI chatbots cannot tell the difference between facts and opinions contained in its source information. This means that the text generated by GenAI chatbots may include incorrect, opinionated, misleading or biased statements presented as fact. The training data used by some AI chatbots may also be out of date.

### ***Why am I receiving incorrect information?***

As GenAI 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.

GenAI chatbots are known to produce false information which may appear true — this is called 'hallucinating'. In the legal field, this may lead to GenAI 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 GenAI chatbots best used for?***

GenAI 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 GenAI chatbots for these purposes it is important to remember that they can get information wrong.

### ***Multimedia-generative AI***

Multimedia-generating AI, such as DALL·E, Midjourney and Stable Diffusion, have emerged alongside text generative AI. These tools have been trained so that the algorithm can best predict the patterns and styles associated with different multimedia forms and their text descriptions. They are then able to generate new multimedia (i.e. images, audio or video) similar in style and content.

This technology allows for the creation of multimedia that appear authentic but are fake. These multimedia are known as 'deepfakes' and can be defamatory or spread dangerous misinformation or disinformation. Concerns may arise over the authenticity of multimedia when used in evidence.

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## These guidelines apply to:

### ***Courts of New Zealand:***

#### Senior Courts

- Supreme Court
- Court of Appeal
- High Court

#### District Court

- District Court
- Family Court
- Youth Court

#### Specialist courts

- Te Kooti Pira Māori | Māori Appellate Court
- Te Kooti Whenua Māori | Māori Land Court
- Employment Court
- Environment Court
- Coroners Court
- Court Martial
- Summary Appeal Court
- Court Martial Appeal Court

### ***Permanent Commissions of Inquiry:***

- Te Rōpū Whakamana i Te Tiriti o Waitangi | Waitangi Tribunal

### ***Tribunals:***

#### Civil

- Canterbury Earthquakes Insurance Tribunal
- Copyright Tribunal
- Disputes Tribunal
- Employment Relations Authority
- Human Rights Review Tribunal
- Motor Vehicle Disputes Tribunal
- Sports Tribunal of New Zealand
- Tenancy Tribunal

#### Administrative review

- Customs Appeals Authority
- Electricity Rulings Panel
- Immigration and Protection Tribunal
- Land Valuation Tribunal
- Legal Aid Tribunal
- Legal Aid Review Authority
- Mental Health Review Tribunal
- Social Security Appeal Authority
- Taxation Review Authority
- Veterans' Entitlement Appeal Board  
(formerly War Pensions Appeal Boards)

#### Professional Disciplinary and Licensing

- Building Practitioners Board
- Cadastral Surveyors Licensing Board
- Chartered Professional Engineers Council
- Electrical Workers Registration Board
- Lawyers and Conveyancers Disciplinary Tribunal
- Legal Complaints Review Officer
- Licensing Authority of Secondhand Dealers and Pawnbrokers
- Private Security Personnel Licensing Authority
- Social Workers Complaints and Disciplinary Tribunal
- Trans-Tasman Occupations Tribunal