Use of Generative AI in Tribunal proceedings

This fact sheet provides an overview of Generative AI (Gen AI) and its applications and restrictions in Tribunal proceedings.

What is Generative AI?

Generative AI (Gen AI) is a form of artificial intelligence designed to create new content, including text, images, sounds and video. It works by analysing patterns and structure of existing data to generate new content that is similar but unique.

Common uses of Gen AI

Gen AI can be used to create various types of content, including:

- **Text generation:** Writing articles, stories and other written content.
- **Image generation:** Creating realistic images of people, places and objects.
- **Audio generation:** Producing music, speech and sound effects.
- **Video generation:** Generating realistic videos of people and animals.

Where is Gen AI found?

Generative AI models are implemented as software programs that run on computers or cloud platforms.

Some popular Gen AI tools include programs such as Chat-GPT, Claude, Grok, Llama, Google Bard/Gemini, Co-Pilot, AI Media and Read A.

What is not considered Gen AI?

For the purposes of this fact sheet, Gen AI does not include technology that:

- Corrects spelling or grammar
- Assists with formatting
- Provides transcription or translation.

If the technology does not generate substantive content, it is not considered to be 'Gen AI'.

Can I use Gen AI in Tribunal proceedings?

Yes, you are allowed to use Gen AI in Tribunal proceedings for the following purposes:

- Generating chronologies, indexes and witness lists
- Preparing briefs or submissions
- Summarising or reviewing documents or transcripts

but only under certain circumstances and for specific types of content.

General Prohibition

The following categories of information should not be entered into any Gen AI program:

- Information subject to Tribunal confidentiality orders.
- Information or material created or obtained in connection with Tribunal proceedings that cannot be published or disclosed by law.
- Documents produced under Tribunal summons.

Exceptions apply only if:

- The information is contained within a secure, controlled and confidential platform, and
- The information is used solely for the relevant Tribunal proceedings, and
- The information is not being used to train Gen AI programs or large language models.

When should I not use Gen AI?

Generative AI (Gen AI) must not be used for the following purposes:

- Generating all or part of a statement, affidavit, statutory declaration, character reference or other evidentiary material.

- Altering a statement, affidavit, statutory declaration, character reference or other evidentiary material.

- Generating content for an expert report, without permission (or leave) of the Tribunal.

For detailed information, refer to NCAT Procedural Direction 7 - Use of Generative Artificial Intelligence (Gen AI)

What do I need to do if I have used Gen AI?

Written submissions

When using Gen AI to prepare written submissions, including summaries of submissions, you must verify that all citations, legal authorities and references are accurate and relevant.

Expert Reports

Gen AI must not be used to draft or prepare the content of an expert report without the Tribunal's permission (or leave). Refer to NCAT Procedural Direction 7 for more information.

Statements, affidavits, statutory declarations and other evidentiary material

In exceptional cases, you can request permission (or leave) from the Tribunal to use Gen AI to prepare or generate an attachment, annexure, or exhibit to a statement, affidavit, statutory declaration, character reference, or similar document. Refer to NCAT Procedural Direction 7 for more information.

Risks of using Gen AI

Gen AI can produce content that seems reliable but may not be accurate or relevant, especially in the context of legal proceedings in New South Wales.

Any information entered into a generative AI system could potentially be added to its database or other associated databases. This means that your confidential information could inadvertently be accessible or included in responses provided to other users.

Contact NCAT

1300 006 228 | www.ncat.nsw.gov.au

Interpreter Service (TIS) 13 14 50
National Relay Service for TTY users 13 36 77

For more information and assistance visit the NCAT website **www.ncat.nsw.gov.au** or contact NCAT on **1300 006 228**.