Generative AI

WHAT IS GENERATIVE AI?

Generative AI refers to AI applications that can be used to create content. For example, a predictive text function on a phone or computer will predict the next most likely letter based on what has been typed. Another common use of generative AI is in 'chatbots', used in customer service to provide quick answers to frequently asked questions.

A large language model (LLM) is a type of generative AI trained on a very large dataset. Based on that training data, a LLM can generate text or other content in response to a user 'prompt'. It works by identifying patterns in its training data and using these to generate a contextually appropriate response.

Some examples of generative AI tools include ChatGPT, Google Gemini, Claude, and Microsoft Copilot.

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POTENTIAL USES OF GENERATIVE AI

Some key areas where AI may be useful for barristers are drafting, summarising, and legal research. AI could be used to draft things like letters or contracts that often follow standard templates. It can summarise large amounts of information, which may help speed up document review or data analysis tasks.

This ability to navigate and summarise information may also make AI a useful research tool, as it can analyse statutes, regulations, case law and other resources to generate an answer. It can also be useful for brainstorming.

GUIDANCE AND PRACTICE DIRECTIONS

There are currently no practice directions on the use of AI in the England and Wales justice system, but this could change in future. Barristers should look out for news of any changes, new rules or practice directions.

Other common law courts have implemented such directions ; these include the Court of the King's Bench of Manitoba and the Supreme Court of Yukon in Canada, and the Caribbean Court of Justice.

The High Court has issued guidance in the form of a regulatory judgment in the case *R. (on the application of Ayinde) v Haringey LBC* [2025] EWHC 1383 (Admin); the judgment discusses issues with the use of generative AI in legal research and for producing documents for court. The judgment can be read at https://www.bailii.org/ew/cases/EWHC/Admin/2025/1383.html.

The Bar Council has published ethics guidance on the use of generative AI, which can be viewed at https://www.barcouncil.org.uk/resource/new-guidance-on-generative-ai-for-the-bar.html.

Guidance for the judiciary has also been published, most recently updated in April 2025: https://www.judiciary.uk/wp-content/uploads/2025/04/Refreshed-AI-Guidance-published-version.pdf

Middle Temple Library, as imagined by ChatGPT

LEGAL GENERATIVE AI

There are now several generative AI products aimed at the UK legal sector. LexisNexis and Thomson Reuters have introduced AI assistant tools to their Lexis+ UK and Westlaw Edge platforms respectively. These tools use Retrieval Augmented Generation (RAG), meaning they are 'grounded' in the Lexis+ UK and Westlaw content sets and should retrieve their answers from the sources on the databases to reduce the risk of hallucinations. Other tools on the market include vLex Vincent, which also uses RAG technology. The interfaces are similar in style to free tools like Claude or ChatGPT but have the advantage of being connected to database sources, meaning they can draw on the most up-to-date legal information in their answers.

Middle Temple Library does not currently subscribe to any of these AI tools, but the Library team is happy to help with any queries you may have about using AI in your work.

GENERATIVE AI: A QUICK CHECKLIST

Here is a quick summary of things to consider when using a generative AI tool for work:

1. Is the AI tool appropriate for my use case? Can it do what I need it to do?

2. Is my use of the AI tool ethical, appropriate and in line with my duties as a barrister?

3. Do I understand how the AI tool will use and store my information/ the information in my prompt?

4. Have I removed any personal, confidential or privileged information from the prompt?

5. Have I checked the AI's answer for accuracy, currency and relevance?

6. Have I identified any risks of bias, and if so how can I mitigate these?

This is not an exhaustive list, but should help you consider some of the key questions around AI use at the Bar.

ISSUES AND RISKS

Hallucinations and inaccuracies

As generative AI creates its answers based on the patterns it recognises in its training data and is not able to actually discern fact from fiction, it can be prone to creating inaccurate outputs known as "hallucinations". For this reason, it is crucial to check generative AI output for accuracy. When using AI for legal research assistance, always check the accuracy of its outputs by referring to primary sources. Similarly, if using AI to summarise a document, it is important to check that its summary is correct.

Privacy, confidentiality and data protection

Documents not already available to a generative AI software need to be uploaded in order to be analysed or summarised. Where these documents contain confidential or privileged information, this could cause a serious breach. Many such systems use prompts to further train the LLM model and inputs can appear as outputs for other users, which represents clear risks for privacy and confidentiality. Any personal, confidential or privileged information should be removed from a document before it is used with AI.

Intellectual property

Generative AI raises a number of questions relating to intellectual property. As LLM systems are trained on a large amount of existing material, it is possible that some of that material is copyright protected and that it could be reproduced in AI outputs. There are currently several active legal actions against AI companies in relation to the use of copyrighted material in training LLMs. In December 2024 the UK government consulted on a potential new copyright exception for the purpose of text and data mining; as of May 2025 the outcome of this consultation has not been published. It is also not clear under UK law who owns the rights to AI-generated content.

LEGAL GENERATIVE AI

When using generative AI barristers should always keep in mind the Core Duties outlined in the BSB Handbook, and ensure their AI use meets the ethical guidance published by the Bar Council. The duties especially relevant to AI are:

Core Duty 3: You must act with honesty and integrity: Barristers should be honest and transparent about any generative AI use and ensure it is used carefully to avoid misinformation or inaccuracies, breaches of confidentiality or privilege, or infringements of intellectual property rights.

Core Duty 5: You must not behave in a way which is likely to diminish the trust and confidence which the public places in you or in the profession:

Barristers submitting hallucinated cases or inaccurate information sourced from generative AI may risk diminishing public trust in them or the profession.

Core Duty 6: You must keep the affairs of each client confidential:

Be very careful when using generative AI with any documents that may include confidential, private or privileged information, and remove this information if there is a risk of a breach.

There are further ethical issues to consider, such as the environmental impact of generative AI. Generative AI can also be prone to reproducing biases or prejudices contained in its training data: AI tools predict patterns based on what they have learned, but are not currently able to apply critical thinking to these patterns in the way a human could. Barristers should bear this in mind to ensure they are representing each client fairly and to the best of their ability.

AI FOR STUDENTS

Generative AI can be a helpful study aid, but students should make sure any AI use is within the boundaries of academic integrity. AI may be useful for generating ideas or helping explain new concepts, for example, but generally should not be used to write part of your work for you.

Your institution or department may have published guidance on the use of AI in academic work, so check these and any academic integrity or plagiarism policies before you use generative AI in your academic work. Academic misconduct on your record could affect your call to the Bar.

As discussed in this guide, generative AI can be prone to producing misleading or inaccurate information, so it is very important to check any outputs for accuracy and currency.

It is important to note that (as of June 2025) pupillage applications submitted through the Bar Council's Pupillage Gateway require applicants to confirm that AI has not been used in the application, and that it is their "sole and original work".

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