

Let's talk about ChatGPT

The development and growth of artificial intelligence tools like ChatGPT is occurring at rapid speed and its emergence has generated new conversations around the benefits and risks associated with its use in legal practice.

While there is little doubt that technology can bring about better efficiency, accessibility and improved service to clients (when used and managed properly), solicitors need to be aware of the risks of doing so.

What is ChatGPT?

ChatGPT is an Artificial Intelligence (AI) tool that can generate comprehensive, human-like responses based on 'prompts' (information) entered by the user. It can answer questions, write articles, draft emails, hold conversations and translate languages all based on the prompts you provide.

Risks and limitations

ChatGPT is in its infancy, currently a free service, and the use of any emerging technology should be treated with caution. These are just some of the risks and limitations associated with its use in legal practice.

Inaccurate or incomplete information and bias

- ▼ ChatGPT responds to user prompts using the information that it has been developed to provide. Given that it was 'trained' on information pre-June 2021, the responses it provides are limited. This also means that those who created the tool have made decisions about where the information is sourced and how the user receives it. This bias may not be necessarily malicious, but it only provides the user with the information it has been programmed to deliver.
- ▼ ChatGPT has been known to 'hallucinate' or misconstrue or falsify information and sources.

A user may have no way of knowing when ChatGPT provides false or inaccurate information, because that content isn't flagged as incorrect.

ChatGPT highlights its limitations:

- ▼ "May occasionally generate incorrect information"
- ▼ "May occasionally produce harmful instructions or biased content" and
- ▼ "Limited knowledge of world and events after 2021."

ChatGPT also notes that it 'may produce inaccurate information about people, places or facts' (ChatGPT homepage as at Aug 2023).

While ChatGPT knows the source of its information, that source is not explicitly provided to users and therefore, users cannot easily fact-check the information they receive to ensure that it is correct or that it is unique.

Data protection and client confidentiality

- ▼ ChatGPT trains itself by using the information provided by users as a learning tool to improve its understanding. This means that any data you have entered can be used in response to other user queries.
- ▼ Solicitors have a duty to maintain client confidentiality and using ChatGPT will sometimes require inputting sensitive or confidential information to generate a better or more personalised response. There is then significant risk that the information provided may not be adequately secure and may be disclosed to unauthorised third parties.

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Intellectual Property (IP) and Copyright

▼ ChatGPT uses a significant amount of information from the internet that is likely to include copyright or IP protections. Under the [ChatGPT terms of use](#), the user is assigned any IP rights of the responses. However, there is no indication provided to users as to whether the responses have used pre-existing written material to the extent that any IP rights have been infringed. This responsibility falls on the user, meaning that you may be at risk of copyright infringement if the response you receive from ChatGPT is republished or circulated.

Tread carefully - embracing technology responsibly

Overall, the adoption of technology does have a positive impact on law practice operations. However, as new tools emerge, solicitors need to remain vigilant about the risks and their professional obligations.

If using ChatGPT or similar then, at a minimum, solicitors should:

- ▼ Implement a strong AI use policy and put safeguards in place that govern who can access the tools, what information can be submitted and how the responses can be used.
- ▼ Check any responses carefully to ensure that all information is correct, current and does not reproduce third party materials in a way which may infringe copyright.
- ▼ Ensure robust information security controls are in place to avoid confidential information being accessed or used to inform responses.



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ChatGPT

Examples

Capabilities

Remembers what user said earlier in the conversation

Limitations

May occasionally generate incorrect information