

# Building a generative AI policy

## A checklist of key questions

The Law Society of Ontario developed this checklist to support law and legal service practices in developing a generative AI (Gen AI) policy. It offers key questions to consider across core areas of policy development. Whether you are starting from scratch or refining an existing policy, this checklist can help you set clear expectations for responsible AI use in your legal workplace.

OVERVIEW OF POLICY	
<input type="checkbox"/>	Consider the scope of your policy. <ul style="list-style-type: none"> <li>What Gen AI tools will it cover?</li> <li>Who within the organization will it apply to?</li> <li>Do you want your policy to be prescriptive or principles-based (or a combination of both)?</li> </ul>
<input type="checkbox"/>	Consider having a preamble to the policy describing why your workplace is instituting it.
OVERSIGHT OF POLICY	
<input type="checkbox"/>	Consider having someone in your workplace, with the appropriate knowledge and authority, to be the designated overseer of the policy. This person's responsibilities could include: <ul style="list-style-type: none"> <li>being the contact if someone has questions about the policy</li> <li>ensuring that the policy is revised when events or developments necessitate</li> <li>proactively reviewing the policy at regular intervals to ensure currency.</li> </ul>
<input type="checkbox"/>	Consider whether individuals are required to participate in any training courses before using Gen AI in their work? <ul style="list-style-type: none"> <li>It is recommended that anyone who uses Gen AI tools understand the technology well enough to ensure compliance with ethical duties.</li> <li>Licensees should familiarize themselves with LSO guidance regarding Gen AI available in the <a href="#">Law Society's Technology Resource Centre</a>. Non-licensees in a legal workplace may want to review these materials as well. It is important that everyone understands the workplace policy and receives adequate training.</li> </ul>
<input type="checkbox"/>	Consider how the policy will be distributed and continuously accessible to all individuals in the workplace.
USAGE OF GENERATIVE AI	
<input type="checkbox"/>	What Gen AI tools, if any, are individuals allowed to use for work product? <ul style="list-style-type: none"> <li>Gen AI tools may appear in several different forms including: <ul style="list-style-type: none"> <li>General purpose tools (e.g., Chat-GPT or Google Gemini); and</li> <li>Standalone Gen AI tools specifically designed for the legal services industry or to complete a business task.</li> <li>In addition, there are Gen AI tools that are getting built into existing products (e.g., Zoom AI companion).</li> </ul> </li> <li>Different tools may provide different levels of protections and also may warrant different considerations under the policy.</li> <li>Providing clarity on whether individuals can turn on built in Gen AI tools within commonly used workplace software (e.g., using "AI Assistant" in Adobe) will ensure organization wide consistency.</li> </ul>
<input type="checkbox"/>	There may be work that is not legally focused (for example, drafting a greeting or advertisement). <ul style="list-style-type: none"> <li>Providing clarity to individuals on what you mean by work product may be helpful.</li> </ul>



USAGE OF GENERATIVE AI	
<input type="checkbox"/>	<p>What settings, if any, need to be engaged on any allowed Gen AI tools?</p> <ul style="list-style-type: none"> <li>Some AI tools have privacy or other settings. Advising all employees which settings should be engaged and how to do it will help ensure compliance.</li> </ul>
<input type="checkbox"/>	<p>What information is it acceptable for individuals to enter into Gen AI tools?</p> <ul style="list-style-type: none"> <li>What personal, sensitive and identifying client or proprietary firm information, if any, may be inserted into a Gen AI tool?</li> <li>What precautions need to be taken to guard against inadvertent disclosure of confidential client information and sensitive or proprietary workplace information?</li> <li>For further guidance, please review the LSO's white paper on <a href="#">licensee use of generative artificial intelligence</a>.</li> </ul>
<input type="checkbox"/>	<p>Will individuals be allowed to use their personal accounts on AI tools for work product?</p> <ul style="list-style-type: none"> <li>Consider only allowing the use of Gen AI with accounts created under your organization's email addresses/credentials.</li> </ul>
<input type="checkbox"/>	<p>Will it be necessary to obtain client approval prior to individuals' use of Gen AI? How much information should be shared with clients?</p> <ul style="list-style-type: none"> <li>A number of factors about when Gen AI usage should be disclosed to clients can be found at page 17 of the LSO's white paper on <a href="#">licensee use of generative artificial intelligence</a>.</li> </ul>
USAGE OF THE GEN AI GENERATED PRODUCTS	
<input type="checkbox"/>	<p>If Gen AI is used to generate a product for another member of the legal workplace does the use of Gen AI need to be disclosed to the appropriate individual(s) receiving such product?</p> <ul style="list-style-type: none"> <li>For example, it may be important that if a contract or legal research memo was generated using Gen AI that others working on the file are aware of this.</li> </ul>
<input type="checkbox"/>	<p>For each type of work product produced using Gen AI assistance, who can it be shared with?</p> <ul style="list-style-type: none"> <li>Will individuals be allowed to share these products with clients or other members of the workplace?</li> </ul>
<input type="checkbox"/>	<p>Will work products developed with Gen AI assistance need to be labelled?</p> <ul style="list-style-type: none"> <li>Are individuals required to disclose every use of a Gen AI tool or function? If not, what uses are required to be disclosed? Are there labelling requirements for Gen AI assisted research versus memos and affidavits, etc.?</li> <li>Do you need to label work product if a specific Gen AI tool is used</li> <li>What should be put in any required label?</li> <li>There may be requirements for documents to be labelled if they are being used in certain courts. For example, the Federal Court has issued <a href="#">practice directions</a> on these matters.</li> </ul>
<input type="checkbox"/>	<p>How will your organization ensure that information received from Gen AI programs is not biased and/or discriminatory?</p> <ul style="list-style-type: none"> <li>When reviewing outputs from Gen AI consider when and how to check if there are biases present in the output.</li> <li>Ensure that any internal uses of Gen AI tools (for example in hiring) are compliant with relevant legislation.</li> <li>The Law Commission of Ontario and Ontario Human Rights Commission have developed an <a href="#">AI human rights impact assessment</a> that may be helpful.</li> </ul>