

Checklist: use of AI – the essentials

This checklist is adapted from the [Law Society of England and Wales guidance](#). It includes factors that lawyers should consider from initial exploration, procurement, use and review.

What do I need to consider if I'm thinking about using Gen AI?

Purpose identification: Determine the primary need or goal for the use of the AI tool in the practice (what is the business case for using Gen AI?).

Due diligence on vendors and tools: Research reputable AI tool providers, speak to others in the industry and consider whether the vendor can meet your requirements. Evaluate claims made by vendors. At a minimum, ask what data the tool accesses and how it is trained, how will your input data be used and who owns input and output data.

Stakeholder engagement: Involve your IT staff and/or providers, firm management and the lawyers who will be the end-users to ensure the use of AI is in line with the identified purpose and the firms' policies.

Consider whether changes are required to the firm's **fee billing approach and information to clients**, if Gen AI is to be used for some tasks on a matter. Is a 'time and attendance' basis appropriate, with reference to the reasonable fee factors in the Rules, if AI is used on a matter.

Privacy, Confidentiality, Privilege -Data and training- what do I need to do?

Be very careful about any **data used to "train" AI tools**. Consider use of anonymised data and be aware of confidentiality and privacy risks before beginning use of AI tool. Do not use personal information or client information for testing or creating templates.

Privacy, data protection, confidentiality, privilege compliance:

- Confirm that use and storage of data complies with privacy and confidentiality compliance obligations.
- Ensure that a system and plan is in place to protect client confidentiality and privilege.
- Take a "privacy by design approach" – at a minimum undertake a Privacy Impact Assessment.¹

¹ OPC [Office of the Privacy Commissioner | Privacy Impact Assessments](#)

Procurement

Trials and demos: Request demos or trial versions to evaluate the AI's effectiveness and whether it will meet your needs. Trials and demos should be isolated from other technical systems for safety and should be used to evaluate vendor claims.

Contractual terms: Review the terms of service, especially around data protection, intellectual property and data rights, the geographic location of data storage and any liability/disclaimer clauses.

Cost analysis: What is the total cost of the tool? What is the cost of ongoing support and computational charges? Agreeing to a fixed cost can avoid unexpected costs.

Long term viability and planning: What are the support arrangements in place with vendor? Is there a regular review process and is there an exit mechanism, if required.

Implementation and usage:

Policy: Have a clear policy for all staff about how the firm uses AI. This should include topics such as protection of confidentiality and privilege, monitoring and unauthorised use, and quality assurance.

Training: Ensure there is a training plan in place and regular sessions for staff. Training should cover technical education but also ethical and professional obligations, privacy, and cybersecurity.

Data input management: Clearly define what data can be fed into the tool considering both legal and ethical restraints.

Feedback and review: Have a process for users to provide feedback to assist with reviewing ongoing use of the AI tool.

Risk Management

Legal and regulatory compliance: Ensure that use of the AI tool complies with legal and ethical requirements. The legal landscape in this area is evolving so make sure that the firm keeps abreast of all legal developments.

Cybersecurity measures: Ensure that robust security measures are in place to protect from data breaches – this includes being satisfied about what security measures the vendor has in place.

Liability and insurance: Assess liability and insurance cover related to use of the tool. Speak to your insurer to determine whether use of the tool is covered under your existing policy.

Business continuity: Is there a plan in place in case the AI system fails?

Ethical and professional considerations: Consider the potential ethical implications and biases of the AI's output. Ensure that users are aware of this and there is a review process in place to address this risk.

Review and evolution

Regular assessment: Periodically review whether the AI tool continues to meet the firm's needs and that no legal or ethical/professional issues have arisen that need addressing.

Exit strategy: Consider how the firm can transition away from the tool, if needed. Can data, source code or any existing training on the tool be transferred, if required.

Communication

Client communication: Clearly communicate to clients when and how AI tools are used in their matters, where appropriate. Consider whether consent is required to use their information.

Internal awareness: Keep the firm's staff informed about the tool's capabilities, benefits, and limitations, as well as their professional responsibilities.