

4 February 2026

Our ref: LP:GenAI

The Honourable Justice Helen Bowskill
Chief Justice of Queensland
Supreme Court of Queensland
PO Box 15167
City East QLD 4002

Attention: Executive Assistant to the Chief Justice
By email: [REDACTED]

Dear Chief Justice

The use of artificial intelligence and other technology in court proceedings

We refer to our previous correspondence relating to the work the Society is undertaking on the impact of artificial intelligence on legal practice, including court proceedings.

This correspondence addresses some areas for potential further guidance for Queensland court users which the Court may wish to consider, building on the material already published by the Court. In outlining these areas that might benefit from further guidance, we have also reviewed material produced by other jurisdictions.

The Court's recent Practice Directions and Guidelines

We note and are appreciative of the considerable work undertaken by the Court last year to produce:

- [Supreme Court Practice Direction 5 of 2025](#), which was subsequently adopted by other Queensland jurisdictions;
- Amendment of [Supreme Court Practice Direction 14 of 2014](#) concerning expert evidence in criminal proceedings to add requirements where the expert used generative artificial intelligence to assist in the formulation or expression of the opinions contained in their report;
- [The Use of Generative Artificial Intelligence \(AI\) Guidelines for Responsible Use by Non-Lawyers](#); and
- [The Use of Generative AI: Guidelines for Judicial Officers](#).

Supreme Court Practice Direction 5 of 2025, concerning the accuracy of references in submissions, strikes a balance between reinforcing obligations for court users, including practitioners and self-represented parties, while not imposing restrictions that would cause difficulties for users in terms of compliance or in relation to preparation of documents. We are supportive of the Practice Direction's technology-neutral and principles-based approach which,

while expressly acknowledging some of the risks associated with generative AI, does not single it out.

Similarly, the *Use of Generative AI: Guidelines for Judicial Officers* assists parties' understanding of the important features and risks associated with the use of generative AI. The seven guidelines provide a useful framework for considering generative AI in legal practice generally.

The Use of Generative Artificial Intelligence (AI) Guidelines for Responsible Use by Non-Lawyers provides valuable and easily digestible material for non-lawyers.

Areas for potential further guidance

We consider the key issues relating to the use of generative AI in matters before the courts to be:

- ensuring accuracy of submissions;
- the use of generative AI in relation to lay and expert evidence; and
- the use of generative AI in relation to disclosure.

For completeness, we also acknowledge and share the concerns in relation to 'deepfakes'; however, as recognised at paragraph [35] of the *Guidelines for Judicial Officers*, courts have always had to deal with sophisticated forgeries.

Practice Direction 5 of 2025 succinctly informs the profession of the responsible person's obligations to the Court in respect of submissions. We support the principles-based approach taken in the Queensland Court's judicial guidelines and the two recent Practice Directions, which recognise the ever-increasing role of generative AI (including by self-represented litigants) but does not seek to ban the use of generative AI outright and which clearly outlines and reinforces the expectations which the Court has of practitioners and litigants.

We consider a broad prohibition on the use of generative AI is not reflective of the potential efficiencies arising from the use of AI (both for substantive and non-substantive work) and does not recognise the reality that components of AI systems or tools are becoming increasingly embedded in everyday software and so cannot be turned off.

We suggest that, consistent with the current Practice Directions and Guidelines, it would be helpful for any further Practice Directions or Guidelines to use defined terms and to identify some of the benefits and risks. Additionally, we would support the repetition of the seven-step framework set out in the *Guidelines for Judicial Officers*, as appropriate.

The use of generative AI in relation to lay and expert evidence

The Court may wish to consider developing further Practice Directions or Guidelines in relation to affidavits and expert reports in civil matters. We expand on each of these below.

Affidavits

Consistent with Practice Direction 5 of 2025, we consider a Practice Direction or Guideline would be helpful to reinforce the expectations the Court has of practitioners and litigants and

QLS AI in Legal Practice Consulting Committee and Advisory Groups

could set out the effect of making an affidavit or declaration (in similar terms to the effect of the responsible person placing their name on submissions).

We note that, unlike a number of other jurisdictions, Queensland affidavits require a detailed jurat - currently worded as follows:

The contents of this affidavit are true, except where they are stated on the basis of information and belief, in which case they are true to the best of my knowledge.

I understand that a person who makes an affidavit that the person knows is false in a material particular commits an offence.

In our view, this wording clearly addresses the expectations of deponents and already has application to any AI use. While the jurat could potentially be amended to make specific reference to the use of generative AI, we consider it would be preferable to retain its current, clear and technology-neutral language, and to instead reinforce the Court's expectations in a Practice Direction or Guideline.

There may, of course, be instances where AI tools are used in a substantive sense to assist with the generation of content referred to or exhibited to an affidavit. We have some concerns that any blanket prohibition on such use, or a requirement for prior leave before use, may not be practical or ultimately beneficial. Rather, we consider that, consistent with the jurat itself, any deponent would need to depose to how the content was generated. Nevertheless, we consider there would be value in a document which clarifies and outlines the Court's expectations.

As to the extent of any disclosure of the extent of any AI use, this is more problematic. Disclosure generally is likely to be case or fact dependent and so we see this as being difficult to try to prescribe. Overly prescriptive requirements could have unintentional consequences – including the possible disclosure of privileged communications. Also, given the increasing prevalence of AI tools being embedded in everyday software, a requirement for full disclosure may present practical problems.

Expert evidence in civil matters

We note paragraph [36] of the *Use of Generative AI: Guidelines for Judicial Officers*, which states:

Judges should also be alert to the use of AI by experts to assist in the generation or expression of an opinion contained in an expert report and consider whether the expert should be required to identify in their report the precise way in which they have used AI.

However, we note that for civil proceedings, the *Uniform Civil Procedure Rules 1999 (UCPR)* contains detailed provisions regarding experts and a code of conduct. Further, although the code is similar to the Harmonised Expert Witness Code of Conduct, the UCPR contains additional requirements that are not replicated in other jurisdictions and which we believe go a considerable way towards addressing concerns in relation to any use of generative AI.

In particular, we note the following:

- UCPR Rule 429H(2)(e) requires the report to include, for any inspection, examination or experiment conducted, initiated, or relied on by the expert to prepare the report, a description of what was done and whether the inspection, examination or experiment

was done by the expert or under the expert's supervision. We believe this would require disclosure, in the report, of any substantive use of generative AI.

- UCPR Rule 429H(4)(d) requires confirmation that the opinions stated in the report are genuinely held by the expert. This requirement is, in our submission, similar in effect to the jurat requirement for affidavits – and would apply to substantive and non-substantive uses.

We believe the above UCPR provisions are sufficient to capture any use of generative AI for substantive and non-substantive uses respectively. In particular, it would appear to require disclosure of substantive uses, and to permit non-substantive uses (provided they do not affect the genuineness of the opinions expressed).

Despite this, we would support a Practice Direction or Guideline that reinforces the Court's expectations by reference to the above rules – confirming application to any form of technology, including generative AI, that is used by the expert. This is similar to the approach adopted in respect of Practice Direction 5 of 2025 for submissions.

As to the nature of disclosure of any use of generative AI, we note Amended Practice Direction 14 of 2024, which applies to expert evidence in criminal proceedings and, amongst other things, requires at paragraph 16(l) detailed disclosure of any use of generative AI (including a complete record of prompts and outputs). In light of the current UCPR provisions for expert evidence in civil proceedings, and for similar reasons outlined in relation to affidavits, we have concerns that any blanket requirement for this level of detail in a Practice Direction could have unintended consequences. Nevertheless, we believe it would be good practice for experts to consider retaining such material (as they may be required to produce it – including if required by the Judicial Officer as contemplated by paragraph [36] of the Guidelines), and we would support a Practice Direction or Guideline making reference to this possibility.

Restrictions on the use of AI in disclosure

The Court's *Guidelines for Judicial Officers and the Guidelines for Responsible Use by Non-Lawyers* highlight issues related to confidentiality, suppression and privacy. The Society has also published guidance to its members in respect of these issues, and we note that the Bar Association has recently published similar guidance. In so far as client material is concerned, we believe this is presently sufficient.

However, in relation to material produced by opposing parties or third parties in civil litigation, we would support a practice direction that specifically addresses these issues – either by way of a separate Practice Direction or an amendment of Practice Direction 18 of 2018.

In particular, we support the approach in paragraphs 9A and 9B of [Supreme Court Practice Note Gen 23](#) issued by the Chief Justice of New South Wales, save for our recommendation that any Practice Direction should adopt a technology-neutral position, consistent with Practice Direction 5 of 2025.

We believe this approach, combined with the current requirements of Practice Direction 18 of 2018 for parties to agree on document plans, ought to provide sufficient protection to parties and non-parties in respect of their documents.

QLS AI in Legal Practice Consulting Committee and Advisory Groups

Other issues

Costs

Our working groups and committees are considering how costs in proceedings might best capture the use of AI systems and tools, and other types of emerging technologies, for example in respect recovery of licensing fees and the like. We would be pleased to engage with the Court, and specifically the Rules Committee, regarding these issues when we have completed our consideration.

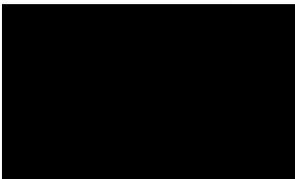
Education

Given the increasing prevalence of AI use in the community, we consider there would be benefit in advocating to Government for additional funding to support community education around AI use in court proceedings. This could be available in several formats (such as social media or short video links) and supplement the Court's existing Guidelines for Response Use of AI by Non-Lawyers. We would be pleased to assist in the formulation and promotion of any material produced.

QLS also continues to consider guidance and education for the legal profession in this area. We will soon be publishing an 'AI selection and use checklist for legal practitioners', a joint initiative with other law societies and institutes. In addition, our March 2026 Symposium includes a dedicated legal technology stream with topics addressing tool selection, legal research and cybercrime (including deepfakes).

We would welcome the opportunity to meet with your Honour and members of the Court to discuss these issues further. Please do not hesitate to contact our Legal Policy team via [REDACTED] or by phone on [REDACTED]

Yours faithfully



Peter Jolly
President