VCAT Victorian Civil & Administrative Tribunal

Practice Note – PNVCAT 11	
Use of Generative Artificial Intelligence	
Application	Proceedings in all Divisions
Effective date	22 December 2025
Special note	Due to the rapidly developing nature of Generative Artificial Intelligence, this practice note will be periodically reviewed and updated. Please ensure that you are using the latest version of this practice note.
Further information	A complete set of current practice notes are available on the Tribunal website at www.vcat.vic.gov.au.

Objective and application

1. The Tribunal acknowledges the growing availability and use of Artificial Intelligence (**AI**) tools in proceedings within its jurisdiction. While the Tribunal does not seek to discourage the use of AI tools, such use must be carefully considered and undertaken within appropriate guardrails.

2. This Practice Note provides guidance on the acceptable and appropriate use of generative AI (**Gen AI**) tools in all Tribunal proceedings.

3. The Tribunal may vary the operation of the Practice Note at its discretion and in response to the particular circumstances of a particular proceeding by direction or order. It applies to all proceedings in all Tribunal practice areas and to all users engaging with the Tribunal (**parties**).[1]

4. This practice note has been issued by the Rules Committee under section 158 of the *Victorian Civil and Administrative Tribunal Act 1998* (Vic) (**VCAT Act**) and should be read in conjunction with the VCAT Act and the *Victorian Civil and Administrative Tribunal Rules 2018* (Vic).

5. The Tribunal acknowledges that the Victorian Law Reform Commission's Final Report into Artificial Intelligence in Victoria's Courts and Tribunals is expected to be published in 2026. It is intended that further updates will be made to this Practice Note to align with the Report's recommendations and following potential updates to the Supreme Court of Victoria's Guidelines for Litigants: Responsible Use of Artificial Intelligence in Litigation.

6. The Schedule identifies and defines common terms used in this Practice Note.[2]

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[1] The term 'parties' is defined in Schedule 1. Expert witnesses (as defined in s 3 of the VCAT Act) must also adhere to the requirements of this practice note, especially [21]-[24].

[2] Definitions of terms relating to AI have been sourced from the '*Artificial Intelligence in Victoria's Courts and Tribunals: Consultation Paper*' published by the Victorian Legal Reform Commission in October 2024.

What is Generative AI?

7. Gen AI is a form of AI that can create new content, text, images, or other material based on data and patterns acquired from a body of training material. The training material may be drawn from public sources, private sources, or user-uploaded materials.

8. Gen AI tools[3] may be general or specialised, and publicly available or embedded in other software. These tools can assist parties with various tasks, including to conduct research, summarise information, draft submissions, analyse evidence, and translate or rewrite material.

9. Gen AI tools, while helpful, have significant limitations. They may generate false or misleading information that appears factual – known as "hallucinations" – and are constrained by the quality of their training data which may contain misinformation, or irrelevant, selective or incomplete data. Information submitted or uploaded to Gen AI tools may also be incorporated into training data, compromising confidentiality, privacy, data security, and legal professional privilege.

10. Relying on a document which contains incorrect, irrelevant, or non-existent AI-generated material potentially undermines the integrity of the Tribunal's processes and ultimately harms public confidence in the administration of justice. It may also result in personal consequences for parties, including:

    a. delays to proceedings;

    b. causing the Tribunal to doubt whether it can rely on the accuracy and reliability of the submissions;

    c. regulatory and disciplinary consequences for lawyers;

    d. adverse costs orders to be made against the party who relied on the document.

Principles for the use of Generative AI

11. The use of Gen AI tools is subject to the legislative obligations to the Tribunal, applicable professional and ethical obligations, and to the administration of justice. This includes:

    a. obligations under PNVCAT3 – Fair Hearing Obligation to not knowingly give false or misleading information to the Tribunal and to abide by all rulings and directions of the Tribunal;

    b. specific secrecy or privacy restrictions, such as under the *Court Security Act 1980* (Vic) or orders made under clause 37 and clauses 50 and 51AJ of Schedule 1 of the VCAT Act;

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[3] This can include, but is not limited to, programs such as ChatGPT, Copilot, Google Bard, Gemini, AI Media, Read AI, Lexis Advance AI, and Westlaw Precision.

c. for lawyers, obligations under the Legal Profession Uniform Law and relevant conduct rules.[4] Lawyers should also be mindful of any relevant guidelines issued in relation to the use of AI.[5]

12. Parties must not mislead other parties or the Tribunal regarding Gen AI use, either as to the nature of work undertaken or the content produced. Parties are expected to act in a way to maintain public trust and confidence in the judicial system.

13. As parties remain responsible for all information they rely on or provide to the Tribunal, parties should therefore understand how Gen AI works and recognise its limitations before use.

14. All parties should be aware that the security of the information submitted or uploaded to a Gen AI tool may not be preserved. Therefore, confidential, personal or identifying information, health information, or protected information should not be submitted or uploaded when using Gen AI tools. The Tribunal specifically prohibits parties submitting or uploading information or material into a Gen AI tool that is:

   a. subject to a non-publication or suppression order;

   b. produced on subpoena or summons, or under discovery in a Tribunal proceeding, or filed in a Tribunal book;

   c. protected information, or may be deemed to be protected information; and

   d. the subject of a prohibition upon publication, for example, section 34 of the VCAT Act.

Application of Principles

15. A party signing or certifying a document, filing a document with the Tribunal, or otherwise relying on a document's contents in a proceeding, is responsible for the accuracy of the content, regardless of whether Gen AI tools are used.

16. Where parties use Gen AI tools, they should disclose this use to other parties and to the Tribunal. This disclosure will not necessarily detract from the contents of the document being considered on its merits. Instead, it:

   a. enables a proper understanding of the provenance of a document or the weight that can be placed upon its contents; and

   b. provides useful context to assist the Tribunal, such as the level of legal knowledge and experience possessed by a self-represented person.

17. A Gen AI disclosure may be made via a statement on the front page of any document as follows: "*this document was produced with the assistance of [insert name of Gen AI tool]*".

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[4] These are the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* or the *Legal Profession Uniform Conduct (Barristers) Rules 2015* for solicitors and barristers respectively.
[5] Including but not limited to the Victorian Legal Services Board + Commissioner's Statement on the use of artificial intelligence in Australian legal practice and the Law Institute of Victoria's Ethical and Responsible Use of Artificial Intelligence Ethics Guidelines.

18.   A Member may make directions, inquiries or request an assurance that any documents have been verified for accuracy, including an identification of the process of verification followed.

Written submissions, affidavits, witness statements or other evidentiary material

19.   Where a Gen AI tool is used in the preparation of written submissions or summaries, the Tribunal expects the author to have independently and appropriately verified that:

   a.   the information is current and applies to the relevant jurisdiction, and does not include outdated jurisprudence and legal developments;

   b.   the information relates to the relevant issues and arguments;

   c.   all citations, legal and academic authority and case law and legislation exist in the real world, are accurate, and are relevant to the proceedings; and

   d.   the information is factually correct and is not misleading.

20.   Where a Gen AI tool is used to assist in the production of affidavits, witness statements or other evidentiary material, the Tribunal expects the author to have verified that the material accurately reflects what the witness knows to be true.

21.   Verification must not be performed using a Gen AI tool.

Report of an Expert Witness

22.   The report of an expert witness (**expert report**) must comply with PNVCAT2 – Expert Evidence regardless of Gen AI use. Gen AI may be used to assist in the preparation of an expert report (subject to the requirements of this Practice Note) but must not be used to generate an opinion.

23.   The author of the expert report must identify and disclose in the report:

   a.   the Gen AI tool used and whether it was closed-loop or open-loop;

   b.   what material or information was submitted or uploaded to the Gen AI tool; and

   c.   which portion of the report was prepared using Gen AI tool.

24.   The author of the expert report must verify that the information is correct, any references included are real, accurate, and relevant to the proceedings, and the report accurately reflects what that person knows to be true.

25.   Parties must ensure the author of the expert report is aware of the requirements of this practice note when instructing them to provide a report.

Schedule

Terms and Definitions used within this practice note.

Term	Definition
Artificial Intelligence (**AI**)	AI is a machine-based system that, when provided with a prompt, creates a response based on the information available to it, and on previous prompts it has been asked. These responses can include predictions, content, recommendations, or decisions about a physical or virtual environment. Different AI systems have different levels of autonomy and sophistication.[6]
Generative Artificial Intelligence (**Gen AI**)	Generative AI or Gen AI refer to generative artificial intelligence. Gen AI is a software system that creates content based on a prompt, whether text, images, music, audio, or videos.[7]
Large language model (**LLM**)	Large language models are systems trained with a large data set, allowing the model to generate text content in response to a prompt.[8]
Open and closed loop – contrast to open and closed source	Closed-loop systems are limited to a specific ecosystem and do not allow information to pass into the public sphere, for instance the ecosystem may be limited to government only. Open-loop systems do not limit the information to the ecosystem, allowing the program to draw from any publicly available source.
Open-source and closed-source	Open-source LLMs have publicly accessible source codes and underlying structures allowing developers, researchers, and companies to use and modify the programs freely, or subject to very limited restrictions. Closed-source LLMs have a proprietary source code and are accessible under specific terms as defined by their developer.
Party / Parties	'Parties' include but is not limited to parties to a proceeding, professional advocates (including lawyers), and support persons as defined in Part 4 of the VCAT Act.

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[6] OECD, Recommendation of the Council on Artificial Intelligence (Report No OECD/LEGAL/0449, 2024) 7.

[7] Fan Yang, Jake Goldenfein and Kathy Nickels, GenAI Concepts: Technical, Operational and Regulatory Terms and Concepts for Generative Artificial Intelligence (GenAI) (Report, ARC Centre of Excellence for Automated Decision-Making and Society (ADM+S), and the Office of the Victorian Information Commissioner (OVIC), 2024) 2 <https://apo.org.au/node/327400>.

[8] Ibid.

Protected information	Protected information means information, document or thing, as defined by a relevant Act, that generally relates to a police activity that is likely to reveal the identity of a police officer or informant, a person who may be providing evidence relating to a police investigation or may be the subject of a police investigation, may put a person's safety at risk, places at risk an ongoing investigation by a member of the police force, risks the disclosure of any investigative method used by police officers, or is otherwise not in the public interest. For example, see section 5 of the *Professional Boxing and Combat Sports Act 1985* (Vic).
Self-represented person	A self-represented person is anyone attempting to resolve a component of a legal problem without the use of legal counsel, whether or not the matter goes before a court or Tribunal.[9]

- END OF PRACTICE NOTE -

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[9] Elizabeth Richardson, Tania Sourdin and Nerida Wallace, Self-Represented Litigants: Gathering Useful Information, Final Report - June 2012 (Report, Australian Centre for Justice Innovation, Monash University, October 2012) 4 [1.15] <https://research.monash. edu/en/publications/self-represented-litigants-gathering-useful-information-final-rep>.