Personal Injury Commission

New South Wales

Procedural Direction PIC13 – Use of Generative Artificial Intelligence (in force from 1 January 2026)

This procedural direction applies to:	Workers Compensation Division, Motor Accidents Division, Police Officer Support Scheme Division
Date of commencement:	1 January 2026

Introduction

1. This Procedural Direction concerns the use of Generative Artificial Intelligence and Artificial Intelligence tools, technology or programs in Commission proceedings. This Procedural Direction adopts, to the extent practicably possible, the Use of Generative Artificial Intelligence (Gen AI) Practice Note SC Gen 23 of the Supreme Court of New South Wales for consistency in approach and to maintain public confidence in the integrity of decision making by the Commission.

Applicable legislation and rules

2. Parties should be familiar with the following provisions:

    (a) sections 3 and 42 of the *Personal Injury Commission Act 2020*, and

    (b) rules 33A, 33B, 133B and 133C of the Personal Injury Commission Rules 2021 (PIC Rules).

Preliminary

3. Gen AI is a form of artificial intelligence that is capable of creating new content, including text, images or sounds, based on patterns and data acquired from a body of training material. That training material may include information obtained from "scraping" publicly and privately available text sources to produce large language models.

4. Gen AI may take the form of generic large language model programs such as Chat-GPT, DeepSeek, Claude, Grok, Llama, Google Bard, Co-Pilot, AI Media or Read AI or more bespoke programs specifically directed to lawyers such as Lexis Advance AI, ChatGPT for Law, Westlaw Precision, AI Lawyer, Luminance and CoCounsel Core. These examples are not intended to be exhaustive. Such programs may use "chatbots" and prompt requests and refined requests from the users of such programs.

5. This Procedural Direction applies to both closed-source and open-source large language model Gen AI.

6. Gen AI is capable of being used to assist legal practitioners and unrepresented parties with various tasks, including drafting documents and summarising information. This Procedural Direction is directed to the circumstances where such use is acceptable.

7. For the avoidance of doubt, for the purposes of this Procedural Direction, Gen AI does not include technology or functionality which merely corrects spelling or grammar, assists with formatting and otherwise does not generate substantive content, and nothing in this Procedural Direction is intended to preclude or apply to the use of:

   (a) search engines such as Google which produce a list of websites that match search criteria but which do not produce an apparently personalised textual answer in response to a specific prompt;

   (b) dedicated legal research software which uses AI or machine learning to conduct searches across material comprising legislation or subordinate legislation, judgments of courts or tribunals, and/or books or articles written for a legal audience.

8. Legal practitioners and unrepresented parties should be aware of limits, risks and shortcomings of any particular Gen AI program which they use. These may include:

   (a) the scope for "hallucinations", that is, the generation of apparently plausible, authoritative and coherent responses but which are in fact inaccurate or fictitious. Examples include false citations and fabricated legislative, case or other secondary references;

   (b) the dependence of Gen AI on the quality and reach of underlying data sets, including the possibility that that underlying database(s) may include misinformation or selective or incomplete data, data that is not up to date or data that is not relevant in New South Wales or Australia;

   (c) the scope for biased or inaccurate output including by reason of the nature or limitations of the underlying data sets;

   (d) the fact that any search requests via a chatbot or interactions or prompts within a Gen AI program may, unless disabled, be automatically added to the large language model database, remembered and used to respond to queries from other users;

   (e) the lack of adequate safeguards, to preserve the confidentiality, privacy or legal professional privilege that may attach to information or otherwise sensitive material submitted to a public Gen AI chatbot; and

   (f) the fact that data contained in a Gen AI data set or database may have been obtained in breach of copyright.

9. Legal practitioners and unrepresented parties should also be aware that data entered into Gen AI programs may be used to train the large language model, potentially making confidential information available to others.

General prohibition

10. Information subject to de-identification or redaction directions of the Commission, the implied (*Harman*) undertaking not to use information produced under compulsion for any purposes extraneous to the proceedings, material produced under a Direction for Production or a Notice to Produce, or any material that is subject of a statutory

prohibition upon publication must **not** be entered into any Gen AI program unless the legal practitioner or person responsible for the conduct of the proceeding is satisfied that the information:

(a)   will remain within the controlled environment of the technological platform being used and that the platform is the subject of confidentiality restrictions on the supplier of the relevant technology or functionality to ensure that the data is not made publicly available and is not used to train any large language models;

(b)   is to be used only in connection with that proceeding (unless otherwise required or permitted by law to be disclosed or required to be reviewed by a law enforcement agency for policy purposes);

(c)   is not used to train the Gen AI program and/or any large language model.

11.   Subject to paragraph 10 and for the avoidance of doubt, a Gen AI program may be used by parties for any of the following purposes:

(a)   the generation of chronologies, indexes and schedules of earnings or schedules of damages;

(b)   the summarising or review of documents and transcripts;

(c)   the preparation of written submissions or summaries of argument, either required by the enabling legislation (such as grounds of appeal), the PIC Rules, or at the direction of the Commission or decision-maker (subject to paragraphs 21 to 23 below).

Written statements, including witness statements or other evidentiary material

12.   In accordance with rule 33A of the PIC Rules, Gen AI must **not** be used in generating the content of written statements, or other material that is intended to reflect a witness's or other person's evidence and/or opinion (such as the claimant or injured worker), or other material tendered in evidence or used in cross examination. This paragraph does not prohibit the use of Gen AI for work that is merely preparatory to the drafting of the statement or other document setting out the witness's or other person's evidence and/or opinion.

13.   Statements should contain and reflect a person's own knowledge, not AI-generated content.

14.   Gen AI must not be used for the purpose of altering, embellishing, strengthening or diluting or otherwise rephrasing evidence when expressed in written form.

15.   All written statements must contain a disclosure that Gen AI was **not** used in generating:

(a)   its content (including by way of altering, embellishing, strengthening or diluting or rephrasing evidence); or

(b)   the content of any annexure or exhibit to the statement, subject to paragraph [16].

16.   For the avoidance of doubt, the deponent of the written statement is not required to make the disclosure referred to in paragraph [15(b)] where the annexure or exhibit was not prepared or created for the purposes of the proceedings. Alternatively, where the deponent is aware that Gen AI was used in the preparation or generation of any

annexure or exhibit to a statement, this must be disclosed. This disclosure must identify which annexure or exhibit has been prepared or generated by Gen AI, the program used, how it has been used, and when.

17. Legal practitioners must ensure that their clients, and/or investigators who are obtaining and/or preparing statements for the purposes of proceedings are aware of these requirements of disclosure, and it is suggested that such disclosure be stated in a paragraph of the statement, as follows:

> "Generative artificial intelligence was not used to generate:
>
> a.   this statement.
>
> b.   any annexure/exhibit to this statement, [where applicable: other than annexure/exhibit marked [insert]]".

Written submissions and arguments

18. In accordance with r 133C of the PIC Rules, Where Gen AI has been used in the preparation of written submissions or arguments, whether the written submissions or arguments are a requirement of enabling legislation (such as written grounds of appeal under s 352 of the *Workplace Injury Management and Workers Compensation Act 1998*), the PIC Rules, or a direction of the Commission and its decision-makers, the author must verify in the body of the submissions that all citations, legal and academic authority and case law and legislative references:

(a)   exist,

(b)   are accurate, and

(c)   are relevant to the proceedings,

and make similar verification in relation to references to evidence in written submissions or arguments to evidence.

19. Such verification must not be carried out by using a Gen AI tool or program.

20. Any use of Gen AI to prepare written submissions or argument does not qualify or absolve the author(s) of any professional or ethical obligations to the Commission or the administration of justice.

Expert reports

21. Expert reports are required to state the opinion or opinions of the expert, and his or her reasoning process.

22. In accordance with rule 33B of the PIC Rules, Gen AI must not be used to draft or prepare the content of an expert report (or any part of an expert report) without it being disclosed in the report.

23. If an expert witness uses Gen AI for any purpose in preparing an expert report which may be used for proceedings in the Commission, the expert witness must:

(a)   disclose in the report what part(s) of it was prepared using Gen AI, the name and version of the Gen AI program and date it was used;

(b)   keep records and identify in an annexure to the report a record of how the Gen AI tool or program was used (for example any prompts used, any default values used, and any variables set); and

(c)   if the use of Gen AI is regulated or addressed by any relevant code of practice or principles that bind or apply to the expert, such as this Procedural Direction, Procedural Direction PIC 4 – Expert Witness Evidence, and the relevant PIC Rules, identify that fact and annex to the report a copy of the relevant code(s) or principle(s).

24.   Examples of the above use of Gen AI may include experts using software that uses Gen AI to analyse sound, graphic or video data, or to interrogate very large data sets, or to conduct statistical analysis.

25.   In an effort to adhere with the Gen AI Practice Notes of the District Court and Supreme Court of New South Wales where work injury damages proceedings are heard, expert reports which are attached to a pre-filing statement within the meaning of section 315 of the *Workplace Injury Management and Workers Compensation Act 1998* and which are filed in the Commission in proceedings (such as Applications to Strike Out a Pre-Filing Statement, Applications to Cure a Defective Pre-Filing Statement, and Applications for Mediation) are subject to the requirements set out above.

26.   Legal practitioners and unrepresented parties must draw the requirements of this Procedural Direction, Procedural Direction PIC 4 – Expert Witness Evidence, and the PIC Rules to the attention of experts when instructing them. This includes, but is not limited to, informing experts such as independent medical examiners or treating medical specialists and allied health professionals who are engaged to prepare a report which may be used in proceedings in the Commission.

Prohibited use of AI during Commission proceedings

27.   In accordance with rule 133B of the PIC Rules, parties must not use or join any artificial intelligence technology, tools, applications or programs to any proceedings before the Commission, held either in-person or virtually. The technology subject of this restriction is not limited to Gen AI, but includes AI assistant technology, such as speech-to-text and transcription applications; virtual courtroom and hybrid hearing management tools; AI-powered translation and language accessibility tools; AI-driven sentiment and behavioural analysis tools, and AI-powered legal chatbots and assistants.

28.   Legal practitioners must be aware of the limits, risks and shortcomings of these tools, including those outlined at [8] above. These tools pose security risks to the confidentiality of Commission proceedings and information, particularly where other parties or attendees are unaware of their use. Any artificial intelligence function must be disabled by the parties at the outset of an audio, audio-visual or hybrid listing.

29.   Use of these tools may also result in a breach of the *Court Security Act 2005* which prohibits any kind of external recording of Commission proceedings, including that provided for in AI assistance technology.

Review

30.   Due to the rapidly developing nature of AI, this Procedural Direction will be periodically reviewed.