Allens

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Generative AI in practice: a guide for in-house legal teams

THE KEY STEPS, USE CASES AND TOOLS IN THE MARKET FOR IN-HOUSE LEGAL TEAMS

The exponential uptake of generative AI has been accompanied by a barrage of warnings about the redundancy of lawyers. Fear not: we're confident that the likelihood of our profession's demise has been greatly overstated!

Like other technology before it, generative AI can help legal teams work more efficiently and effectively, freeing up time to focus on solving more complex issues.

In-house legal teams (***Legal***) are uniquely placed to be early adopters and champions of AI. Not only do you understand its risks and potential broader impacts on the business, but you also have the necessary skills to produce better AI-informed decisions and outputs.

We've designed this guide to help you and your team assess and deploy generative AI across the legal function. This will elevate the value you provide to the business and drive efficiency in the delivery of your services—especially as AI evolves at pace.

The guide covers:

- **initial steps** you can take to experiment with, and identify, potential use cases for generative AI
- potential **use cases as idea starters**
- a **snapshot of tools in the market** that might be complementary to your practice.

While this guide is intended to assist legal teams to deploy AI to support the legal function, we have also

- produced an AI Governance Toolkit to help general counsel and boards implement guardrails across the business; and
- delved deeper into what's on the minds of future-focused in-house counsel.

As always, if you'd like to discuss any of this in greater detail, please get in touch.

Contents

The benefits of early adoption

1 **The best way to understand technology is to *engage directly* with it.** Understanding the capabilities and limitations of AI will assist you in understanding associated risks, developing guardrails for its use, and navigating the evolving legal and regulatory landscape.

2 Being an *adopter* rather than merely a champion of AI use and deployment enables you to **shape the standard for best practice use** of AI across the business.

3 The use of AI, including generative AI, can **streamline processes and minimise the time spent** on manual tasks currently being performed by Legal.

4 Engaging early can assist you in **building trust** within the business, providing confidence that Legal is there to support the business' growth—acting as enablers of innovation *and* mitigators of risk. It supports your involvement in the development of AI governance frameworks for the business by presenting Legal as a well-informed stakeholder to be included in AI-related conversations.

Getting started

To use generative AI effectively within Legal, your team needs to understand its potential, its risks and limitations, and how any use or adoption is likely to be governed within your organisation. Here are six simple steps you can take now.

STEP 1

Ensure Legal is represented in internal AI governance committees and working groups

Whether your organisation has a dedicated AI governance committee or is seeking to appoint one, Legal should be represented alongside other key functional areas to make decisions regarding the oversight, development and use of AI across the business.

In addition to helping Legal implement its own solutions and spot legal and regulatory issues as they arise, this is a great way to understand how others across the business are using AI, and to share and leverage their expertise and insights.

Don't have a cross-functional AI governance committee? Start one. See our AI Governance Toolkit for guidance.

STEP 2

Consider whether your organisation already has policies in place to govern the use or deployment of generative AI

As a starting point, consider whether there is any guidance provided to staff about their use of AI and whether any policies or guardrails are already in place. This information is commonly found in Technology Usage Policies.

Some organisations have also restricted or banned the use of specific generative AI tools, such as ChatGPT, for business purposes—at least while AI policies and guardrails are being developed and implemented (we expect outright bans will be unsustainable longer term).

If this is the case, Legal should consider whether to seek an exemption for low-risk use cases, including to permit access to a separate, quarantined instance of AI systems, should your organisation have one.

STEP 3

Identify whether and how your legal team currently uses AI

The use of AI by lawyers isn't an overnight phenomenon. Legal teams are already using AI to support a range of tasks, including contract due diligence, document review for discovery and regulatory notice responses, and in the development of self-service legal tools for the business, to name a few.

But these use cases require a level of complexity, scale or cost to make AI use 'worth the effort'. Generally, this involves an external counsel engagement (eg for a large discovery or M&A transaction) or procurement of a specific AI technology for the particular use case. However, AI also supports day-to-day work in less visible ways. Billing analysis software, legal research applications and even the predictive text responses that appear in office software all use AI.

Generative AI represents a step-change and is fundamentally different from these examples because it is readily accessible to anyone with an internet connection and is incredibly easy to interact with—everyone can access it and many have tried it, at least in a personal capacity. While on the one hand this presents incredible opportunities for organisations, it also makes visibility and governance of its use far more challenging.

Leading industry bodies have observed that despite AI systems now being central to how organisations operate, most corporate leaders across Australia are unaware of where and how AI is being used. Take the time to undertake a 'stocktake' across Legal to build your awareness.

Getting started

STEP 4

Give your legal team permission to experiment

Experimenting with generative AI is the best way to understand its potential, as well as its limitations.

Create space and permission for your legal team to experiment.

At the outset, encourage your team to use generative AI for *personal use*. This will naturally spark ideas of where and how it could be used to add value across Legal and help support the development of priority use cases for the legal function (see step 5).

Ask your team to share their learnings, including what worked well, what didn't and why.

From a technology perspective, you will need to provide some direction on the circumstances in which your lawyers can experiment with the technology. There are a number of options here—each with particular strengths, limitations, security and investment profiles.

It is also important to ensure your organisation's contractual arrangements with AI companies contain sufficient assurances regarding data security and confidentiality, and that there are operational controls in place to manage key risks.

Experimenting with generative AI

When it comes to using generative AI, one of the more significant issues for Legal is the need to protect the confidentiality of information. Using *the organisation's* information to create prompts (which, in turn, generate responses) risks disclosing confidential information that could be used to train the AI system and that might ultimately be accessible by third parties, including competitors.

To address this risk, some tech companies now offer separate instances or quarantined enterprise versions of their AI systems that enable their customers to use company data to develop prompts within a more secure and controlled environment, and without that data being used to train the overall AI system.

While it's not yet known what limitations this might present when it comes to improving their overall AI algorithm, a quarantined environment can afford organisations the opportunity to experiment with, and benefit from, the AI without compromising the confidentiality of the information being fed into the system.

Getting started

STEP 5

Select use cases for development and testing by the team, and create an implementation plan

Once your team has explored generative AI and developed an awareness of its possibilities and limitations, there's value in brainstorming and prioritising potential use cases for Legal.

Involve your team in the scoping process—this could be as part of a competition with a prize given to the winning idea or via a team activity to workshop key challenges faced by the team and how generative AI might assist.

Evaluate and prioritise potential use cases, focusing more on the processes you are aiming to improve, rather than the technology itself.

Once you've identified initial priorities, estimate the timeframe, next steps and owners to get them done.

Your 'portfolio' should ideally comprise a mix of small, quick wins and one or two larger, more transformative use cases.

Once priority use cases are selected, set metrics to help measure the success of the AI use case. This might include time saved, adoption and usage rates by team members, team productivity and reliability of the AI.

Criteria for selecting and prioritising AI use cases

What are the benefits?

Articulate how the use case is going to help the legal function and broader business. Does it save time, reduce costs or improve your team's work lives by reducing mundane tasks? Does it help you empower the business to do things that previously went to your team? Does it enable you to use lower-cost resources for some of your work? Represent these as a series of simple statements.

What is the scale?

Estimate the scale of the improvement. Does it improve or automate a process that happens once a week, or 20 times per day? Represent this as 'lawyer and business hours saved for each process, multiplied by the number of times a process occurs'.

What are the costs?

Consider the potential time investment to properly explore and implement the use case. Are there additional technology costs that will be required? Is implementation of the use case feasible in light of your existing resources and budget? If not, do you need additional support from the business or an external provider to proceed with this use case?

What is the feasibility?

Consider the feasibility of your team exploring the use case. Do you have the technical skills and technology tools required? If not, how might you procure them?

What are the risks?

Consider and record potential risks and challenges associated with the use case (eg confidentiality, privacy, cybersecurity or ethical risks). Outline possible mitigation strategies for the risks identified. Engage with your internal AI governance committee for guidance or to 'test' any use cases of particular concern.

What is the viability and potential return on investment?

Use the above criteria to assign a score for viability and a calculated ROI comparing estimated time and costs to implement with potential benefits of each priority use case. Ask: is it really necessary to use generative AI for this use case, or is there a simpler, lower-risk alternative that meets the requirements just as well?

Limited capacity or budget?

Consider tapping into the expertise of your panel law firms, which will be able to share the outcomes of their own generative AI R&D and assist you to develop and implement your own use cases.

Getting started

STEP 6

Implementing your solution

Once you've identified your top priorities, consider identifying a 'pilot' use case to progress. Assign responsibilities and allocate capacity across the team to implement this.

Ensure appropriate warnings and guardrails are in place. These might include not using confidential information in any prompts, scrutinising the output of generative AI (including for accuracy, currency and potential bias of the information contained in responses), and also considering any intellectual property and legal professional privilege issues.

What guidance should we give our lawyers about their use of generative AI?

Policies should be updated to address the use of AI, especially generative AI, to ensure that all staff are made aware of key limitations, risks and their obligations. At a minimum, users should consider the following:

Accuracy

Don't rely on the accuracy of the AI output. Check everything with reliable sources. Users are responsible for the accuracy and completeness of their work. Be aware of potential biases as models often 'learn' from data that reflect existing biases within society. The AI can sometimes generate inaccurate or nonsensical information, known as hallucinations, which could have serious consequences if used in important contexts.

Where appropriate, warn users of the risks and limitations of the technology—you may need to include disclaimers and/or limitation of liability provisions to ensure you are not liable for the output.

Attribution

It can be difficult to understand exactly how decisions are made and responses are generated, and the source of information is often not referenced or made available to users. Where AI-generated content is used in work, users should acknowledge the use of AI and clearly identify the AI-generated content.

Appropriate and responsible use

Encourage the responsible use of AI, noting that generative AI may not be appropriate for all circumstances and will sometimes be unsuitable for use. Be aware of possible legal implications, such as the potential risk of eroding legal professional privilege through uploading privileged legal advice. Encourage your team to use good judgement and common sense regarding when to use it and, if they aren't sure, to check with a senior member of the team.

Privacy and confidentiality

Specific guardrails will depend on whether your organisation has its own quarantined enterprise version of an AI system available for use, or if your users are leveraging a publicly available system.

If in doubt, users should be cautioned against including personal, sensitive, proprietary or confidential information in any prompts to the AI platform.

Idea prompts:
potential use cases for in-house legal teams

There are many potential use cases for generative AI that provide opportunities to optimise both the legal and administrative parts of our jobs. Below are a number of idea starters for Legal—many of which we are currently exploring at Allens.

Chatbot for Legal FAQs

Develop a 'Legal chatbot' with detailed and factual answers to common questions asked by the business. Generative AI is particularly useful in this context due to the conversational tone and ability to contextualise answers based on questions that we see in many generative AI technologies.

Legal research and document review

- Locate, summarise and analyse cases, legislation and regulations from multiple sources.
- Summarise long journal articles or judgments.
- Extract deal points from contracts.
- Analyse whether a contract aligns with an existing precedent.

Intellectual property

- Search for patents, trademarks and copyrighted material.
- Assist with preparing patent and trademark applications.
- Assist with filing applications and conducting research.

Drafting legal documents

Support contract drafting by suggesting clauses and providing legal language that is compliant with relevant laws and regulations.

Translation of information

Translate written content into a number of languages with potentially better accuracy than many existing products.

Training and education

- Provide legal training and education to legal team members, business units and other stakeholders by answering legal questions and giving relevant information.
- Support the development of training materials, including using a specific 'style' or 'voice'.

Writing and drafting tasks

- Prepare first drafts of emails, presentations and papers for stakeholders.
- Redraft materials in a particular style or format (eg review external advice and provide summaries for senior stakeholders, make writing more (or less) formal, convert a paper into a presentation, present information in a timeline or chronologically).

Tip! Always consider whether there is a better way of achieving the use case that doesn't involve generative AI.

A snapshot of generative AI tools (as at July 2023)

This is a point-in-time overview of some of the tools that are currently available in the market, and some that soon will be. To help you make sense of the market, we have framed this by reference to the *categories* of tools and their key *characteristics*, and provide limited examples of products that fit within those categories. This is not a comprehensive list, nor is it intended to be; it's simply a place to start.

Chatbot

Thanks largely to ChatGPT, chatbots that use conversational AI to interact with users are one of the most well-known generative AI product types. However, ChatGPT is just one of many in this popular category. Examples of conversational AI chatbots are:

- ChatGPT
- Bing Chat
- Lexis+ AI
- Harvey
- Google Bard
- HuggingChat
- Claude
- CoCounsel
- Microsoft PVA

Plugin/integration

Plugins and integrations are a good way for existing applications to add generative AI functionality to their products and, in some cases, to integrate their products into other applications.

Integrations into mainstream software

Microsoft: is in the midst of adding GPT-4's conversational AI capabilities to its entire product suite under the name 'Copilot'. Depending on the particular application, the AI is surfaced differently, so in Word for example, Copilot takes the shape of a drafting assistant. In Power Virtual Agents, it's a 'describe it to create it' implementation that lets users describe what they want the chatbot to do. Copilot then assembles a first draft instantaneously.

Google: is adding AI capabilities to its Workspace productivity suite that complement and extend the AI-powered grammar, spellcheck and composition assistance already in its Gmail and Docs products. Known as 'Duet AI for Google Workspace', the conversational AI assistant will provide help across Docs and Gmail ('help me write'), Slides ('help me visualise and organise '), and Sheets ('help me organize').

Thomson Reuters: is integrating conversational AI into its Westlaw Precision (Ask Westlaw) and Practical Law (Ask Practical Law) products. It is also inserting its content into Microsoft Word through a plugin in Microsoft's Copilot (Thomson Reuters Legal Drafting with Microsoft Copilot). It is also bolstering its position in the market through the acquisition of Casetext, the maker of CoCounsel.

LexisNexis: has announced Lexis+ AI, its conversational AI assistant that helps users search, summarise and draft content. It is also launching Lexis Connect, an MS Teams plugin that provides matter-management workflows coupled with a conversational AI research assistant directly within the MS Teams environment.

OpenAI: ChatGPT's recently released Plus subscription makes additional functions available to paying users. One of these functions is a plugin store of third-party plugins that can be combined to achieve highly specific outcomes. For example, 'VoxScript' is a plugin that finds and summarises specific content on the internet, including financial information and web content. Another plugin, 'Show Me Diagrams', converts written content into a diagram. By selecting both plugins, you can instruct ChatGPT to find and summarise information relating to a specific topic and then produce a diagram of that information.

A word of caution: the plugins in ChatGPT's store vary widely in reliability, utility and intent. Treat them all with the same scepticism that you would an unknown app from an unknown publisher in Apple's app store or in Google Play until you have satisfied yourself otherwise.

A snapshot of generative AI tools (as at July 2023)

Types of technologies and operating environments for legal teams

While not intended to be exhaustive, this snapshot of tools demonstrates how quickly the market is moving.

Six months ago, ChatGPT was just surfacing in the public's consciousness. Today, generative AI is being integrated into products we've used for years and will profoundly change the way we interact with information (both our own and from third parties) through those products. A nascent ecosystem of integrations and plugins has sprung up, giving new life and utility to products that were previously difficult to use. Generative AI has also leapt the boundary between computation and our understanding of creativity, with music, art and literature all able to be generated with the click of a button.

The pace of progress is breathtaking, but don't let this discourage you or your team from getting started. Explore some of the tools that are available and use them to help you unearth potential use cases. As with any skill, your use of generative AI will improve over time as you engage with tools and develop your knowledge of how to get the most out of the technology you are using.

To support you and your team on your journey, the generative AI marketplace also contains products that help customers make better use of these new technologies.

Exploring the offerings of companies that provide environments and related services (such as those in the grey box) will help you better understand your options once you're ready to begin.

For those in the MS365 ecosystem, Microsoft has just released its Azure OpenAI Service *on your data* in Public Preview. As the name suggests, MS365 customers can configure OpenAI models such as ChatGPT and GPT-4 to work with their own data. These models both leverage their pre-trained knowledge and also access your own specific data sources, ensuring that responses are based on the latest available information you hold, as well as the sum of the models' existing knowledge.

273 Venture's Kelvin Legal Data OS, provides a collection of software and data components (including generative AI models) that are designed to work together to solve common problems in the legal sphere. Be mindful that this is an operating system, not an application. You will need to have (or hire those with) the right skills to create an application using the software and data components that are provided.

Lega, a generative AI sandbox environment, provides the capability to 'in a few clicks, build and configure API-driven solutions powered by different large language models through a single enterprise platform'.

Hugging Face is a further example of a company that provides a platform for learning about, building, training and deploying AI, with a focus on open-source technologies.

But how do we get our datasets into shape so that we can use generative AI models on them with confidence? This is a problem that Smartspace has decided is worth tackling. Smartspace helps businesses prepare to deploy AI models by transforming and unifying data from a wide range of sources within the company.

A snapshot of generative AI tools
(as at July 2023)

General and Legal use tools

Generative AI is transforming how we find and interact with information. A range of products are now emerging that are more precisely able to target information relevant to discrete groups, including products that are specifically designed for use in the legal industry.

General audience

Chatbots

ChatGPT (OpenAI)
Bing Chat (Microsoft)
Bard (Google)
CLAUDE (Anthropic)
HuggingChat (Hugging Face)

Plugins/integrations

Copilot (Microsoft)
Duet AI (Google)
Power Virtual Agents (Microsoft)
VoxScript (GPT-4 plugin)
Show me (GPT-4 plugin)

Related service

Smartspace

Legal audience

Chatbots

Harvey
CoCounsel (CaseText / Thomson Reuters)

Plugins/integrations

Lexis+ AI (LexisNexis)
Lexis Connect (LexisNexis)
Westlaw Precision (Thomson Reuters)
MS Word Legal Drafting Copilot (Thomson Reuters)

Operating environment

Kelvin Legal
Lega

As with the procurement of any technology, supplier risks need to be carefully managed when determining where to invest in the generative AI landscape. A number of factors should be considered, including the size and backing of the vendors behind the products, whether your organisation's data is being used to train the supplier's AI, and whether a separate instance of the tool can be provided for the sole use of your organisation.

Looking forward

Legal in the lead

The application of generative AI is still too new for best practice to have emerged.[1] That said, government and industry bodies have flagged corporate adoption of generative AI as a high priority, with ASIC Chair Joe Longo calling out that '[j]ust because the technology has changed nobody should think that means your existing obligations around good governance have changed with it. They haven't'.

Legal's early adoption of this technology can yield significant benefits and holds tremendous potential for driving efficiency, innovation and strategic advantage within your business. But it's a process of progressing with caution. It is essential you review your internal policies to ensure they align with the use of AI and allow for its ethical and responsible adoption. Active participation by Legal in AI working groups is also essential—enabling you to contribute your expertise and shape your business' AI initiatives.

By staying informed about the current and proposed use of AI across the business, Legal can proactively identify opportunities for integration and ensure compliance with existing and emerging regulations. Moreover, enabling your team to experiment with generative AI fosters a culture of continuous learning and empowers your people to explore innovative solutions to complex legal challenges.

Finally, developing a comprehensive implementation plan for use cases, setting clear objectives and defining success metrics will pave the way for a seamless integration of generative AI within Legal. By embracing these steps, you and your team can harness the full potential of generative AI, revolutionising the way legal work is conducted and driving transformative outcomes for your business.

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1 Recently released discussion papers and standards include:
- Australian Government, Department of Industry, Science and Resources | Supporting responsible AI: discussion paper
- Standards Australia | Introduction to Standards for Artificial Intelligence
- ISO/IEC 23894:2023 | Information technology — Artificial intelligence — Guidance on risk management
- Solomon, L, and Davis, N, (2023) The State of AI Governance in Australia, Human Technology Institute, the University of Technology Sydney.