

# What are the new best practices for AI for legal teams?

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Further reading:

- [I, Robot-Reviewer? Generative AI and the future of eDiscovery](#)
- [What's new with artificial intelligence regulation in Canada and abroad?](#)
- [Is AI judging me? Canadian courts and AI](#)

The legal industry is going through a period of rapid change driven by advances in technology. In this context, it is more important than ever for legal professionals to understand generative artificial intelligence (Gen AI) and how it can be incorporated into legal practice. Gen AI tools provide a competitive edge, create efficiencies in service delivery, and have the potential to increase access to justice. Lawyers must consider their own business case and choose Gen AI tools that work for them.

## Setting the context

While Gen AI may be the current buzzword in legal practice, artificial intelligence has a deep history in the field of computer science. In 1950, Alan Turing published his seminal paper, *Computing Machinery and Intelligence*<sup>1</sup>, introducing the world to the revolutionary possibility that machines could think. Since then, computer science has been attempting to design systems that can replicate the ease and efficiency of the human mind. This quest was driven, in part, by the concept of [neural networks](#) or “deep learning,” a theory of data processing that took the human brain itself as inspiration for machine learning.



Today, Gen AI is no longer a possibility but an inevitability, and as governments, industries and individuals integrate this new technology into daily life, the legal profession must be prepared to keep pace with its ever-evolving impact.

By the 2010s, the technology sector brought deep learning to market, resulting in a proliferation of Gen AI tools that give users the ability to create text, images, audio, video and more. Today, Gen AI is no longer a possibility but an inevitability, and as governments, industries and individuals integrate this new technology into daily life, the legal profession must be prepared to keep pace with its ever-evolving impact.

## The legal tech landscape

Although some of the larger legal firms have relied on AI solutions for over a decade, the recent explosion in user-friendly, industry-specific Gen AI tools has drawn increasingly sharp interest from those in the legal industry. Significant investment has led to the development of Gen AI tools that are purpose-built for the legal industry, including document automation, eDiscovery, legal research and drafting, and prompt engineering, all of which allows lawyers to optimize the outputs of AI-powered legal technology while instructing the tool using natural language text.

## Understanding your business case

Successful organizational change happens when lawyers understand the needs of their own business, and many Gen AI tools can create significant efficiencies to help meet those needs. However, lawyers must be careful to choose the correct legal tech to fit their particular use case.

In this context, the benefit of pilot programs cannot be understated. By clarifying the business case for the use of Gen AI tools and testing them in a focused, purposeful way, you can understand what works best for your business. Build a small team, comprised of both AI champions as well as skeptics, to thoroughly test a Gen AI tool and provide balanced feedback before rolling it out to the entire organization (for more on integrating AI tools into your legal practice, read [“Rules for AI tools: how can legal teams source suitable tech?”](#)).

## Avoiding pitfalls

While pilot programs can help organizations understand the benefits of a particular tool from a business perspective, law firms must make equal efforts to understand the risks. Before adopting any Gen AI or technology-driven legal tool, law firms should engage their technology leadership to ensure that all cybersecurity, client confidentiality, and privacy risks have been considered well in advance of adopting any new technology. Have a technology lawyer review license terms and service contracts to ensure that all possible areas of future friction have been thoroughly considered.

Gen AI finds its strengths in efficiency, responsiveness, scalability, and the ability to streamline repeatable tasks. Its weaknesses can include bias, data quality and training issues, privacy and confidentiality issues, and equitable access. Once all the benefits and risks have been identified, law firms should conduct a comprehensive risk analysis to ensure that any prospective Gen AI tools will provide anticipated results (for more on building strategic AI governance frameworks, read [“The board says we need an AI strategy. How do we start?”](#)).

Lawyers must also consider their professional obligations when considering whether to use Gen AI in legal practice. Rule 3.1 of the Federation of Law Societies of Canada’s [Model Code of Professional Conduct](#) requires lawyers to be competent: lawyers must “[have and apply] relevant knowledge, skills and attributes in a manner appropriate to each matter undertaken on behalf of a client and in the nature and terms of the lawyer’s engagement”. Technological competence is specifically referred to in the Model Code at Rule 3.1-2<sup>2</sup>. In addition to professional best practices, lawyers should consider their professional obligations as set out by their law society.

# Legal industry best practices

Provincial law societies have published helpful guidance as part of their effort to address the professional implications of using artificial intelligence. Recent examples include the Law Society of Ontario's white paper entitled [Licensee's use of generative artificial intelligence](#), the Nova Scotia Barristers' Society's [Artificial Intelligence in the Practice of Law](#) and the Law Society of British Columbia's [Guidance on Professional Responsibility and Generative AI](#).

The courts have also weighed in on the proper use of Gen AI in legal proceedings. For example, the Federal Court of Canada published [Interim Principles and Guidelines on the Court's Use of Artificial Intelligence](#) on December 20, 2023. This document sets out key principles that will guide the potential use of AI by members of the court and their law clerks. On December 20, 2023, the Federal Court also published [The Use of Artificial Intelligence in Court Proceedings](#), which sets out a requirement for counsel, parties, and interveners to declare AI-generated content when they participate in legal proceedings.

## FOOTNOTES

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*To discuss these issues, please contact the author(s).*

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