



Generative AI Guidance for Real Estate Licensees

Issued by the Registrar of the Real Estate Authority under the Real Estate Agents Act 2008 on 12 November 2024



Real Estate Licensees and Generative AI

This document is issued by the Registrar of the Real Estate Authority as guidance for the real estate sector in accordance with the purposes of the Real Estate Agents Act 2008. It has been prepared following feedback from licensees including representatives participating in REA's Industry Advisory Groups. This guidance is general and non-exhaustive.

REA encourages all licensees to undertake their own due diligence and seek legal and/or technical advice on their use of Gen AI technology. REA encourages agencies to have in place policies regarding the use of Gen AI in their businesses. REA will review this guidance as technology and Gen AI use evolves.

Introduction

1. Generative artificial intelligence (Gen AI) is fast developing, with increasing use in all sectors and industries across the globe. It has the potential to significantly impact the real estate industry, presenting opportunities and challenges for licensees and consumers alike.
2. Along with these transformative benefits come both commercial and compliance risks, and it is important that licensees using these tools are mindful of their professional obligations and their duty to their customers and clients while using these tools. All licensees are ultimately responsible for the real estate services they provide, the fact that any error was made by a Gen AI tool used by the licensee will not be a defence to any breaches of a licensee's professional obligations.
3. The purpose of this guidance is to assist licensees as they consider how they will engage with this technology as part of undertaking real estate agency work and meeting compliance obligations. It provides guidance on factors licensees should consider to manage the potential risks associated with the use of these tools.
4. This guidance is both general and non-exhaustive. REA encourages all licensees to undertake their own due diligence and seek legal and/or technical advice on their use of these tools. REA encourages agencies to have in place policies regarding the use of AI in their business.

What is Gen AI?

5. Generative AI is a type of AI that uses algorithms to create new 'outputs' or content (including creating text, images, video/audio). It uses 'prompts' (which are questions or instructions given by the user) to create content that closely resembles human-made content using large quantities of existing data or data that has been fed in. Gen AI tools are described as being "trained" with inputted information. They will also access sources across the internet for information.
6. In simple terms, traditional AI 'recognises', while Gen AI 'creates' new content based on its training data. There are a wide range of available Gen AI tools. These include paid, free, open-source and privately owned. Some better-known Gen AI tools include ChatGPT, Bing Chat, Google Bard, GitHub Co-Pilot, and Dall-E.
7. Gen AI is already being used in New Zealand and overseas to support business effectiveness and enhance service offerings to clients.

AI: What are the opportunities for Real Estate?

8. As with any evolving technology, opportunities for users are constantly evolving. In the real estate sector, Gen AI is already being used in a number of practical ways to enhance sales processes and customer interactions. Examples include:
 - AI algorithms can analyse vast amounts of property data and market trends to generate property valuations; aiding real estate professionals in pricing strategies and negotiations;
 - Virtual staging tools powered by Gen AI digitally furnish properties based on design preferences and market trends, allowing agents to showcase potential spaces to prospective buyers;
 - Gen AI tools can be used to draft documents, including marketing scripts, email content, and other written material;
 - Gen AI tools can be used for simple customer engagements, such as booking appointments;
 - AI may be used to respond to frequently asked questions on real estate transactions, and to source publicly available information
9. As Gen AI is rapidly developing, the use cases for these technologies will continue to evolve, and we expect to see more and more licensees using these tools to support their work.

Gen AI: What are the risks for Real Estate?

10. All licensees are responsible for the real estate services they provide including when they use Gen AI tools. While there may be a number of potential benefits associated with the use of Gen AI, there are also corresponding risks which should be taken into account and managed appropriately.
11. From a regulatory perspective it is important to note that your obligations as a licensee under the Real Estate Agents Act 2008 (REA Act), and other legislation remain with you, even if you are using a technology tool as part of your work. Failure to meet legislative and regulatory requirements, and/or the expectations of your clients, could lead to customer harm, reputational damage, customer complaints and disciplinary action. The fact that any error was made by a Gen AI tool will not be a defence to any breaches.
12. Careful human oversight of the use of Gen AI is vital to ensure that it is used ethically and responsibly. As such, when using Gen AI, it is essential to ensure that you have sufficient safeguards in place to meet your legal and regulatory requirements.
13. Agencies and supervisors may also be held to account for breaches by salespeople and other staff members under your supervision. As such it is important that agencies and supervisors take the time to understand this evolving technology, understand how it is being used in the agency, and take steps to ensure that appropriate processes, policies, controls, and checks are put in place to ensure they are used appropriately and in a way that does not breach any obligations.
14. The following section outlines some of the specific areas of risk for licensees using Gen AI and the associated regulatory and professional obligations. This is not a complete list and licensees should be alert to the use of Gen AI in all of their obligations.

Gen AI: Specific regulatory considerations

Accuracy and completeness of information

15. All licensees have a requirement to exercise skill, care, competence and diligence at all times (rule 5.1). This creates a general responsibility for the quality and competence of the work you do, including in the production of customer facing documents such as appraisals and marketing materials and making sure you take the time to read and understand information about the property you are selling.
16. When it comes to ensuring all parties have access to the right information, licensees have a broad range of disclosure obligations (e.g. under rules 6.4 and 10.7) alongside more general regulatory obligations around the accuracy and completeness of information including the prohibition on false and misleading statements under the Fair Trading Act.
17. Licensees also have obligations to ensure consumers are provided with guidance and information. For example, the obligation to ensure approved guides are provided alongside contractual documents, or to recommend that the customer or client seek legal advice. Licensees are ultimately still responsible for ensuring this information reaches the recipient even if the licensee is relying on Gen AI tools to send it out.
18. Improper, negligent or incompetent use of Gen AI could lead to a serious breach of these obligations.
19. It is important to remember that while Gen AI can produce information, it does not have the ability to understand what it is producing, in the way a person can. Gen AI can therefore create inaccurate or false information. Gen AI can create content that may sound and look good but is actually inaccurate or incomplete. This can carry significant risks where technology tools are being used to generate things such as marketing materials or appraisals or where it is being relied upon to summarise information such as LIM or builder reports. It is important that, at the very least, where Gen AI tools are used steps are taken to fact-check the accuracy, relevance, and completeness of material produced.

Privacy, data protection, cyber security

20. The use of Gen AI involves inputting data into the tool. Be aware that the AI provider may well be able to see both your input data and the output that the tool produces. This can create a privacy risk and licensees should be mindful of their obligations under the Privacy Act, as well as their obligations around confidential information in the Code of Conduct (for example rule 9.17).
21. Government guidance recommends against inputting personal and client information into external AI tools. Cybersecurity risks can also be associated with the use of Gen AI. CERT NZ provides tailored guidance and regularly updated warnings for businesses in relation to cyber security issues which agencies should be familiar with.
22. At the very least agencies should turn their mind to their obligations, any safeguards required, and what customer disclosure or consent is required.

Embracing the opportunity and managing the risks

23. The use of Gen AI has the potential to enhance the way that licensees deliver real estate services, delivering benefits both to real estate professionals and the clients and vendors that they work with.

Agencies

24. For agencies we recommend that you actively engage with your teams around the use of Gen AI tools, with a focus on:

- Understanding how Gen AI works and what its limitations are;
- Understanding the legal, regulatory, and professional obligations that apply when using Gen AI; and
- Ensuring clear policies, processes and procedures are in place to cover the use of Gen AI including carefully managing confidentiality and privacy.

Licensees

25. For individual licensees we recommend that you:

- Understand your professional obligations, and how Gen AI may impact your professional and regulatory obligations;
- Engage with your agency around the use of these technology tools, including adhering to any guidance or policies around the appropriate use;
- Take personal accountability for ensuring any Gen AI tools you use are used appropriately.
- Ensure that the interests of your customers and clients are protected, and high standards of service and conduct are maintained.
- Seek advice and guidance if you are unsure of the risk that might arise or how the risk can be mitigated.

Other Resources

- Law Society guidance: [NZLS | Generative AI guidance for lawyers \(lawsociety.org.nz\)](https://www.lawsociety.org.nz)
- Privacy Office guidance: [Office of the Privacy Commissioner | Artificial Intelligence and the IPPs](#)
- Department of Internal Affairs: [Guidance for use of Gen-AI in the Public Service](#)

Generative AI: Summary for Licensees

Gen AI is a rapidly developing tool with increasing use across the real estate sector. REA has released general guidance for the sector - this is a summary.



Some Real Estate specific regulatory considerations

If licensees choose to use Gen AI, they must take care of their professional obligations and duties to customers and clients while using these tools.



Information accuracy and completeness is your responsibility

While Gen AI can produce information, it does not have the ability to understand what it is producing, in the way a person can. It can therefore create inaccurate or false information.

All licensees have a requirement to exercise skill, care, competence and diligence at all times (**Code of Conduct rule 5.1**). This creates a general responsibility for the quality and accuracy of the work you do. It is essential to fact check the accuracy, relevance and completeness of material produced by Gen AI, and used in your real estate agency work.



Be aware of privacy, data protection, & cyber security risks

The use of Gen AI can involve inputting data into the tool. The Gen AI provider may be able to see the data - this can create a privacy risk, and licensees must consider their obligations under the **Privacy Act**, as well as obligations around confidential information in the Code of Conduct (for example rule 9.17).

Cybersecurity risks can also be associated with the use of Gen AI. **CERT NZ** provides tailored guidance and regularly updated warnings for businesses in relation to cyber security issues.



Embracing the opportunity and managing the risks

REA encourages:

- licensees to seek legal and/or technical advice on their use of Gen AI,
- agencies to have policies in place for using Gen AI in their business.



Agencies

Actively engage with your teams around the use of Gen AI tools:

- Understand how Gen AI works and what its limitations are,
- Understand the legal, regulatory, and professional obligations that apply when using Gen AI, and
- Ensure clear policies, processes and procedures are in place to cover the use of Gen AI including carefully managing confidentiality and privacy.



Licensees

- Understand your professional and regulatory obligations and how Gen AI may impact them,
- Engage with your agency around the use of these tools, including adhering to any guidance or policies around appropriate use,
- Take personal accountability for ensuring Gen AI tools are used appropriately,
- Ensure that the interests of your customers and clients are protected, and high standards of service and conduct are always maintained,
- Seek advice and guidance if you are unsure of the risk that might arise or how the risk can be mitigated.



View REA's Real Estate Sector Gen AI Guidance on [REA.govt.nz](https://www.rea.govt.nz)