



Using AI in your business

What to consider?

Artificial intelligence (AI) has developed from a futuristic concept to a mainstream tool used by many businesses on a daily basis. The exponential growth of AI in recent months/years is hard to miss, with various industries adopting the technology to streamline operations and boost productivity.

For business owners, the prevalence of AI presents both opportunities and challenges. AI can improve efficiency, generate new ideas and identify opportunities but, like many emerging technologies, it also comes with risks that should be carefully managed.

The Ministry of Business, Innovation and Employment recently released AI guidance entitled *Responsible AI Guidance for Business* to assist with the use and development of AI systems ethically, responsibly and effectively across all types of businesses. We outline some of the key risks and practical strategies discussed in the *Guidance* to proactively mitigate challenges before they arise.

Key risks

Bias: If an AI tool has been trained on biased data, it may produce biased results. When collecting data, AI systems may reflect patterns of your historical decision-making which can lead to inaccurate results.

If this data is then used to make business decisions, it may output biased outcomes. An example of this is biases in personnel data. If an AI tool is trained on existing data held by your business to review job applications, it may produce results that reflect historical inequitable hiring trends, for example, gender, race or age. This could create bias or, at worse, discrimination and human rights challenges.

Errors: Generative AI is also susceptible to inaccuracies and errors in results. In some cases, AI systems can generate what are often referred to as 'hallucinations.' These are outputs that appear credible but are in fact fabricated or entirely false. This happens when the system fills gaps in knowledge with plausible sounding

In this issue +

- 1 Using AI in your business – What to consider?
- 3 Digital assets and your estate – Why planning ahead matters
- 4 Age of consent – What you can do at 16, 18 and beyond
- 5 An opportunity to make a difference – A gift to charity in your will
- 6 Postscript

information, presenting it as fact. Such inaccuracies can create operational, reputational and legal risk.

The prevalence of these false or misleading outputs underlines the importance of maintaining human oversight over AI-based activities to ensure outputs are accurate. A business may be liable for the inaccurate output of AI tools. This could also include a situation where the output infringes third party intellectual property rights.

Using datasets that are accurate, compliant with regulations and transparent can help to reduce risks of inaccurate output. Accuracy is likely to improve over time as AI technology improves, and layers of audit/checks/balances are built into AI tools.

Privacy and cybersecurity: Many generative AI systems collect, store and use data inputs to train themselves and to generate future responses. This creates risks of privacy, confidentiality and cybersecurity breaches if data is input into systems that allow this. A breach of this nature is likely to have serious implications. Even in closed systems, data processing usually occurs on third-party platforms which could have vulnerabilities to data leaks or cyber-attacks.

Comprehensive reviews of AI tools, how they work practically, and their terms and conditions, should be undertaken. This will allow your business to have a clear understanding of the risks and make an informed decision as to whether use of the AI tool is compliant. Specific privacy impact assessments should also be undertaken.

AI tools, by their very nature, are very powerful at processing large volumes of data. This means they can often find data on systems which is otherwise inaccessible to a lay user. Role-based permissions should be set up, prior to AI tool implementation, to ensure that AI tools can only access data that is appropriate for that role. The *Guidance* recommends adopting data anonymisation, encryption and secure storage to help protect confidential and personal information.

In terms of business implementation, the *Guidance* suggests beginning AI rollout in low risk areas and maintaining human oversight in relation to AI-related activities and output. When AI is involved with providing data to guide major decisions that may have significant or widespread impact on your business, having a human review aspect can avoid mistakes or unintended consequences.

Getting the foundations right

Purpose: The *Guidance* encourages businesses to start by considering its purpose for adopting AI. It is important to be clear from the outset about what you want to achieve with AI; this will help direct your integration strategy, and ensure that it aligns with your commercial goals, business values and legal responsibilities.

Establishing AI usage policies early on can help guide responsible AI use and prepare your business for the inevitable challenges that will arise. Policies will need to be regularly reviewed to deal with the fast pace of change in this area.

Legal compliance: When adopting or developing AI systems, your business must ensure compliance with all relevant statutory, regulatory and contractual obligations. Obligations will vary widely based on the industry and sector in which you operate, but will generally always include privacy, intellectual property, consumer protection, confidentiality and contract law.

This means understanding how AI interacts with existing legislation and ensuring that AI use does not inadvertently breach obligations. You should proactively assess legal risks and ensure the roll-out of the AI tool complies. Policies can be implemented within your business to address any risk areas with staff and operations.

In some cases, changes to business practice may be required. For example, changes to terms of trade and privacy policies to seek permissions and/or to be clear where AI is to be used so customers or contracting parties are not inadvertently misled. In some cases, contractual variations may need to be sought for existing relationships. Documenting decisions is also helpful should there be any compliance challenges in the future.

Governance: Regardless of the size of your business, the *Guidance* recommends establishing a team with a diverse skill set in security, technology, privacy, legal compliance, AI education and stakeholder communications. This will help identify, manage and mitigate unintended risks associated with AI usage, as well as ensuring decisions about AI use are aligned with your organisation's values and broader legal obligations. Such a team could create, implement and update any AI usage policies.

Risk management: AI can expose and amplify existing risks, so it is important that risk management practices are adopted early. It is vital to develop policies and protocols which provide for a structured approach to identify, assess, manage, record and review risk. These plans help ensure your business can respond quickly, minimise harm, and meet legal or contractual obligations if something goes wrong.

As part of this process, your business should also consider the potential impact on stakeholders such as staff, clients and shareholders. Meaningful engagement and stakeholder impact assessments can help inform the development of AI policies and reduce reputational and operational risks.

Conclusion

AI offers businesses significant opportunities to improve efficiency, generate insights and drive innovation. However, as highlighted in the *Guidance*, realising these benefits responsibly requires more than simply adopting the technology.

Engaging with the *Guidance* will assist you to reduce risk and align AI use in your business with ethical and legal expectations. +





Digital assets and your estate

Why planning ahead matters

For many New Zealanders, daily life is now as much online as it is offline. From internet banking and investment platforms to email accounts, social media, cloud storage and cryptocurrencies, our 'digital footprint' has become an important part of who we are and what we own.

Yet most wills and succession plans still solely focus on traditional assets such as property, shares and savings. Digital assets are often overlooked, leaving families and executors struggling to access information and take control of these assets when the will-maker dies.

What are digital assets?

Generally speaking, a digital asset is any item of value that is in an electronic or virtual form (rather than physical). These include:

- + Financial accounts – internet banking, investment platforms, PayPal or electronic wallets
- + Blockchain assets, non-fungible tokens (NFTs) or cryptocurrencies
- + Personal content such as photos, videos or documents
- + Social media accounts – Facebook, Instagram, X (formerly Twitter) or TikTok accounts, and
- + Business platforms – domain names, websites, email lists or digital records.

Some of these assets can hold significant financial value. Others may be priceless to family members wishing to preserve a loved one's memories.

Planning ahead is important

Digital assets are protected by passwords, encryption and restrictive service agreements. Executors cannot simply assume control of online accounts and services without legal authority. This can cause significant problems:

- + Executors may be locked out of key accounts
- + Valuable assets can be lost if no one knows how to retrieve them – especially cryptocurrencies that are unrecoverable without a private key, and
- + Service providers may refuse access due to privacy or contractual limits.

The courts have recognised that certain digital property, such as cryptocurrencies, can be legally owned and held on trust.¹ However, ownership of many other online assets, such as social media accounts or cloud storage, is less certain, as users often hold only a licence, which may be non-transferable and could terminate on their death.

New Zealand's legal grey area

New Zealand law has yet to fully catch up with the digital age. The Wills Act 2007 and Administration Act 1969 do not specifically address digital assets. Executors, therefore, must often rely on general property law, privacy regulations and the terms of individual service-providers.

Some overseas jurisdictions, including several US states, now grant executors explicit rights to access digital assets after the will-maker's death.

Until similar reform occurs here, careful planning remains the best protection to ensure digital assets can be accessed, managed and transferred according to the will-maker's wishes.

What to do now

- + Make a digital inventory – list all your online accounts, platforms and digital property
- + Store login credentials securely – avoid including passwords in your will, as it becomes public after probate. Instead, store passwords securely using a password manager, encrypted file or a separate memorandum of wishes held safely with us
- + Appoint a digital executor or include specific instructions in your will – specify who can access, manage or close your digital assets
- + Address cryptocurrencies directly – record how and where private keys or hardware wallets are kept. Without them, digital currency is lost forever, and
- + Provide guidance for sentimental items – in your memorandum of wishes state whether you want social media accounts, photos and videos deleted, memorialised or handed to your family.

We are here to help

We can help your estate planning keep up with the digital world. This includes drafting appropriate will clauses, reviewing trust arrangements and guiding executors on accessing digital accounts. Many firms include digital-asset checklists to make the process easier, saving time, money and stress later.

The bottom line

Digital assets are no longer a niche concern – they are part of everyday life and should be part of estate planning. Including them in a carefully drafted will is the simplest way to protect your online legacy and ensure that both your physical and digital affairs are properly organised. +

¹ *Ruscoe v Cryptopia Ltd* [2020] NZHC 728.



Age of consent

What you can do at 16, 18 and beyond

In New Zealand, reaching different ages unlocks a whole range of new rights, responsibilities and freedoms. There is not a single 'magic number' but rather a journey where you gradually gain more independence and adult status. We guide you through New Zealand's key legal milestones explaining exactly what you can do at certain ages.

Turning 16: gaining more independence

At 16, you start to get more legal independence, though you are not quite an adult in every sense. The main thing people know about a 16th birthday is that it is the legal age for sexual consent in this country. This means that generally, any sexual activity with someone under 16 is against the law, even if they seem to agree, with only a few specific exceptions.

Beyond that, if you are 16 or 17, you can get married or enter a civil union. There is, however, a catch; you need a Family Court Judge's permission to do this. Usually, this means your parents or guardians must also agree; in special situations, the court may decide that marriage or a civil union is permissible without their consent.

When it comes to your health, if you are 16 or 17 years old, you are generally considered mature enough to make your own medical decisions without needing your parents' say-so, as long as you understand what is involved.

You can also start working at 16 years old and sign your own employment agreement. There are still some rules about what kind of work you can do and how many hours you can work, especially for safety reasons.

If you are keen to drive, 16 years old is when you can apply for your learner licence, which allows you to drive with a supervisor.

While your parents are still responsible for you until you are 18 years old, after you turn 16 you generally have more say in where you live, particularly if you are mature enough to make those choices.

Turning 18: becoming a full adult

Eighteen years old is the big one in New Zealand; you can sign any legal contract and be fully responsible for it. This means you can buy and sell property, take out loans and be held accountable for any agreements you make. You also have the right to vote in all elections, whether it is for Parliament or your local council. This is a major civic right, allowing you to have a say in how the country is run.

At 18, you can legally buy and drink alcohol, purchase tobacco products and participate in gambling activities such as going to a casino or placing bets. However, you cannot *gamble* at a casino until you are 20 years old. This is the distinct exception to most other adult privileges that start at 18 years old.

You can also apply for your full driver's licence at 18. If you have, however, completed an advanced/defensive driving course earlier, you can apply for your full licence at 17.5 years.

If you are feeling politically ambitious, you can even stand as a candidate in parliamentary or local body elections. You are also generally eligible for jury service, which is an important part of the justice system. At 18, you can get married or enter a civil union without needing anyone's permission, and you can make a legally valid will.

Turning 20: Legally an adult

Interestingly, 20 is technically the legal age of majority in New Zealand. That means, on paper, you're officially considered a full adult at 20 years old. In reality, however, all the big adult milestones—stated above—have already kicked in. By the time you hit 20, you already have all those rights and responsibilities, so there aren't many new legal perks or obligations waiting for you.

The main exception is casino gambling; you can only gamble legally at a casino from your 20th birthday onwards. For those interested in trying their luck at the tables, this is the one milestone that only arrives when you're 20. Otherwise, turning 20 is just another birthday—no extra privileges, just continuing on as a fully-fledged adult.

A clear progression of rights

In essence, New Zealand's legal framework outlines a clear progression of rights and responsibilities as individuals mature. While turning 16 marks a significant step towards independence, particularly concerning sexual consent and some personal choices, it is the 18th birthday that truly ushers in full adulthood.

At 18, you gain most adult privileges and obligations, from voting to entering binding contracts. By the time you reach 20, you are simply continuing to exercise the full range of adult capacities you have already acquired. This structured approach ensures that as you mature, your legal standing evolves, reflecting a greater capacity for independent decision-making and accountability within society. +

An opportunity to make a difference



A gift to charity in your will

Over the next few decades, New Zealand will go through the biggest shift of money in its history. As the older generation (the Baby Boomers) pass away, they will leave behind a huge amount of wealth – over \$1 trillion – to their children and grandchildren.

This is commonly referred to as the Great Wealth Transfer. While it is expected that most of this money will go to family, it's also a once-in-a-lifetime opportunity to help others by leaving a gift to charity in your will.

Looking after family – and the future

When people make a will, they usually focus on taking care of their whānau. That's important.

But more New Zealanders are also starting to think about the bigger picture. "What kind of world do I want to leave behind?"

Giving to a cause you care about – such as the environment, education, medical research, local charities or community organisations – is a powerful way to leave a positive mark on the world.

A gift – whatever its value – can make a big difference to that cause.

How to leave a gift in your will

A gift in your will is called a bequest. You can choose to leave:

- + A percentage of your estate (all your money and assets)
- + A specific amount of money
- + Something you own (for example, a property or shares), or
- + What's left over in your estate after looking after your loved ones.

Your bequest can go to one charity or organisation or you may name several in your will, or you may wish to leave a gift to a local community foundation where it can establish a fund in your name that reflects your wishes.

A legacy that lives on

Unlike cash that can be quickly spent, a bequest to charity can keep doing good for years. A bequest could, for example, protect nature, support communities, fund research or help fund scholarships to students.

You can:

- + Let the organisation decide how to use your bequest
- + Say what you'd like it used for, but give them flexibility, and
- + Talk to them first to make sure your gift will help in the best way.

Make a difference

Your will is more than a legal document – it's a way to show your values and your hopes for the future.

If every New Zealander could leave a gift to charity in their will – whatever its size – together we can create a stronger, kinder Aotearoa. +

NZ LAW is a national network of quality, successful and innovative law firms. It has 62 member firms in more than 100 locations. Membership of NZ LAW enables member firms to access one another's skills, information and ideas whilst maintaining client confidentiality.

Members of NZ LAW Limited

Allen Needham & Co Ltd Morrinsville
Apogee Legal Whakatāne
Argyle Welsh Finnigan Limited Ashburton & Rolleston
Aspiring Law Wānaka, Arrowtown, Christchurch & Dunedin
Atkinson Crehan Law Richmond, Nelson & Motueka
Barden & Co Waihi
Berry & Co Oamaru, Queenstown & Invercargill
BMC Lawyers Paraparaumu & Porirua
Boyle Mathieson Henderson, Auckland
Client Legal Solutions Nelson
Connect Legal Taranaki New Plymouth
Corcoran French Christchurch, Kaiapoi & Greymouth
Cruickshank Pryde Invercargill, Queenstown, Gore & Christchurch
CS Law Levin
Daniel Overton & Goulding Onehunga, Auckland & Pukekohe
DG Law Limited Mt Wellington, Auckland
DK Law Kingsland, Auckland
Dorrington Poole Dannevirke
Downie Stewart Dunedin
Edmonds Judd Te Awamutu, Ōtorohanga & Cambridge
Edmonds Marshall Matamata
Freebairn & Hehir Lawyers Palmerston North
Gawith Burridge Masterton & Martinborough
Gifford Devine Hastings, Havelock North & Waipawa
Greg Kelly Trust Law Ltd Wellington
GYW Lower Hutt, Upper Hutt & Wellington
Horsley Christie Whanganui
Paul Hunter, Barrister Auckland
Innes Dean Lawyers Palmerston North & Pahiatua
JR Legal Tauranga
James & Wells Intellectual Property Hamilton, Auckland, Tauranga, Christchurch, Brisbane & Melbourne
Kaimai Law Tauranga & Omokoroa
Lamb Bain Laubscher Limited Te Kūiti
Law North Limited Kerikeri
Le Pine & Co Taupō, Tūrangi & Putāruru
Lowndes Jordan Auckland
Mactodd Queenstown, Wānaka & Cromwell
McCaw Lewis Hamilton & Te Kūiti
McIntosh & Signal Lawyers Feilding
Malley & Co Christchurch
Martin & Parker Law Silverdale
Mike Lucas Law Manurewa, Auckland
Norris Ward McKinnon Hamilton
Parry Field Lawyers Riccarton, Christchurch, Rolleston, Hokitika & Auckland
PJ Magee Lawyer Whangārei
Price Baker Berridge Henderson, Auckland
Purnell Lawyers Thames, Coromandel & Whitianga
Rainey Collins Lawyers Wellington
Rejthar Stuart Law Tauranga
Rennie Cox Auckland & Whitianga
RSM Law Limited Timaru & Waimate
Sainsbury Logan & Williams Napier & Hastings
Sandford Wall Rotorua
Sheddan Pritchard Law Gore
Simpson Western Takapuna, Auckland
Brian Stewart, Barrister Auckland
Sumpter Moore Balclutha, Milton & Dunedin
Thomson Wilson Whangārei
Wain & Naysmith Limited Blenheim
Welsh McCarthy Parker Hāwera & Stratford
Wilkinson Rodgers Dunedin
Woodward Chrisp Limited Gisborne & Wairoa

Postscript

Holidays legislation to change

The much-anticipated proposed changes to the Holidays Act 2003 were announced in late September by Workplace Relations and Safety Minister, the Hon Brooke van Velden. The Minister said the new legislation will give more confidence and certainty to both employers and employees, and will fix the 'broken system.'

Proposed key changes include:

- + **Hours-based accrual for sick and annual leave:** replacing the current regime of having to take off one full day of leave
- + **Pro rata sick leave:** will be proportionate to hours worked
- + **Leave compensation payment for casual workers:** they will generally receive an up-front payment of 12.5% for each hour worked rather than the current 8% pay-as-you-go regime
- + **Leave compensation payment for additional hours worked:** hours worked above the contracted hours will see a 12.5% upfront payment for each additional hour worked, rather than accruing annual or sick leave
- + **Family violence and bereavement leave:** access to this special leave from the first day of employment
- + **Returning from parental leave:** new parents will receive full pay for annual leave when they return from parental leave
- + **Mandatory pay statements:** employers will be required to provide clear pay statements each pay period, and
- + **Cashing up annual leave:** large annual leave balances will have more flexibility to cash up – up to 25% of total annual leave balance each year.

Submissions on the proposed changes will be considered by a select committee; opportunities will be available to provide input.

The changes will be included in the Employment Leave Bill; implementation will be 24 months after the bill is passed allowing a smooth transition for employers and payroll providers.

Until then, provisions in the current Holidays Act 2003 will apply. +

Banks launch home loan comparison calculator

Prospective borrowers may now compare up to three home loan offers at one time using the recently launched home loan comparison calculator.

The calculator enables prospective borrowers to compare costs and incentives included in each offer to provide an estimated interest rate per year. 'The effective interest rate' is what the borrower pays after taking into account any cashback and other benefits offered by the lender, along with loan fees and other costs.

The calculator's development and ongoing maintenance is funded by New Zealand Banking Association members.

To access the comparison calculator, go to www.interest.co.nz and click on 'Borrowing.'



DIRECTORS

Amanda Crehan
Jacintha Atkinson-Manson

CONSULTANTS

Nick Moore
Merv Huston

SENIOR ASSOCIATE

Julie Aitken

ASSOCIATE SOLICITORS

Greta Close
Ibolya Little

ASSOCIATE

Marie Austin

SOLICITOR

Kirsty Goodall

LEGAL EXECUTIVES

Christine Allison
Lizzie McLellan
Jayne Mitten
Judith Stamper

LEGAL CLERKS

Berny Chamberlain
Libby Harman
Kelly Jenkins
Lynette Tippet

22 Oxford Street, Richmond
Level 1/54 Montgomery Square,
Nelson

Richmond 7050
T 03 543 8600

23 Wallace Street, Motueka
Motueka 7143
T 03 528 0005

E enquiry@atkinsoncrehan.co.nz
www.atkinsoncrehan.co.nz