

Insights

EAT GUIDANCE ON THE USE OF AI BY UNREPRESENTED APPELLANTS

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Summary

In a recent preliminary hearing judgment, the EAT has given useful guidance on the use of AI by unrepresented parties.

In [Hancox v Sutherland & Others](#), the EAT was considering various preliminary matters arising from the Claimant's appeal against an ET decision to strike out his claim against a number of individual respondents. The appeal process had been drawn out and complex and a preliminary hearing was due to take place on 29 July 2026. Two days before the hearing, Mr Hancox filed a skeleton argument. The skeleton argument was 300 pages long, running to 132,000 words. In his covering email, Mr Hancox stated that he did not expect the judge to read every page and he further sought to place the burden of confirming accuracy on the respondents, giving them until 4pm the following day to identify any points in writing.

At the hearing, the Judge considered the skeleton argument with Mr Hancox. Mr Hancox confirmed that he had produced it using ChatGPT and he accepted that much of it lacked credibility.

The EAT placed no reliance on the skeleton argument and, in its subsequent written judgment, gave clear guidance on the use of AI by unrepresented litigants. In particular, it stated that any party relying on AI must:

- comply with the applicable procedural rules. For example, there are strict requirements for the length and format of a skeleton argument in the EAT, which had not been complied with in this case;
- check the document produced as thoroughly as they are reasonably able for accuracy, ensuring that factual, evidential and legal points and authorities referenced are correct and that the court or tribunal is not misled;

- ensure that the document contains only relevant points, with the focus on the central or best arguments, presented in an easily comprehensible manner and avoiding undue repetition.

The EAT further confirmed that placing an onus on an opponent to check the document is not acceptable and that, where a document is not properly checked, judicial enquiries and potential sanctions are likely to follow.

Why this matters?

The Claimant's use of AI in this case is reflective of a trend being seen across employment litigation and in internal workplace disputes, where employees use AI to create long, complex and often confused or inaccurate documents. This is placing an increasing burden on employers, both before and during litigation. The guidance is therefore welcome and also reflects the Employment Tribunal's recent guidance on interim relief applications, which notes that the use of AI is resulting in overly long documents.

However, on its own, this guidance is unlikely to change current practice and it is likely that the tribunals will need to continue to take a robust approach to these matters, both to ensure that the overriding objective is complied with and to avoid the waste of precious judicial resources at a time when the tribunals are under such pressure.

For now, employers should take into account the following practical steps to protect against unreasonable AI use:

- continue to be alert for the use of AI, particularly in applications, witness evidence and other key tribunal documents;
- where AI use is suspected and particularly where it results in excessively long documents, repeated applications or inaccurate or irrelevant arguments, raise this with the tribunal at an early stage. This can result in directions being given which will minimise the ongoing disruption and prevent unnecessary costs being incurred;
- while this guidance applies specifically to litigation, it is worth considering the underlying principles if employees are using AI to create unmanageable documents, for example in a grievance process. The factors identified by the EAT, in particular requiring employees to be responsible for the accuracy of their documents and to present them in a comprehensible manner, are also valid in this context. The Acas consultation on revising the Code of Practice also references AI and has asked for views on matters which the revised Code should address. It may therefore be that we see similar guidance given to employees in relation to internal processes when the revised Code and Guidance are finalised.

If you would like to discuss this case further or have any queries about its implications, please get in touch with a member of [BCLP's UK Employment team](#).

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Meet the team



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