

Topic 1 — Introduction to Procedural Law & the Civil Justice System

Key provisions. Key provisions: Constitution Act 1975 (Vic) ss 75, 85; Supreme Court Act 1986 (Vic) ss 1, 10–17B, 29 (the week 1 reading list and seminar slide call it the ‘Supreme Court Act 1985’, but the body of the study guide and the exam answers use ‘1986’); County Court Act 1958 (Vic) ss 37, 39; Magistrates’ Court Act 1989 (Vic) ss 3, 100; Commonwealth Constitution Ch III (ss 71, 72, 73, 75, 76, 77); Judiciary Act 1903 (Cth) ss 30(a), 35, 35AA, 35A, 38, 40; Federal Court of Australia Act 1976 (Cth) Part III (s 19, s 22); Federal Circuit and Family Court of Australia Act 2021 (Cth) s 43; Jurisdiction of Courts (Cross-vesting) Act 1987 (Vic) s 5; Civil Procedure Act 2010 (Vic) (‘CPA’) ss 1–9; Supreme Court (General Civil Procedure) Rules 2025 (‘SCR’) r 2.04(1); Charter of Human Rights and Responsibilities Act 2006 (Vic) s 24(1); Practice Notes SC GEN 1–5; **SC GEN 25** (Use of AI by Court Users, 14 May 2026); Federal Court **GPN-AI** (Use of Generative AI, 16 April 2026).

1. What is procedural law?

Procedural law governs the conduct of proceedings before the court. It regulates how substantive rights and obligations are *claimed, proved and enforced*, without defining those rights. It is the ‘machinery’ for bringing substantive claims and having them determined. Procedural rules are also called ‘adjectival’ rules.

Category	Concern (Week 1 slides)	Example
Substantive law	The subject matter of the litigation — the cause of action	Breach of contract, negligence
Civil procedure	How you run the case — the processes to initiate a cause of action, enforce a judgment etc.	Commencing, serving, pleading, enforcing
Evidence law	How you prove the cause of action — relevance and admissibility of facts	Which facts are inadmissible

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- **Andrews** (English Civil Procedure, 2003): procedure is the machinery by which claims are translated from ‘mere assertions into binding determinations’, plus enforcement and appeals. Substantive rights can ‘hang in thin air’ — e.g. Ruby can owe Hannah money even though the debt is statute barred and unenforceable.
- **Re Coles and Ravenshear [1907] 1 KB 1 at 4** — Collins MR: the rules are the ‘handmaid rather than mistress’ of justice.
- But procedure and substance do not compartmentalise neatly — they are interdependent and exert a powerful impact on each other.

2. The Australian courts

State and territory level

- Most jurisdictions: three levels. Lowest = Magistrates’ Court (Local Court in NSW and NT). Intermediate = County Court (Vic) / District Court (other states). ACT, NT and Tasmania are two-tiered (no intermediate court).

- All states/territories have a Supreme Court (superior court). All have a Court of Appeal except SA and Tasmania, where the Full Court of the Supreme Court hears appeals.
- **Victoria:** Supreme Court (Trial Division + Court of Appeal), County Court, Magistrates' Court.

Federal level

- Constitution Ch III, s 71: judicial power of the Commonwealth vested in the High Court, 'such other federal courts as the Parliament creates', and 'such other courts as it invests with federal jurisdiction'.
- Federal courts: **High Court, Federal Court, Federal Circuit and Family Court of Australia (FCFCOA)**.
- FCFCOA history: Family Court created by Family Law Act 1975; Federal Magistrates' Court created 1999 (Federal Magistrates Act 1999) to relieve the Federal Court and Family Court; re-badged Federal Circuit Court in 2013; merged with the Family Court in September 2021 to become the FCFCOA.

3. Jurisdiction — the concept

- **Subject matter jurisdiction** — the issues the court can determine and any monetary limits; AND
- **Territorial (geographic) jurisdiction** — acquired by valid service of originating process (within or outside the State or Australia) or by the defendant submitting to the jurisdiction (covered in Topic 3).

4. Subject matter jurisdiction — Victorian courts

State and territory courts have a broad general civil jurisdiction covering most civil matters, except those within the exclusive jurisdiction of the federal courts.

Court	Source	Civil jurisdiction
Supreme Court of Victoria	Constitution Act 1975 (Vic) s 75(1) (establishes the Court); s 85(1)	Jurisdiction in or in relation to Victoria 'in all cases whatsoever'; 'the superior court of Victoria with unlimited jurisdiction '.
Supreme Court — Court of Appeal	Supreme Court Act 1986 Div 2: s 10 (jurisdiction and powers), s 11 (3 or more Judges of Appeal constitute the Court), s 13 (judges not to sit on their own judgments), s 14 (powers in civil appeals)	Appellate division.
County Court	County Court Act 1958 s 37(1)(a)	All civil proceedings 'regardless of the type of relief sought or the subject-matter' not excluded by an Act. Former monetary limit in s 39(1) repealed by s 3(4) Courts Legislation (Jurisdiction) Act 2006 (effective 1 January 2007) — so effectively unlimited .

Court	Source	Civil jurisdiction
Magistrates' Court	Magistrates' Court Act 1989 s 100(1); s 3	(a) damages, debt or liquidated demand within the jurisdictional limit; (b) equitable relief within the limit; (c) with written consent of the parties , any amount. Jurisdictional limit = \$100,000 (s 3).

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- **Supreme Court Act 1986 s 29:** every court exercising civil jurisdiction in Victoria must administer law and equity concurrently; where rules of equity and common law conflict, **equity prevails**.
- Supreme Court Act s 1: purpose (a) to amend and consolidate the law relating to the Supreme Court; (b) to amend the law of Victoria relating to Supreme Court procedure.

5. Subject matter jurisdiction — federal courts

High Court

Provision	Content
Constitution s 75	Original jurisdiction: matters arising under any treaty; affecting representatives of other countries; where the Commonwealth is a party; where mandamus, prohibition or an injunction is sought against an officer of the Commonwealth.
Constitution s 76	Parliament may confer additional original jurisdiction, e.g. matters arising under the Constitution or involving its interpretation, or arising under federal legislation.
Constitution s 73	Appellate jurisdiction: appeals from Justices exercising HCA original jurisdiction; any other federal court or court exercising federal jurisdiction; the Supreme Court of any State.
Constitution s 72	Appointment, resignation and retirement of Justices.
Judiciary Act s 30(a)	Additional original jurisdiction: 'all matters arising under the Constitution or involving its interpretation'.
Judiciary Act s 38	Exclusive HCA jurisdiction, incl. matters arising directly under a treaty, suits between States, suits between Commonwealth and States.
Judiciary Act s 40	Removal of a constitutional cause pending in another court into the HCA.
Judiciary Act s 35(2), s 35AA(2)	No appeal from a State Supreme Court (or Territory Supreme Court) judgment, final or

Provision	Content
	interlocutory, unless the High Court grants special leave.
Judiciary Act s 35A	Special leave criteria: the court may consider any relevant matter but shall have regard to (a) whether the proceedings involve a question of law (i) of public importance (general application or otherwise), or (ii) requiring HCA resolution of differences of opinion between or within courts; and (b) whether the interests of the administration of justice, generally or in the particular case, require HCA consideration.

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Other federal courts (s 71 'such other federal courts as the Parliament creates'; s 77)

- **Constitution s 77:** Parliament may make laws (i) defining the jurisdiction of any federal court other than the HCA; (ii) defining the extent to which that jurisdiction is exclusive of State courts; (iii) investing any State court with federal jurisdiction.
- **Federal Court of Australia Act 1976 s 19:** (1) the Court has such original jurisdiction as is vested in it by laws made by Parliament; (2) includes jurisdiction to hear appeals from persons, authorities or tribunals other than courts.
- **Oliver:** since 1997, s 39B(1A)(c) Judiciary Act gives the Federal Court jurisdiction in any matter 'arising under any laws made by the Parliament' (other than criminal) — converting it from a court of specific to more general federal jurisdiction.

Invested jurisdiction

Section 77 allows Parliament to invest State courts with federal jurisdiction. Federal judicial power is therefore exercised by (1) the High Court; (2) federal courts created by Parliament (Federal Court, FCFCOA); and (3) **State courts invested with federal jurisdiction**. This is why the Supreme Court of Victoria can hear an Australian Consumer Law (ACL) claim.

6. Accrued jurisdiction (federal courts hearing State/common law claims)

- A federal court may hear claims arising under State/Territory law or common law **only** if they form part of the (federal) matter or controversy before it.
- There must be a genuine federal claim (federal subject-matter jurisdiction must be invoked) — e.g. a claim under a Commonwealth statute such as the ACL.
- The federal and non-federal claims must be part of the **same 'matter'**, i.e. the same justiciable controversy (**Fencott v Muller**).
- Statutory basis for determining the whole controversy: **Federal Court of Australia Act 1976 s 22** (grant all remedies so that 'as far as possible, all matters in controversy between the parties may be completely and finally determined and all multiplicity of proceedings ... avoided'); FCFCOA Act 2021 s 43 (equivalent for Division 1).
- Accrued jurisdiction is **discretionary** (Week 1 Q&A; exam guides).

7. Cross-vesting

Uniform Commonwealth, State and Territory legislation — the **Jurisdiction of Courts (Cross-vesting) Act 1987** — set up a system for participating courts (State Supreme Courts, Federal Court, the

former Family Court) to share subject-matter jurisdiction *without detracting from existing jurisdiction*, so courts could decide disputes without worrying whether their jurisdiction came from federal, State or Territory law.

- Scheme sought to give: State Supreme Courts the jurisdiction of all other State Supreme Courts; State Supreme Courts the jurisdiction of the Federal Court (except native title and industrial laws); sharing between Federal and Family Courts; the Federal Court the jurisdiction of the State Supreme Courts.
- Preamble purposes: (a) cross-vesting without detracting from existing jurisdiction; (b) ensure proceedings entirely or substantially within a court's jurisdiction are instituted and determined there, while allowing one court to decide federal and State matters in appropriate cases; (c) **transfer** of proceedings instituted in an inappropriate court (transfer is covered in Topic 3 — s 5).
- **Federal Court:** cannot determine matters within State Supreme Court subject-matter jurisdiction **unless exercising accrued jurisdiction**.
- **State Supreme Courts:** CAN exercise the Federal Court's jurisdiction and the jurisdiction of other State Supreme Courts (cross-vesting in that direction remains valid), in addition to invested federal jurisdiction.

8. Choice of court — how the model answers apply Topic 1

This is a near-certain opening question (e.g. Exam 1 Q1 and Exam 2 Q1, each worth 4 marks; Fratelli Peppi Q1(b), Maisie Mousse Q(a), Week 1 Dog Show questions).

- **1 mark** — Supreme Court of Victoria has jurisdiction to hear the common law claim(s) and any State statutory claim (unlimited jurisdiction: Constitution Act 1975 s 85(1)).
- **1 mark** — Supreme Court can hear the ACL claim under its **invested** federal jurisdiction; may also mention it has Federal Court jurisdiction under the **Jurisdiction of Courts (Cross-Vesting) Act 1987 (Vic)**.
- **1 mark** — Federal Court can also hear the whole claim under its **accrued jurisdiction**, s 22 FCAA.
- **1 mark** — discuss whether to commence in the Federal Court: it will only hear all claims if the ACL claim and common law (and State statutory) claims are so intertwined as to be part of the same 'matter' (**Fencott v Muller**). 'While there is no one right answer, a sound conclusion is that [the plaintiff is] better off issuing in the Supreme Court given that accrued jurisdiction is discretionary and there are a number of claims ... only one of which is within the Federal Court's jurisdiction. If the ACL claim were struck out, the Federal Court would have nothing left to adjudicate upon.'

Fact pattern	Claims	Model answer outcome
Dog Show (Week 1 Q&A) — Severn & Georgiana v RRCC	Negligence, false imprisonment, ACL misleading/deceptive conduct (implied representations; weaker than common law claims)	Choice exists: Supreme Court (invested + cross-vested jurisdiction) or Federal Court (ACL + accrued, s 22). Both can determine all claims. Claims are so intertwined the Federal Court would likely assume jurisdiction, but accrued jurisdiction is discretionary and the weak ACL claim may be

Fact pattern	Claims	Model answer outcome
		struck out → commence in the Supreme Court.
Exam 1 — Walter & Wendy v ET (dead polo horses)	Negligence, contract, bailment, Victorian animal welfare legislation, ACL ss 18, 29(1)(a), 60, 61	Supreme Court: common law + State statutory + ACL (invested/cross-vesting). Federal Court only via accrued jurisdiction; only one federal claim → Supreme Court preferred.
Exam 2 — Joanna v Boomers (festival crush)	Negligence, contract, ACL; losses ~\$350,000	Same four-step structure → Supreme Court preferred.
Fratelli Peppi — five friends v cafe (Hepatitis A)	Negligence, breach of contract; losses ~\$250,000	Supreme Court ideal (unlimited jurisdiction, s 85(1)); County Court also has unlimited civil jurisdiction (s 37(1)(a)) and could hear it. Federal Court probably not an option — nothing suggests a federal claim.
Maisie Mousse — v Earth Mother and Parks Australia (dingo attack)	Negligence; claim v Parks Australia under federal national parks legislation; damages > \$400,000	Supreme or County Court could hear the whole matter; well suited to the Supreme Court (s 85(1)). Federal Court has jurisdiction because of the federal statutory claim and can hear the whole if part of the same justiciable controversy (s 22 FCAA); but if the federal claim is weak and struck out, the Federal Court is left with no jurisdiction.

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- **Quantum vs monetary limits:** Magistrates' Court limit \$100,000 (s 3 MCA) unless the parties consent in writing (s 100(1)(c)). Seminar 5 problem flags that a \$40,000 claim 'belong[s] in the Magistrates' Court'.
- **Costs risk in the Federal Court** (Oliver): FCR r 40.08 — a party may apply to reduce costs payable to another party if the applicant claimed money/damages and was awarded less than \$100,000, or the proceeding could more suitably have been brought in another court or tribunal. The rule enlivens a discretion (not a prima facie reduction: *Umoona Tjutagku Health Service v Walsh* [2019] FCAFC 32); its purpose is to penalise parties who 'through oversight or incompetence, bring and continue proceedings in an inappropriate Court' (*Loyola v Cryeng (No 2)* [2012] FCAFC 98). Likely quantum is 'clearly a highly relevant' consideration.

- **Transfer risk:** a defendant can apply under **s 5(2) Jurisdiction of Courts (Cross-Vesting) Act 1987 (Vic)** to move the proceeding interstate (Topic 3). Exam 1 Q8, Happy Homes Q4 and Maisie Mousse Q: court applies the 'interests of justice' limb (s 5(2)(b)(iii)) as a 'nuts & bolts management decision' weighing costs, expense and inconvenience (*BHP Billiton v Schultz* (2004) 221 CLR 400 at 421, Gleeson CJ, McHugh and Heydon JJ). Where events, contract, witnesses and parties are in Victoria, a transfer is unlikely. The examiner would not deduct marks for not identifying the correct sub-section: 'It is enough that they know it is section 5(2).'
- Do NOT say the Federal Court can hear a pure negligence/contract claim — it needs a federal claim to anchor accrued jurisdiction (*Fratelli Peppi*).
- Do NOT say cross-vesting gives the Federal Court State jurisdiction — struck down in *Re Wakim*. Cross-vesting runs the other way (Federal → State Supreme Courts).
- Distinguish **invested** (federal jurisdiction in a State court, s 77) from **accrued** (State/common law claims in a federal court, as part of one matter) from **cross-vested** (statutory sharing between participating courts).
- County Court s 39 monetary limit was repealed (2007) — do not apply a County Court cap.
- Jurisdiction cannot be conferred by the parties' agreement (*Oliver*) — though Magistrates' Court s 100(1)(c) allows written consent to exceed the *monetary* limit.
- Always reach a **recommendation** — the 4th mark is for reasoning to a conclusion, not listing options.
- Appeals to the HCA from a State Supreme Court require **special leave** (Judiciary Act s 35(2)); success rate 'about one in ten' (Gleeson).

9. Sources of civil procedure

Four sources: (1) procedural legislation; (2) rules of court (delegated legislation) and practice notes; (3) inherent jurisdiction of superior courts; (4) common law and equity (common law safeguards).

9.1 Procedural legislation

- Each major court has foundational legislation setting out composition, powers and a set of rules. The **Supreme Court Act 1986**: sets out composition, administration and statutory powers; jurisdiction and powers of the Appeal, Trial and Costs divisions; empowers judges to make/amend Rules (s 25); processes for group proceedings.
- **Civil Procedure Act 2010 (Vic)**: implements VLRC Civil Justice Review (May 2008); aims to improve access to justice; applies to all Victorian courts (see section 12 below and Topic 2).

9.2 Rules of court and practice notes

- **SCR 2025** = Chapter I of the Supreme Court Rules; delegated legislation made by the judges under the Supreme Court Act 1986 (originally made by the legislature; judges now empowered). Chapters II–VIII: Miscellaneous Civil Proceedings Rules 2018; Administration and Probate Rules 2023; Adoption Rules 2015; Corporations Rules 2023; Criminal Procedure Rules 2017; Admiralty Rules 2019; Intellectual Property Rules 2016.
- **2025 update:** in September 2025 the Supreme Court (General Civil Procedure) Rules 2015 were replaced by the 2025 Rules. The overarching purpose of the Rules is to facilitate the just, efficient, timely and cost-effective resolution of the real issues in dispute in accordance with the CPA.
- **SCR r 2.04(1)**: the Court may dispense with compliance with any requirement of the Rules, before or after the occasion for compliance arises.
- **Practice Notes:** supplement the rules and guide conduct; lawyers must be familiar with and follow them unless directed otherwise. The power to issue them derives from the Court's

inherent power to control its own practice and procedure (SC GEN 1). Usually approved by the Council of Judges and issued under the Chief Justice's authority. Examples: SC GEN 2 (structure of Trial and Court of Appeal divisions), SC GEN 3 (citation), SC GEN 4 (custom and protocol, e.g. wigs), SC GEN 5 (technology). **Failure to comply may be taken into account in the exercise of the Court's case management and costs powers** (SC GEN 1). Practice notes are being progressively updated after the 2025 Rules — use current versions.

9.3 Inherent jurisdiction

Power of superior courts (State/Territory Supreme Courts) to regulate their own processes so they do not become a source of injustice, are not rendered ineffective, and are not an abuse of process.

- Search orders and freezing orders were originally inherent-jurisdiction innovations, now in the rules (Topic 7).
- **Federal Court** is a superior court but has **implied powers**, not inherent jurisdiction, to prevent abuse of process.

9.4 Common law and equity

Many procedural principles originated in common law and equity and are now reflected in legislation and rules — e.g. the right to a fair trial, now expressly in the **Charter of Human Rights and Responsibilities Act 2006 (Vic) s 24(1)**.

10. AI Practice Notes — SC GEN 25 (Vic) and GPN-AI (Federal Court)

Seminar 2 frames these as 'The Overarching Obligations in the Age of AI' — they are sources of procedural guidance (practice notes) that operate through existing CPA/FCAA obligations. Expect them in a problem where a party or lawyer files AI-generated material.

10.1 Supreme Court of Victoria — Practice Note SC Gen 25 'The Use of Artificial Intelligence by Court Users'

- Issued and commences **14 May 2026**; replaces the *Guidelines for Litigants: Responsible Use of Artificial Intelligence in Litigation* (May 2024). Applies to **all Court users** (lawyers, litigants represented or self-represented, lay and expert witnesses) (2.2, 3.1).
- Court users **can** use AI to prepare Court documents if they comply (1.5). 'Court document' = any document filed/provided to the Court, incl. pleadings, submissions, affidavits, witness statements, expert reports.
- Definitions: AI (umbrella), generative AI, **public AI** (openly accessible; broad datasets) vs **closed AI** (controlled environment, privacy/confidentiality controls).
- Guiding principles (from VLRC, *Artificial Intelligence in Victoria's Courts and Tribunals*, Oct 2025): access to justice; impartiality and fairness; accountability and independence; privacy and data security; transparency and open justice; contestability and procedural fairness; efficiency and effectiveness; human oversight and monitoring (4.1).
- Risks (5.1–5.3): outputs may be biased (training data) and are statistical predictions; may be **out of date, incomplete, inaccurate/incorrect** (e.g. made-up cases, legislation), or **inapplicable to the jurisdiction**; privacy/data risks (inputs retained and used for training).
- Court users are **responsible for the content** of their Court documents whether or not AI was used (6.1).
- Must not directly or indirectly **mislead** another participant or the Court about the nature of the work or content produced by AI (6.2).
- Court users in civil proceedings are subject to the **CPA obligations, including certifying that claims have a proper basis** (6.3).

- Filing a Court document containing inaccuracies could result in **costs orders** (6.4).
- **Lawyers:** professional duties of competence, diligence and independent advice → must exercise oversight and **verify** accuracy and suitability of AI output (6.5); AI use is subject to the duty of **candour** to the Court and CPA obligations (6.6); relying on unverified AI output may lead to **referral to the Victorian Legal Services Board and Commissioner** and **personal costs orders** (6.7).
- **Privacy:** public AI — inputs may become public; do not enter confidential/sensitive information (incl. material subject to non-publication or suppression orders); lawyers must maintain client confidentiality (6.8). Closed AI — exercise caution and check contractual/privacy settings (6.9).
- **Evidence:** particular caution with affidavits, witness statements (must be sworn/affirmed or finalised in the person's **own knowledge and words**, 6.10–6.11) and expert reports (comply with the Expert Witness Code of Conduct — SCR 2025 Form 44A) (6.12).
- **Verification:** content must be verified with **meaningful human control** (7.1); user must ensure it is current, complete, accurate and applicable to the jurisdiction (7.2); be alert to bias (7.3). Fact-check and proofread; edit and adapt; verify every case, statute, text or article exists and stands for the proposition; verify quotes (7.4(a)–(c)); use reliable sources (AustLII, authorised legislation sites, Law Library Victoria) (7.4(d)); **asking an AI tool to confirm is NOT sufficient — one AI tool cannot verify another** (7.4(e)).
- Court may direct users to provide further information (7.5); users must be prepared to **identify the AI-produced portions** and explain how they were verified (7.6).

10.2 Federal Court — Use of Generative AI Practice Note (GPN-AI)

- Dated 16 April 2026 (Mortimer CJ). Applies to all persons who appear before or file documents with the Court — litigants (represented or not), witnesses, and third parties producing documents under subpoena (1.10). Read with the Central Practice Note (CPN-1) (4.1).
- Court 'embraces the beneficial use of technology'; Gen AI may increase efficiency, reduce costs and enhance access to justice (1.1, 1.3) but must be used appropriately, responsibly and with due care (1.4).
- **Expectations (1.6):** (a) basic understanding of capabilities, limitations and risks; (b) use must not adversely affect the administration of justice — users guided by existing legal/professional responsibilities; some circumstances make AI use inappropriate or require transparency; (c) if the Court requires, disclose if and how Gen AI was used. The Court may require disclosure in other circumstances (1.7) under its general FCAA powers.
- **Risks (2.3):** fictitious cases, citations, quotes or sources (hallucinations); incorrect law; factual errors; false confirmation of accuracy. Presenting false or inaccurate information is unacceptable and inconsistent with the duty not to mislead the Court or parties (2.4).
- facts in pleadings are based on what the party reasonably considers can be proved and claims for relief rest on proper legal principles;
- authorities cited exist and support the proposition;
- evidence cited exists, is or will be before the Court, and is reasonably likely to be admissible;
- statements about what evidence proves are findings reasonably open;
- chronologies are accurate;
- lists of documents conform with FCR rr 20.17, 20.14 or 20.15.

Issue	SC GEN 25 (Vic)	GPN-AI (Federal Court)
Applies to	All Court users	All who appear before or file documents, incl. witnesses and subpoenaed third parties
Anchor obligations	CPA (proper basis certification), candour, professional duties	FCAA ss 37M, 37N; duty not to mislead
Disclosure	Be prepared to identify AI-produced portions and explain verification if directed (7.5–7.6)	If Court requires; mandatory for listed evidentiary uses, at start of document (2.10–2.11)
Verification	Meaningful human control; AI cannot verify AI (7.4(e))	Responsible person confirms 2.5 checklist
Privacy	Public vs closed AI distinction (6.8–6.9)	Confidential, privileged, implied obligation material (2.13–2.15)
Sanctions	Costs orders; personal costs; referral to VLSB+C (6.4, 6.7)	Adverse costs orders; professional obligations (3.1)

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- Identify the applicable practice note (SC GEN 25; Federal Court: GPN-AI) and that it applies to lawyers and self-represented litigants alike.
- Responsibility: the user is responsible for content regardless of AI use (6.1); lawyers must verify (6.5, 7.1–7.4); asking the AI to confirm the case is not verification (7.4(e)).
- Link to CPA overarching obligations (Topic 2): paramount duty (s 16), honesty (s 17), proper basis for claims/responses (s 18) and the s 42 proper basis certification (SC GEN 25 6.3), not to mislead or deceive (s 21).
- Confidential client material entered into a public AI tool: breach of confidentiality (6.8(c)); suppressed material must not be entered (6.8(b)).
- Consequences: costs orders (6.4), personal costs orders and referral to the VLSB+C (6.7); CPA s 28 (contravention taken into account, incl. on costs) and s 29 orders.
- Neither note bans AI — both permit use subject to verification and responsibility.
- Affidavits/witness statements must be in the witness's **own** knowledge and words; 'tidying up' evidence with AI is high risk.
- 'Closed' AI is not automatically safe: SC GEN 25 requires checking settings (6.9); GPN-AI warns ringfenced tools may still breach the implied obligation (2.15).
- Get the dates right: SC GEN 25 commenced 14 May 2026; GPN-AI dated 16 April 2026.