NHS England

AI Acceptable Use Guidance

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1. What is this guidance note

1.1. The purpose of this guidance note is to explain the rules and requirements relating to the use of Generative AI within NHS England, to be set out in the Acceptable Use of ICT Policy (the Policy is in the process of being updated).

1.2. This note lists principles which need to be followed when using Generative AI tools, followed by more detailed rules of what you can and cannot do with Generative AI Tools.

1.3. Microsoft Copilot is the only Generative AI tool which has been approved for general use by staff within NHS England. Additional information about Copilot, and the terms used in this guidance note, are contained in **Annex A**.

2. AI Principles of Appropriate Use

2.1. When considering the use of Generative AI tools, you must follow these AI Principles of Appropriate Use:

i. Ensure that you are using the right tool for the purpose required

Consider whether the use of AI is necessary and more efficient to perform your activity or whether the desired outcome could better be achieved via other means.

ii. You are accountable for your use of AI

Be aware that you are responsible and accountable for your use of the output from a Generative AI tool.

The output from a Generative AI tool may not be factually accurate, due to the nature of the tool, and therefore you must be able to validate the output before you use it.

iii. Only use AI within your area of expertise

Where the AI output relates to a specialist area (such as HR, finance, legal, IG, Security, etc), you must ensure that you have the required expertise to validate the output.

Example:

- Only NHS England legal staff are authorised to use AI for producing legal advice.

- Legal privilege only applies to communications between qualified lawyers and their clients.

- As an example, using AI to produce summaries of legal advice which are shared with other parties who were not the original recipient of the legal advice may breach legal privilege in the source advice.

- If you need legal advice you may contact the Legal Services team at NHS England.legal@nhs.net. See the legal hub page for further guidance.

iv. Be Transparent

Be transparent regarding your use of AI, especially if your use involves the processing of personal data.

Example:

- Where you intend to use AI to summarise a recording of a meeting, you should inform attendees of your intended use of AI at the start of the meeting and consider and respect any objections.

v. Only use information you are authorised to access for this purpose

Ensure that you are permitted and authorised to access any information which you intend to use in an AI tool.

Example:

- Copilot Microsoft 365 can potentially access any documents which you have access to in SharePoint.

- You must not use Copilot to review a document to which you may have been granted access in error.

- If, when using Copilot, you identify a document which you should not have access to, you should report this to the owner of the document so they can review the permission settings.

- If the document contains personal data which you have accessed in error, you should also report this as a potential personal data breach (see section 4 below).

vii. Ensure accuracy of source information used for your purpose

If you are using AI to review a document or other information, you have a responsibility to take reasonable steps to ensure that the information is correct and up to date and suitable to be used for your purpose.

viii. Generating new records and freedom of Information requests

You should be aware that your prompts to the AI and its responses may generate records that NHS England holds which may fall under the scope of subject access requests under UK GDPR / Data Protection Act 2018 or the Freedom of Information Act 2000 (FOI).

Your use of AI, and the records created by it, may therefore be searchable and disclosable in response to a subject access request (where an individual requests information about themself) or FOI request to the public.

3. Rules for using Copilot (and other Generative AI)

3.1. This section explains how the rules for using Copilot, or other NHS England approved Generative AI, in the Acceptable Use of ICT Policy apply in practice.

✓ **You must ensure you comply with data protection law and data protection policy requirements:**

- When using AI to process personal data or confidential patient information you must ensure that you comply with NHS England's policy requirements, such as those in the Information Governance Policy, Data Protection Policy, Records Management Policy, Confidentiality Policy, and Information Security Policy. The Data Protection Policy sets out how you must comply with data protection law, including the UK General Data Protection Regulation and the Data Protection Act 2018.
- **Examples:**
  - Copilot has been approved to help colleagues with their day-to-day work and to aid general productivity. It has been approved to be used for tasks such as drafting and improving routine communications, summarising non-sensitive documents, creating and formatting non-sensitive documents, task assistance, finding information in documents to which you have appropriate access.
  - If Copilot, or other approved Generative AI, is being used specifically to process large amounts of personal data for a particular purpose, additional controls may be required to ensure that such use of AI is fair, lawful and transparent. You will therefore need to complete a data protection screening questionnaire to identify whether a data protection impact assessment is required (for more information, see the Data Protection Impact Assessment Procedure).
  - Examples of processing where a data protection screening questionnaire will need to be completed include HR casework, processing of any health data, and using Copilot to assist with complaints and investigations. The reason that these examples will require an additional DPIA is because of the potential impact which such use could have on individuals.

- When using any approved Generative AI tools, you must follow NHS England's Records Management Policy. For example, when we create records under the Policy, we need to ensure that any records created by Generative AI tools are clearly marked (with a sentence, icon or watermark) and that the record is checked to ensure that it is authentic, reliable and trustworthy.

✓ **You must ensure that the information generated by AI is based on accurate source information before you use or share it:**

- Copilot Chat can access data from the web and use that information to answer your questions. You can use that function to carry out internet-based research, if appropriate.
- You should ensure that information produced by the tool has been generated from legitimate and appropriate sources, check those sources and attribute those sources in the content that you subsequently use.

✓ **You must ensure that the information generated by AI is accurate and suitable for its intended purpose before you use or share it.**

- Microsoft 365 Copilot can summarise information in documents within the NHS.net Connect environment, including emails and attachments in Outlook and documents in OneDrive, SharePoint, etc.
- The summaries can be useful to help you quickly understand, manage and triage your work but must be treated with caution as they may not always be accurate or understand key information from a document which may be important to your work.
- This is particularly the case for complex technical documents and advice such as legal, information governance, security, clinical or policy advice and documentation.
- Copilot could be used to identify certain trends or insights from information within a document. Any trends and insights must be verified and validated before being relied upon and the original source information identified and attributed as the source that has been used.
- Both Copilot Chat and Microsoft 365 Copilot can help you with drafting documents.
- You are responsible for the final document which you use for work purposes and ensuring that it is accurate and appropriate for the purpose and that it contains all of the information that is required for that purpose.
- Documents generated by AI should be considered a starting point for further development, not an end point that can be used straight away.

✓ **You must ensure that the information generated by the AI does not breach any third-party intellectual property rights**.

- You must check the sources used by AI to generate content and ensure that it has not copied that content from third party documentation that is protected by intellectual property rights, including copyright. This applies to both web sourced data and documents held within NHS England Microsoft 365 data repositories.
- Source documentation that is publicly available may be subject to copyright licence terms that you will need to check and comply with before replicating content. You should check with the legal team if you are unsure whether use of third-party content would breach any copyright or third party licence terms.

✓ **You must inform attendees you are using recording or transcript functionality in Teams meetings, producing Copilot summaries and respect objections:**

- You may use Copilot to record or transcribe a meeting and to summarise the content of a meeting. However you must ensure:
  - that the other meeting attendees are informed of the recording or transcript being taken and the use of Copilot at the start of the meeting);
  - that any objections are taken into account;
  - that the output is checked and verified before it is relied upon and shared as a summary;
  - if the output is shared, it transparent that Copilot was used to assist with the summary; and
- You have considered whether the use of Copilot is appropriate. It **<u>may not always be appropriate</u>** to record meetings and use Copilot to summarise a meeting.
- **Example:**
  - Where the subject matter is highly sensitive, where attendees object to any recording of the meeting, or where the recording would prevent necessary “free and frank” discussions.

✓ **You must consider the AI Principles of Appropriate Use when using AI**.

- See section 2 above.

× **You must not replace necessary human judgement with AI:**

- Don’t use Generative AI in circumstances where it is inappropriate, such as where human judgement is crucial to a particular task.

- **Example:**

  - Where a colleague is undertaking an investigation into a person’s conduct, it would be inappropriate to use Generative AI in a way which may impact or influence the investigator’s judgement.

  - Using Generative AI to summarise a complaint, grievance or legal claim is not appropriate as key elements of the issue could be lost in the summary which may influence your views or may lead to inaccuracies and a failure to correctly understand the relevant issues.

× **Don’t use AI to support clinical decision making or as a substitute for legal, information governance, security, HR or other specialist advice or guidance:**

- NHS England has not approved or authorised any Generative AI tools or Copilot to be used for these purposes.

× **Do not use AI for automated decision making about individuals**:

- You must not use the output from an AI tool to automatically make a decision about an individual. There are additional legal obligations we need to comply with if AI is being used to make a decision about a person and that decision has no human involvement.

- **Example:** HR colleagues would not be permitted to use an AI tool to make a decision about a specific individual.

- Under UK GDPR it may be unlawful to make such a decision if this had a significant impact on that individual, without putting specific safeguards in place.

- This type of activity would also require a Data Protection Impact Assessment to be carried out and approved first.

- Please contact the Privacy, Transparency and Trust Team for further advise if you intend to use AI this way.

× **Do not use AI summaries to replace formal minutes of meetings**.

- AI generated summaries can support the creation of formal minutes of meetings but cannot be used to replace formal minutes of meetings. This is because formal minutes act as formal record of a discussion so there is a greater requirement that they are accurate and reflective of the context of the discussion.

- An AI generated summary may be used to record informal actions and discussions, as long as they are identified as AI generated summaries that attendees should be checked for accuracy.
- When formal minutes are produced and approved by those attending the meeting, they are the formal corporate record of the meeting.

× **Don't breach our policies:**

- Do not use AI in way that would breach the requirements of this policy or any other NHS England policy.
- Breaches of our policies, including this policy may result in disciplinary action.
- For further information see the NHS England Disciplinary Policy and Procedure

4. Confidentiality and Personal Data Breaches

4.1. If colleagues input any personal data, confidential patient data or NHS England official sensitive business information into a publicly accessible Generative AI tool, which has not been approved for corporate use within NHS England, they will be disclosing information outside of NHS England without authority from NHS England.

4.2. If personal data is input into an unauthorised publicly accessible Generative AI tool, this may constitute a personal data breach under UK GDPR and may breach our Data Protection Policy and / or our Confidentiality Policy. In the case of other information disclosures this may breach our Confidentiality Policy and this Acceptable Use of ICT Policy.

Annex A: Glossary and additional Information

1. The table below sets out definitions of the terms used in this guidance note.

Term	Definition
AI	AI is broadly defined as the ability of computers to perform tasks that were previously thought to require human intelligence. However, AI tools cannot think independently, and they cannot reason like humans. Generative AI is a subset of AI which is capable of generating text, images, video or other forms of output.
Copilot	Copilot is the Microsoft365 tool approved by NHS England for use.
Generative AI	Generative AI learns from large amounts of training data to recognise and replicate complex patterns. Examples of publicly accessible Generative AI tools are ChatGPT, Claude, Gemini and Dall-E. Generative AI is also integrated in products such as Microsoft 365 Copilot, Adobe Photoshop Generative Fill tool, AWS ChatOps Chatbot, and Google Duet AI.

2. Permitted Generative AI Tools in NHS England

2.1. Microsoft Copilot is the only Generative AI tool which has been approved for general use by staff within NHS England.

2.2. There are two iterations of Copilot which have been approved and are available when users are logged into their nhs.net connect account:

2.2.1. **Copilot Chat within NHS.net connect tenant:** NHS England users with an NHS.net Connect account have access to Copilot Chat. Users are permitted to use Copilot Chat, subject to complying with this policy. Copilot Chat can use data from the web as its primary source of information which it can use to respond to prompts from users. That functionality is similar to ChatGPT, Gemini, etc.

2.2.2. **Microsoft 365 Copilot within NHS.net office applications:**

- Some users in NHS England have a Microsoft 365 Copilot licence which has additional functionality.

- Microsoft 365 Copilot is designed to help users perform certain work tasks and, as well as using data from the web, it can also access and use any information which the user can access within their NHS.net Connect account.

- For example, Microsoft 365 Copilot can access and analyse users' emails and documents which they have access to in Teams, OneDrive and SharePoint.

- When accessing Microsoft 365 Copilot for work purposes, please ensure you use corporate managed devices only.

2.3. Both of the NHS England approved versions of Copilot are internal NHS England secure and enclosed versions of Copilot.

2.4. The publicly available versions of Copilot that does not use your NHS.net account and does not display the small green shield are not approved for use by NHS England staff.

2.5. All users with an NHS.net Connect account have access to Copilot Chat, which provides similar functionality to publicly accessible Generative AI tools. However, Copilot is securely integrated into our Microsoft 365 environment which ensures that information shared and generated by Copilot remains within NHS England's systems and secure boundaries. NHS England is able to oversee Copilot activity within NHS.net accounts and maintain high governance and security standards within the NHS.net versions of Copilot.

2.6. NHS.net connect Copilot Chat and Microsoft 365 Copilot are approved for general use within NHS England by users with an NHS.net account operated by NHS England. This means that these tools can be used by staff for a wide range of activities and tasks, as long as users comply with the requirements set out in this guidance note.