ARTIFICIAL INTELLIGENCE FOR LEGAL PRACTITIONERS / DIGITAL ELECTRONIC EVIDENCE, INCLUDING THE APPLICABLE PROVISIONS OF THE EVIDENCE ACT

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INTRODUCTION

Artificial Intelligence (AI) is now part of the daily work of lawyers. It can save the Legal Practitioners and Administrators many hours in research, drafting and administration. Used carelessly, it can also embarrass counsel, mislead the Court and expose clients' confidential information. This paper is about using the tool well.

The Permanent Secretary, by a letter dated 16th November 2026, invited me to present a paper on ***"Artificial Intelligence for Legal Practitioners/Digital Electronic Evidence including the applicable provisions of the Evidence Act"*** at this Two-Day Capacity-Building Training. I am grateful for the invitation. The two halves of the topic belong together. Artificial Intelligence is changing how lawyers prepare their work. It is also changing the evidence that comes before the Courts, as audio, video, photographs and messages can now be generated or altered by machines.

The paper is arranged in six parts:

1. ***Part I explains, in plain terms, what AI and Generative AI are and why they sometimes "hallucinate".***
2. ***Part II gives practical examples of the use of AI in legal research, court processes, agreements, legislation and other legal instruments, with sample instructions ("prompts").***
3. ***Part III examines the dangers of irresponsible use of AI: fabricated authorities, breach of confidentiality and data protection, privacy, plagiarism and copyright.***
4. ***Part IV summarises the main features of the Edo State Judiciary Practice Direction on the Use of Artificial Intelligence in Court Proceedings, Practice Direction No. 1 of 2026, which came into force on 9th October 2026, with references to its specific provisions.***
5. ***Part V examines digital and electronic evidence under the Evidence Act 2011, as amended by the Evidence (Amendment) Act 2023, and some leading cases.***
6. ***Part VI gives a practical guide on how to tender and demonstrate audio and video evidence at trial so that it is not "dumped" on the Court.***

The paper ends with some salient recommendations.

PART I: UNDERSTANDING ARTIFICIAL INTELLIGENCE FOR LAWYERS

1.1 What is Artificial Intelligence

Paragraph 2.1 of the Edo State Practice Direction[1] defines ***"Artificial Intelligence"*** as a technological system capable, autonomously or partly autonomously, of processing information and generating content, classifications, predictions, recommendations or other outputs. Lawyers have used narrow forms of AI for years without noticing: ***spell-checkers, search engines***, and the ***search functions of electronic law reports***.

1.2 What is Generative AI

Generative AI ("GenAI") produces new content in response to an instruction. ***Paragraph 2.2 of the Practice Direction*** defines it as ***an AI system capable of generating new content in response to instructions or inputs, including text, image, audio, video, computer code, translation, summary and data analysis.*** It can write text, summarise documents, translate, analyse data, and create images, audio and video. The best-known tools are general-purpose chat assistants such as ***ChatGPT, Claude, Gemini*** and ***Microsoft Copilot***. Some Nigerian legal databases have incorporated AI features to their platforms to facilitate a higher level of efficiency.

These tools are built on ***"large language models" (LLM).*** A model is trained on a vast amount of text. It learns the patterns of language and then produces a response by predicting what words are likely to come next. In the English case of ***R (Ayinde) v London Borough of Haringey***[2]**, the** ***Divisional Court of England and Wales*** explained that such tools are not capable of conducting reliable legal research for exactly this reason: they predict plausible text; they do not look up the truth.

1.3 Why AI sometimes "hallucinates"

A ***"hallucination"*** is an output that is fabricated, inaccurate or misleading, even though it looks coherent and authoritative. ***Paragraph 2.5 of the Practice Direction*** defines it as an AI-generated output containing information that is fabricated, inaccurate, materially incomplete or misleading notwithstanding that it may appear coherent, authoritative or credible, and lists fictitious cases, false citations, fabricated quotations, non-existent statutory provisions, invented facts, false attribution and fictitious publications as examples. Because the model is predicting plausible text, it can produce:

- a case name that sounds Nigerian, with a citation in the correct NWLR format, which does not exist;
- a genuine case cited for a proposition it does not support;
- a quotation that the Judge never wrote;

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[1] *Edo State Judiciary Practice Direction on the Use of Artificial Intelligence in Court Proceedings, Practice Direction No. 1 of 2026 (made and in force 9th October 2026)*

[2] *[2025] EWHC 1383 (Admin)*

- a section of a statute that does not exist, or that was repealed or amended.

The danger is that the fake and the genuine look exactly alike. The more confidently a tool writes, the more carefully its work must be checked. ***Paragraph 3.4 of the Practice Direction*** makes the same point: a GenAI output is not to be presumed accurate merely because it is fluently written, appears detailed, uses professional terminology, contains apparently conventional citations, provides hyperlinks or confidently expresses a conclusion, or because genuine and fictitious authorities appear together.

1.4 The right mental model

The most useful way to think of a GenAI tool is as a very fast, very well-read, but sometimes unreliable junior assistant. It can produce a first draft in seconds. It never tires. But it has no duty to the Court, cannot be disciplined, and will sometimes invent things to please you. Everything it produces must be read, checked and owned by a human lawyer before it leaves the office. That is the whole philosophy of the ***Edo State Practice Direction, discussed in Part IV***.

Paragraph 4.1 of the Practice Direction puts it in terms: GenAI "shall remain an assistive tool", and it shall not replace professional judgment, factual knowledge, legal analysis or responsibility to the Court.

1.5 The policy setting

AI use by lawyers in Nigeria does not take place in a vacuum:

- The ***Nigerian Bar Association***, through its ***Section on Legal Practice***, issued ***Guidelines for the Use of Artificial Intelligence in the Legal Profession in Nigeria in August 2024***. They address competence, confidentiality, disclosure and supervision.
- The ***Federal Government*** launched a ***National Artificial Intelligence Strategy in April 2025.***
- On the ***16th of November, 2026, the Chief Justice of Nigeria, Hon. Justice Kudirat Kekere-Ekun***, opening ***the All Nigeria Judges' Conference of the Lower Courts***, warned that AI-generated information and authorities must be independently verified, and that judges must keep personal responsibility for evaluating evidence and exercising discretion.
- The Chief Judge of Edo State has made the ***Edo State Judiciary Practice Direction on the Use of Artificial Intelligence in Court Proceedings, Practice Direction No. 1 of 2026***, which came into force on 9th October 2026 (Part IV below).

PART II: PRACTICAL USES OF AI IN LEGAL WORK

The value of AI lies in the first draft, the structure and the checklist. The lawyer supplies the facts, the judgment and the verification. The examples below are written for the work of the ***Ministry of Justice***: ***litigation, prosecution, legislative drafting, legal advice and administration***.

2.1 The anatomy of a good instruction (prompt)

The quality of the output depends on the quality of the instruction. A good prompt has five parts:

1. **Role:** tell the tool who it is ("You are a State Counsel in the Ministry of Justice").

2. **Context:** give the jurisdiction, the court, the governing law and the stage of proceedings, ***using anonymised facts***.
3. **Task:** say exactly what you want (an outline, a draft, a checklist, a critique).
4. **Constraints:** set limits (E.G***:"Do not invent any case; where you are unsure, say so***"; ***"Use the Edo State High Court (Civil Procedure) Rules 2018").***
5. **Format:** describe the output (numbered paragraphs, a table, under 800 words).

Always replace real names, addresses and identifying details with placeholders such as "A", "B" and "the Property". This is to ensure data protection and privacy rights. It is also what ***paragraph 5.4 of the Practice Direction*** requires: only information reasonably necessary for a legitimate task should be submitted to an AI system and, where reasonably practicable, anonymised, pseudonymised or hypothetical information should be used.

2.2 Legal research

AI is best used to frame the research, not to finish it. Paragraph 3.3 of the Practice Direction expressly permits GenAI to assist with generating preliminary research questions, developing research structures and summarising material lawfully available to the user. Good uses include:

- breaking a problem into issues for determination;
- suggesting the statutes and areas of law likely to be relevant;
- explaining an unfamiliar concept in plain language;
- summarising a judgment that you have lawfully obtained and uploaded, so that you know where to look;
- comparing two versions of a statute to find the amendments.

> ***SAMPLE PROMPT: "You are a Nigerian civil litigation lawyer. A State Government is sued for trespass to land acquired for a public road. The claimant says no compensation was paid. Identify the likely issues for determination, the relevant provisions of the Constitution of the Federal Republic of Nigeria 1999 and the Land Use Act, and the defences available to the State. Do not cite any case. Instead, list the propositions of law I should research, so that I can find the authorities myself in the law reports."***

The instruction "Do not cite any case" is deliberate. It forces the tool to do what it does well (structure) and leaves to the lawyer what the tool does badly (finding real authorities). Where a tool built on a legal database does return cases, each one must still be opened and read in the law report before it is cited. This is the force of ***paragraph 6.5 of the Practice Direction***: an AI-generated answer, quotation, hyperlink, case summary or citation is not itself an authoritative legal source. By ***paragraph 6.1***, every authority identified, generated, summarised or analysed through GenAI must be independently verified before it is presented to the Court.

2.3 Court processes: writs, pleadings and motions

The ***Edo State High Court (Civil Procedure) Rules 2018*** require front-loading: the writ is filed with the statement of claim, witness statements on oath, the list of witnesses and copies of documents to be relied on. AI can help assemble these into a consistent package.

WRIT OF SUMMONS AND STATEMENT OF CLAIM. AI can turn a lawyer's own notes of the facts into a chronology, then into numbered paragraphs of a statement of claim, and suggest the reliefs that flow from the facts.

> ***SAMPLE PROMPT: "From the facts below, prepare a draft statement of claim for the High Court of Edo State in numbered paragraphs. Plead material facts only, not evidence or law. End with the reliefs claimed: a declaration, damages for trespass and a perpetual injunction. Mark with [VERIFY] any fact that is not stated in my notes. Facts: [anonymised facts]."***

The [VERIFY] instruction is a simple safeguard. It makes the tool show where it has filled a gap, so that no invented fact slips into the pleading. It also gives effect to ***paragraph 3.5 of the Practice Direction***, under which no factual assertion generated or inferred by GenAI may be placed before the Court as a fact unless it is supported by proper evidence or another lawful evidential foundation.

STATEMENT OF DEFENCE. Upload the (anonymised) statement of claim and ask the tool to list every paragraph, propose whether each should be admitted, denied or not admitted, and flag paragraphs that need specific traverse.

MOTIONS AND AFFIDAVITS. AI can produce the skeleton of a motion on notice for interlocutory injunction, with the grounds and the reliefs, and remind counsel of the ingredients the applicant must show: ***a legal right, a serious question to be tried, the balance of convenience, irreparable damage and an undertaking as to damages.*** The affidavit, however, must contain the deponent's own facts. ***Paragraph 7.1 of the Edo State Practice Direction*** forbids the use of GenAI to invent, supplement or manipulate facts, or to manufacture a witness's or deponent's personal recollection. GenAI may assist with formatting or language refinement only if the substance reflects the personal knowledge of the deponent, no fact is introduced without a proper evidential basis, all the requirements governing affidavit evidence remain satisfied, and the final text is thoroughly reviewed and personally adopted by the witness.

WRITTEN ADDRESSES. AI is useful for structure: formulating issues for determination, arranging arguments, and testing them. A powerful use is to ask the tool to argue the other side.

> ***SAMPLE PROMPT: "Here is my draft written address [anonymised]. Act as opposing counsel. Identify the three weakest points in my argument and the objections a respondent is most likely to raise."***

PROSECUTION WORK. For the Department of Public Prosecutions, AI can organise case diaries into a chronology, prepare a checklist of the ingredients of an offence against the evidence in the file, and draft a first version of a legal advice. The final opinion, and every statement of the law in it, remains the officer's. ***The Practice Direction applies to criminal as well as civil proceedings (paragraph 1.1(2)),*** so its rules on verification, disclosure and synthetic evidence bind prosecutors as fully as civil litigators.

2.4 Drafting agreements

AI is an excellent first drafter of standard agreements and an excellent reviewer of agreements drafted by others. Examples for Ministry work include ***tenancy agreements for government property, contracts for works and services, memoranda of understanding between agencies, and deeds of assignment.***

> ***SAMPLE PROMPT: "Draft a lease of office premises in Benin City between the Edo State Government (lessor) and a private company (lessee) for 5 years. Include clauses on rent and rent review, use, repairs, insurance, assignment, termination, dispute resolution by arbitration in Benin City, and governing law. Flag any clause where Edo State law or the Land Use Act may require consent or registration."***

For review, the tool can compare an agreement against a checklist, find inconsistent definitions, missing clauses and one-sided terms, and produce a table of risks. Counsel must then check every point against the statute and the client's instructions. Under the Land Use Act, for example, an alienation of a statutory right of occupancy requires the Governor's consent; an AI draft that omits that step is not a minor slip.

2.5 Drafting legislation

The Legislative Drafting Department can use AI to:

- convert a policy memorandum into a first outline of a Bill, with arrangement of sections;
- draft an explanatory memorandum and a long title;
- check a draft for consistent use of defined terms and cross-references;
- compare a draft Bill with laws on the same subject in other States or countries, as a starting point for research;
- prepare a plain-language summary of a Bill for the House of Assembly or the public.

> ***SAMPLE PROMPT: "Here is a draft Bill [text]. List every defined term in section 2, then identify every place in the Bill where a defined term is used inconsistently, where a section cross-refers to a section that does not exist, or where an offence is created without a penalty."***

AI must never be the source of the policy, and every provision borrowed from another law must be checked against that law's official text.

2.6 Other legal instruments and administrative work

- **Instruments:** powers of attorney, deeds of gift, statutory declarations, gazette notices, public notices, letters of demand and legal opinions.
- **Administration:** minutes of meetings, memoranda, circulars, training materials, case-tracking schedules and correspondence.
- **Translation and plain language:** explaining a court order or a law to a member of the public, with human review. ***Paragraph 3.3(h) of the Practice Direction*** permits translation only subject to meaningful human review.

2.7 A simple workflow for every task

1. ***Anonymise the facts before they go into the tool.***
2. ***Instruct clearly, using the five-part prompt.***
3. ***Treat the output as a draft from a junior.***
4. ***Verify every authority in the law reports or official text, and every fact against the file.***
5. ***Revise in your own words and your own judgment.***
6. ***Own it: sign only what you would defend before the Court.***

This workflow is in line with ***paragraph 3.2 of the Practice Direction***, which requires every AI-assisted Court Process to be (a) meaningfully reviewed; (b) independently verified; (c) checked against the record where facts are concerned; (d) checked against authoritative legal sources where law is concerned; (e) reviewed for confidentiality and data-protection implications; and (f) personally approved by the person responsible for its submission.

PART III: THE DANGERS OF IRRESPONSIBLE USE OF AI

The main dangers are five: ***fabricated authorities, breach of confidentiality and data protection, invasion of privacy, plagiarism, and infringement of copyright.*** Behind all five is a sixth: ***over-reliance, which slowly erodes the skills of the lawyer.***

3.1 Fabricated authorities: the cautionary cases

The courts of many common-law jurisdictions have now dealt with counsel who cited cases invented by AI:

Case	Court and date	What happened
Mata v Avianca, Inc.[3]	US District Court, Southern District of New York, June 2023	Counsel filed a brief citing six non-existent cases produced by ChatGPT, with invented quotations. The lawyers and their firm were fined US$5,000.
R (Ayinde) v London Borough of Haringey[4]	High Court of England and Wales, April 2025	Grounds for judicial review cited five fictitious cases. The barrister and the law centre were ordered to pay £4,000 in wasted costs and the judgment was sent to the regulators.
R (Ayinde) v Haringey; Al-Haroun v Qatar National Bank [5]	Divisional Court, 6 June 2025	Dame Victoria Sharp P. held that lawyers who cite fake authorities face sanctions ranging from public admonition and costs to referral to regulators and, in serious cases, contempt or criminal proceedings.

[3] ***678 F. Supp. 3d 443***
[4] ***[2025] EWHC 1040 (Admin)***
[5] ***[2025] EWHC 1383 (Admin)***

Case	Court and date	What happened
Brightwaters Energy Ltd v Eroton Exploration and Production Co. Ltd[6]	Commercial Court (England), February 2026	In proceedings to enforce a Nigerian judgment, counsel relied on an authority that did not exist. The court found it to be an AI fabrication and warned against unverified AI research.
Mostafavi (California Court of Appeal)[7]	September 2025	Counsel was fined US$10,000 after most of the cases cited in his brief were found to be hallucinated.

The lesson is not confined to lawyers. In March 2026 the Supreme Court of India rebuked a trial judge whose order relied on rulings generated by AI that did not exist. An acting judge in South Africa was referred to the Legal Practice Council after an appeal court found at least eleven fictitious or wrong citations in his judgment.

In Nigeria, citing a non-existent authority is a breach of counsel's duties under the ***Rules of Professional Conduct for Legal Practitioners 2023***, in particular the ***duties of competent representation (Rule 16),*** of ***a lawyer as an officer of the Court and to the Court (Rules 30 and 31),*** and of ***candid and fair dealing (Rule 32).***

It is no defence that "the computer did it". The ***Edo State Practice Direction says so expressly***. ***Paragraph 1.5*** provides that every person remains responsible for material presented to the Court in that person's name, and that an AI system cannot assume professional, evidential or procedural responsibility. ***Paragraph 5.6*** requires every legal proposition, citation, statutory reference and factual assertion to be independently scrutinised and verified against authoritative primary sources; ***paragraph 6.8*** forbids presenting an authority that cannot be verified as genuine; and ***paragraph 5.7*** denies counsel any right to disclaim responsibility by attributing inaccuracies to junior colleagues, vendors or the AI system.

3.2 Confidentiality, privilege and data protection

When a lawyer pastes a client's file into a public AI tool, the information leaves the lawyer's control. Depending on the provider's terms, it may be stored on servers outside Nigeria, reviewed by the provider's staff, or used to train future models. This raises three distinct problems.

Professional confidence and privilege. ***Rule 19 of the Rules of Professional Conduct 2023*** obliges a lawyer to ***preserve the confidences and secrets of the client. For the Ministry, this extends to government information, security matters, information about witnesses, victims and children, and sealed court records. Paragraph 5.2 of the Practice Direction goes further: a Legal Practitioner using GenAI must understand the tool's capabilities, limits, data-security vulnerabilities and risk of generating false citations or facts, and must not transmit privileged***

[6] ***[2026] EWHC 296***

[7] ***https://failureindex.ai/failures/amir-mostafavi-fined-000-using-chatgpt***

communications, sensitive data, personal data or information regarding witnesses into any public or unvetted third-party AI system.

The Nigeria Data Protection Act 2023. A lawyer or Ministry that feeds personal data into an AI system is "processing" personal data and must comply with the Act:

- **Section 24** (principles): processing must be lawful, fair and transparent, limited to a specified purpose, minimised to what is necessary, accurate, kept no longer than necessary, and secure.
- **Section 25** (lawful basis): there must be a lawful basis for the processing, such as consent, a legal obligation or a public task.
- **Section 37** (automated decision-making): a data subject is generally entitled not to be subject to a decision based solely on automated processing which produces legal or similarly significant effects. In ***India, a Judge was sanctioned for using automated sentencing software without using his human discretion.***
- **Section 39** (security): controllers and processors must adopt appropriate technical and organisational measures to secure personal data.
- **Section 40** (breaches): personal data breaches must be reported.
- **Part VIII** (cross-border transfers): transfers of personal data outside Nigeria, which is what happens when most cloud-based AI tools are used, are permitted only on the bases set out in the Act.

The ***Nigeria Data Protection Commission's General Application and Implementation Directive (GAID) 2025*** gives further guidance. ***Paragraph 5.3 of the Practice Direction*** expressly requires any person, including a legal practitioner, Expert Witness or litigant, who processes Personal Data through GenAI to comply with the duties of lawful processing, purpose limitation, data minimisation, security, confidentiality and accountability under the ***Nigeria Data Protection Act 2023.***

PRACTICAL RULES FOR THE MINISTRY:

1. ***Do not put names, addresses, phone numbers, account numbers, medical details or other identifying data into a public AI tool. Use placeholders.***
2. ***Never upload sealed records, information about children, sexual-offence complainants, protected witnesses or security matters.***
3. ***Prefer enterprise versions of AI tools under a contract that forbids the provider from training on the Ministry's data, and check where the data is stored.***
4. ***A provider's claim that its platform is "private" or "secure" does not by itself discharge the user's legal duties, as paragraph 5.5 of the Practice Direction itself points out.***

3.3 Privacy rights and deepfakes

Section 37 of the Constitution of the Federal Republic of Nigeria 1999 guarantees the privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications. GenAI creates new threats to that right:

- **Deepfakes:** realistic but false audio, images or video of a real person, which may be used to defame, blackmail or fabricate evidence.

- **Voice cloning:** a few seconds of a person's voice can be used to imitate them, for example in a telephone fraud or a fake "recorded admission".
- **Profiling:** AI can combine scattered public information about a person into a detailed profile.

Depending on the facts, such conduct may also attract liability under the ***Cybercrimes (Prohibition, Prevention, etc.) Act 2015 (as amended),*** the ***law of defamation***, and the ***criminal law of forgery and fabrication of evidence***. For the courtroom, the consequence is that audio and video evidence can no longer be taken at face value.

The Practice Direction meets these threats directly. Paragraph 2.6 defines a "Deepfake" as AI-generated or AI-manipulated audio, image or video material that falsely represents or materially alters the identity, appearance, voice, words or conduct of a person. Paragraph 8.1 prohibits the use of GenAI to create, fabricate or materially manipulate evidence and present it as authentic. Paragraph 8.4A forbids the use of AI to impersonate another person, to predict the likely decision of a named Judge for the purpose of forum shopping, or to profile a Judge, assessor or witness in a manner calculated to interfere with the administration of justice. Paragraph 8.5 forbids the use of an AI avatar, synthetic voice or altered likeness to misrepresent a person's identity or participation in a virtual hearing.

3.4 Plagiarism

Plagiarism is presenting another's words or ideas as one's own. When a lawyer files, publishes or presents AI-generated text as his own original work, three problems arise:

- **Honesty:** a paper, opinion or written address presented as personal work, which is in substance machine-written, misleads its reader.
- **Hidden copying:** AI tools can reproduce passages from published books, articles and judgments without attribution, so the user may unknowingly plagiarise a real author.
- **Academic and professional rules:** universities, the Nigerian Law School, professional examinations and journals treat undisclosed AI-written work as misconduct.

The cure is disclosure where it is required (for Court Processes, see paragraph 9 of the Practice Direction, discussed in Part IV), attribution of sources, and rewriting AI drafts in one's own words after real engagement with the material.

3.5 Copyright

The ***Copyright Act 2022*** raises two questions for AI users.

Who owns AI output? The Act protects literary, musical, artistic and audiovisual works, sound recordings and broadcasts, and requires that sufficient effort has been expended to give the work an original character. It contains no provision on computer-generated works and is built around human authorship. Purely machine-generated output is therefore unlikely to attract copyright protection in Nigeria; a work in which a human has made a real creative contribution may. In the United States, the Court of Appeals for the District of Columbia Circuit held in ***Thaler v***

Perlmutter (March 2025)[8] that a work created autonomously by AI could not be registered because the Copyright Act requires a human author. ***But a human being designed the software!***

Does AI output infringe others' copyright? AI models are trained on vast quantities of published material, and litigation over that training is ongoing in several countries. A user who publishes AI output that substantially reproduces a protected work may infringe it. Lawyers should not use AI to reproduce textbooks, law reports or articles, and should check AI-drafted publications for copied passages.

For Government, the practical point is ownership: when consultants or staff use AI to produce reports, manuals or software for the State, the contract should state who owns the output and should require disclosure of AI use.

3.6 Other risks

- **Bias:** a model trained on biased data may reproduce discrimination, for example in risk assessment or in summarising witness accounts. Paragraph 4.7 of the Practice Direction requires users to remain alert to automation bias and to the possibility that an AI system may reproduce or amplify bias; where an AI output materially informs official Court work, the human user must be able to understand, question and, where appropriate, reject or override it.
- **Outdated law:** a model may not know of recent amendments, such as the Evidence (Amendment) Act 2023, unless it searches current sources.
- **De-skilling:** a young lawyer who lets the machine do all the thinking will not develop the judgment that the profession requires.
- **Security:** documents and web pages can contain hidden instructions designed to manipulate AI tools, and AI accounts can be hacked like any other. For the Judiciary, paragraph 8A.6 of the Practice Direction requires AI tools used for official Court work to protect Judicial Data, and requires suspected misuse, confidentiality breaches and system errors to be reported.

PART IV: THE EDO STATE JUDICIARY PRACTICE DIRECTION ON THE USE OF ARTIFICIAL INTELLIGENCE IN COURT PROCEEDINGS (PRACTICE DIRECTION NO. 1 OF 2026)

4.1 Background and status

The Honourable Chief Judge of Edo State, Hon. Justice Daniel Iyobosa Okungbowa, made the ***Edo State Judiciary Practice Direction on the Use of Artificial Intelligence in Court Proceedings, Practice Direction No. 1 of 2026*** ("the Practice Direction") on 9th October 2026. It was made under ***sections 274 and 315 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), Order 63 of the Edo State High Court (Civil Procedure) Rules 2018 and all other enabling powers***, for the purpose of promoting the speedy, just, effective and technologically

[8] *No. 23-5233 (D.C. Cir. 2025)*

responsible administration of justice. By its Citation and Commencement clause, it came into force on 9th October 2026 and remains in force until amended, replaced or revoked.

Its motto summarises its spirit: ***Accuracy, Responsibility, Transparency, Human Oversight, and Integrity of Proceedings.***

Its stated ***purpose is to establish minimum standards governing the use of AI in Court proceedings, while permitting responsible use that may improve access to justice, reduce cost and delay, and support the efficient preparation and disposal of cases, without replacing human responsibility or judicial decision-making.*** Paragraph 1.2 lists eighteen objectives, ranging from preserving the integrity of judicial proceedings and minimising the risk of AI hallucinations to guarding against automation bias and avoiding digital exclusion. The drafters drew on developments in other common-law jurisdictions, but the Practice Direction states that those comparative materials are persuasive and educational only; the governing law remains Nigerian law.

4.2 The five principles

The Practice Direction does not prohibit the responsible use of AI. Its introductory statement of the Fundamental Approach rests on five principles:

1. **The human user remains responsible.** Responsibility for material presented to the Court cannot be transferred to an AI system.
2. **GenAI requires meaningful human review and control.** AI may assist the work; it must not replace professional, expert or personal judgment.
3. **Legal authorities must be independently verified.** An AI-generated citation is not a legal authority; the underlying judgment or statute must be consulted.
4. **The applicable laws continue to apply.** The use of AI does not create a separate system of evidence, professional ethics or Court procedure. The Constitution, Rules of Court, Evidence Act, professional obligations and data-protection requirements continue to govern.
5. **Judicial decision-making remains a human function.** AI may support judicial and administrative work, but shall not replace judicial reasoning, discretion, credibility assessment or the determination of issues in a cause or matter.

4.3 Main features at a glance

Feature	Effect
Scope and application (paras 1.1, 2.3)	Applies in the High Court of Edo State and any other Court to which it is lawfully made applicable, in civil and criminal proceedings, interlocutory and final (para 1.1(2)). Covers legal practitioners and law firms; self-represented litigants; expert and other witnesses; interpreters and translators using AI; Judges, Registrars and Court staff; and any other person who prepares, files, serves, tenders or relies on material in court proceedings (para 1.1(1)).

Feature	Effect
Technology-neutral (para 1.3)	Applies by function, whatever the product's name or developer, whether proprietary or open source, whatever the interface, and whether or not the AI is built into another product.
Existing law preserved (paras 1.1(3), 1.4)	Nothing in it derogates from the Constitution, the Evidence Act 2011, the Nigeria Data Protection Act 2023, the Rules of Professional Conduct or the Rules of Court, which prevail in case of conflict. It renders no inadmissible evidence admissible and creates no new offence or contempt.
Fundamental principle (para 1.5)	Every person remains responsible for material presented to the Court in that person's name; an AI system cannot assume professional, evidential or procedural responsibility.
Key definitions (para 2)	Defines, among others, AI, GenAI, "Court Process" (which includes photographs, audio, video and other digital material), "Hallucination", "Deepfake", "Material Use", "Assistive Use", "Synthetic Media", "Approved AI Tool", "Algorithmic Bias", "Third-Party AI Tool" and "Decision-Support System".
Responsible use and permitted assistance (paras 3.1 to 3.3)	Use is not prohibited merely because AI assisted. Every AI-assisted Court Process must be reviewed, verified, checked against the record and authoritative sources, reviewed for confidentiality and personally approved (para 3.2). GenAI may help with organising documents, grammar, formatting, research questions and structures, summaries of lawfully available material, chronologies of verified facts, translation with human review, and administrative material (para 3.3).
No presumption of accuracy (paras 3.4, 3.5)	Fluency, detail, professional terminology, conventional-looking citations, hyperlinks or confident conclusions do not make an output accurate. No fact generated or inferred by GenAI may be put before the Court without proper evidence.
Meaningful human review (paras 4.1 to 4.7)	Requires careful, informed and ongoing oversight. Responsibility attaches even where a junior, an employee or a third-party provider operated the tool (para 4.3). Checking grammar, trusting a hyperlink, relying on an AI summary, or asking the same AI to verify its own output is not enough (para 4.4). Users must guard against automation bias (para 4.7).

Feature	Effect
Professional responsibility (paras 5.1 to 5.7)	The standards of the Rules of Professional Conduct apply undiminished (para 5.1). Mandatory technological competence and no privileged, sensitive or personal data in public or unvetted tools (para 5.2); compliance with the Nigeria Data Protection Act 2023 (para 5.3); minimum necessary disclosure (para 5.4); vendor assurances do not discharge the user's duties (para 5.5); independent verification (para 5.6); supervision of juniors and service providers, with no right to blame them or the AI (para 5.7).
Verification of authorities (paras 6.1 to 6.5, 6.8)	Every authority, statute, rule, practice direction and quotation must be verified against an authoritative source such as official texts, gazettes, law reports, recognised databases or certified copies (paras 6.1, 6.2). For cases: parties, court, date, citation, quotations, page references, that the case supports the proposition and that its legal status is accurately represented (para 6.3). For legislation: title, year, provision, wording, amendments, commencement and current status (para 6.4). An authority that cannot be verified must not be presented as genuine (para 6.8).
Certificate of authorities (paras 6.6, 6.7)	Where a written address, brief or substantive submission contains authorities materially identified, generated or analysed through GenAI, counsel or the self-represented litigant must complete the Certificate in Schedule 3. It is an additional safeguard and does not replace any signature, endorsement, certification or filing requirement.
Affidavits and witness statements (para 7.1)	GenAI must not invent, supplement or manipulate facts or manufacture a witness's recollection. It may assist only with formatting or language, and the witness must personally review and adopt the final text.
Expert witnesses (paras 7.2 to 7.4)	Experts must keep absolute intellectual control and remain personally responsible for methods, calculations and conclusions; keep verifiable records where GenAI assisted in modelling, calculation or analysis; and include the Expert Declaration in Schedule 4 where GenAI materially contributed to the report.
Synthetic media and deepfakes (paras 8.1 to 8.5)	Fabricating evidence with GenAI is prohibited (para 8.1). Synthetic media cannot be represented as authentic without disclosure and a proper evidential foundation (para 8.2). Disclosed demonstrative aids are allowed (para 8.3). False judgments, orders, warrants and other Court instruments are forbidden (para 8.4), as are impersonation, profiling of

Feature	Effect
	Judges or witnesses and AI predictions of a named Judge's decision for forum shopping (para 8.4A), and AI avatars or synthetic voices in virtual hearings (para 8.5).
Judges and Court staff (paras 8A.1 to 8A.7)	No Judge may delegate fact-finding, credibility, discretion, damages, sentence or decision to AI, and no AI tool may generate the reasoning or conclusions of a judgment or ruling (para 8A.1). Only Approved AI Tools for administrative and preparatory work (paras 8A.2, 8A.4); no confidential case material or draft judgments in public tools (para 8A.3); material AI use should be noted in the judgment (para 8A.5); incident reporting (para 8A.6); AI literacy training (para 8A.7).
Disclosure of Material Use (paras 9.1 to 9.5)	Disclosure is aimed at Material Use, not routine assistance (para 9.1). Where GenAI materially generated or altered substantive content in a Court Process, the declaration in Schedule 3 is required (para 9.2), but not for spelling, grammar, formatting, pagination, accessibility or human-verified mechanical transcription (para 9.3). The Registry may not reject a process for want of a declaration but may draw the omission to the Court's attention (para 9.3A). The Court may inquire into AI use (para 9.4) and order preservation of prompts, outputs and source documents (para 9.5).
Duty to correct (paras 10.1 to 10.4)	A person who discovers a material AI-generated error in material before the Court must take prompt and reasonable steps to correct the record. Prompt correction may be taken into account but does not necessarily rule out other consequences.
Consequences (paras 11.1 to 11.5)	The Court may reprimand, require correction, withdrawal or amendment, require verified authorities, decline to rely on defective material, strike out the offending process, adjourn, award costs, and refer professional misconduct to the disciplinary authority or suspected criminal conduct to an appropriate authority (para 11.1). Responses are proportionate, having regard to whether the conduct was deliberate, reckless, negligent or inadvertent, the verification undertaken, prompt correction, candour, prejudice and repetition (para 11.2). A breach is not automatically contempt (para 11.3). The person affected must be heard first, and counsel may be required to show cause (para 11.5).

Feature	Effect
Judicial consideration of AI material (paras 12.1 to 12.5)	AI material has no special presumption of accuracy, authenticity, reliability or weight (para 12.1). Admissibility and weight are governed by the Evidence Act 2011 as amended in 2023 (para 12.2). The Court may require proof of provenance, metadata, chain of custody and expert examination (para 12.3) and give directions on deepfake allegations (para 12.4). AI-generated or AI-altered evidence must be disclosed by the close of pleadings or the pre-trial conference (para 12.4A); a challenge to authenticity requires written notice within 14 days of service (para 12.4B); the tendering party must prove authenticity (para 12.4C); and section 84 of the Evidence Act is preserved (para 12.4D).
Self-represented litigants (paras 13.1 to 13.4)	May use GenAI responsibly but remain responsible for facts, documents, authorities and corrections. Registry staff may give the plain-language guidance in Schedule 2, which is not legal advice. The Court may consider the litigant's resources, but the duty not to mislead the Court applies to all.
Review and implementation (paras 14.1 to 14.2)	Formal review not later than 24 months after commencement and at least annually thereafter (para 14.1). The Chief Registrar keeps a record of material AI incidents and non-compliance orders (para 14.1A). The Chief Judge may issue supplementary forms, protocols and checklists (para 14.2).

4.4 The forms and guides

The Practice Direction is supported by four Schedules:

- **Schedule 1 (Form AI-1): Declaration of Material Use of Generative AI / GenAI Verification Checklist.** A checklist of nineteen confirmations to be made before filing or presenting AI-assisted material, including that every material case has been verified from the underlying judgment, that GenAI has not invented a fact for an affidavit or manufactured a witness's recollection, that privilege and Personal Data have been protected, and that the signatory is personally prepared to take responsibility for the material before the Court.
- **Schedule 2 (Form AI-2): Plain-Language Guide for Self-Represented Litigants.** Twelve plain rules, beginning with the warnings that "AI is not the Court" and "AI is not a lawyer".
- **Schedule 3 (Form AI-3): Certificate of Verification of AI Material Use and Legal Authorities.** This is the form required by paragraph 6.6 (authorities) and paragraph 9.2 (Material Use). Part A discloses the platform, version, tasks and portions of the document

affected, with a table of each authority, the sources consulted and the proposition supported. Part B is a mandatory verification checklist. Part C is an assumption of personal and professional responsibility, signed by counsel with his Supreme Court enrolment number where applicable.

- **Schedule 4 (Form AI-4): Expert AI Use Certification/Protocol.** A seventeen-point protocol for experts, ending with the prescribed statement that "Notwithstanding the use of GenAI in this report, the opinions expressed in the report are my independent professional opinions and have not been delegated to or determined by an Artificial Intelligence system."

4.5 What this means for counsel of the Ministry

- **Material Use triggers disclosure.** If AI drafted the substance of a written address, the declaration in Schedule 3 is needed (paragraph 9.2). If it only corrected spelling, grammar or formatting, none is needed (paragraph 9.3). The Registry will not refuse the process for want of a declaration, but the omission may be drawn to the attention of the Court (paragraph 9.3A).
- **Your signature is your guarantee.** Part C of Form AI-3 is a personal certification that the document contains no fictitious cases, fabricated statutory provisions or material AI hallucinations, and an acceptance of personal and professional responsibility for everything in it.
- **Keep records.** The Court may require information on the system used, its purpose, the portions affected and the verification undertaken (paragraph 9.4), and may order preservation of prompts and outputs (paragraph 9.5). Keep a simple record of AI use on important files.
- **Supervise.** A head of department is answerable for AI use by junior counsel, interns and clerks in the department (paragraphs 4.3 and 5.7).
- **Correct promptly.** If a fictitious authority is discovered, write to the Court and the other side at once (paragraph 10.3). Prompt correction may be taken into account (paragraphs 10.4 and 11.2(i)), but it does not necessarily rule out other consequences.
- **Disclose AI-generated evidence early.** A party who intends to tender a document, image, audio or video recording that was generated or materially altered by AI must disclose that fact at the earliest opportunity, and not later than the close of pleadings or the pre-trial conference, whichever is earlier (paragraph 12.4A).
- **Prosecutors are covered.** The Practice Direction applies to criminal as well as civil proceedings (paragraph 1.1(2)).

PART V: DIGITAL AND ELECTRONIC EVIDENCE UNDER THE EVIDENCE ACT

5.1 From case law to statute

Before 2011 the ***Evidence Act*** made no express provision for computer evidence, and the courts were divided. In ***Esso West Africa Inc. v Oyegbola*** [9] the Supreme Court took a liberal view, observing that the law cannot be ignorant of modern business methods. In ***Yesufu v African***

[9] ***(1969) NMLR 194***

Continental Bank Ltd [10] the Court was more cautious and called for legislation. In ***Anyaebosi v R.T. Briscoe (Nig.) Ltd*** [11] the Court admitted computer print-outs of a statement of account.

The ***Evidence Act 2011*** answered the call with ***section 84***, modelled on ***section 5 of the English Civil Evidence Act 1968***. The ***Evidence (Amendment) Act 2023***, signed on 12th June 2023, then brought the Act into line with current technology. It ***amended section 84, inserted new sections 84A to 84D, and amended sections 93, 108, 109, 110, 119, 255 and 258.***

5.2 Key definitions (section 258, as amended)

Term	Meaning (summarised)
Computer	Any device for storing and processing information, now expressly including mobile phones.
Document	Includes any device by means of which information is recorded, stored or retrievable, including computer output.
Electronic record	Data, records, images or sound generated, stored, received or sent in electronic form or on microfilm.
Cloud computing	Delivery of computing services (storage, servers, databases, software) over the internet.
Magnetic media	Cassette tapes, hard disks, floppy disks, video and computer tapes.
Optical media	DVDs, CDs and Blu-ray discs.
Digital signature	An electronically generated signature attached to an electronically transmitted document to verify its contents and the sender's identity.
Audio-visual communication	Seeing, hearing and communicating with another person in real time by electronic means.

The inclusion of mobile phones settles a practical question. WhatsApp messages, text messages, call logs, photographs and voice notes taken from a phone are computer-produced evidence and must satisfy section 84.

5.3 Section 84: the conditions for admissibility

Section 84(1) makes a statement in a document produced by a computer admissible as evidence of any fact stated in it, of which direct oral evidence would be admissible, if the conditions in subsection (2) are shown to be satisfied. As amended in 2023, those provisions now extend expressly to "electronic records". The four conditions in section 84(2) are, in substance:

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[10] (1976) 4 SC 1

[11] (1987) 3 NWLR (Pt. 59) 84

1. **Regular use:** the document was produced by the computer during a period when it was used regularly to store or process information for activities regularly carried on over that period.
2. **Regular supply:** over that period, information of the kind contained in the statement or electronic record was regularly supplied to the computer in the ordinary course of those activities.
3. **Proper operation:** throughout the material part of that period the computer was operating properly or, if not, any malfunction did not affect the production of the document or the accuracy of its contents.
4. **Derivation:** the information in the statement reproduces or is derived from information supplied to the computer in the ordinary course of those activities.

Section 84(3) treats a combination of computers operating over a period as a single computer.

The certificate (section 84(4)). Where a statement is to be given in evidence by virtue of section 84, a certificate may be produced which:

- identifies the document containing the statement and describes the manner in which it was produced;
- gives particulars of any device involved in its production, as may be appropriate to show that it was produced by a computer;
- deals with any of the matters mentioned in subsection (2); and
- purports to be signed by a person occupying a responsible position in relation to the operation of the relevant device or the management of the relevant activities.

The certificate is evidence of the matters stated in it, and it is sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

5.4 The new sections 84A to 84D (2023)

- **Section 84A (information in electronic form):** where a law requires information to be in writing, typewritten or printed, that requirement is satisfied if the information is in electronic form and accessible for later reference.
- **Section 84B (records in a computer):** information in an electronic record that is printed, stored, copied to optical or magnetic media, or held in cloud computing or a database produced by a computer is deemed to be a document, and is admissible without further proof or production of the original if the conditions of the section are satisfied.
- **Section 84C (authentication):** an electronic record may be authenticated by a digital signature or other reliable technique. A technique is reliable if the signature data is linked to the signatory alone and any alteration to the signature or the information is detectable.
- **Section 84D (proof of digital signature):** unless the signature is a secure digital signature, a party alleging that a digital signature is that of a particular person must prove it.

5.5 Other relevant amendments

- **Section 93:** proof of electronic signatures now extends to digital signatures.

- **Section 108 (substituted):** an affidavit sworn electronically before an authorised person may be filed in the court registry and recognised for court purposes.
- **Sections 109 and 110:** affidavits may be sworn before the persons named "whether in person or through audio-visual means".
- **Section 119(2)(ba):** where an affidavit is taken through audio-visual means, the electronic record must state the method used and the date.
- **Section 255 (substituted):** the Minister may make regulations prescribing further conditions of admissibility, and publication in the Electronic Gazette satisfies a requirement of publication in the Federal Gazette.

Other provisions of the Act continue to apply to electronic evidence: relevance (sections 1 to 14), documentary hearsay and weight (section 34, which directs the Court to have regard to the circumstances, including the contemporaneity of the information and any incentive to conceal or misrepresent), primary and secondary evidence (sections 85 to 89), public documents and certified true copies (sections 102 to 105), and expert opinion (section 68).

5.6 The leading cases

Case	Principle
Kubor v Dickson (2013) 4 NWLR (Pt. 1345) 534 (SC)	The conditions in section 84 are pre-conditions to admissibility. Computer print-outs tendered from the Bar, without the conditions being proved, were inadmissible. A print-out of a public document is still a public document; the only admissible secondary evidence of it is a certified true copy.
Omisore v Aregbesola (2015) 15 NWLR (Pt. 1482) 205 (SC)	Section 84 is not limited to internet-generated documents; it applies to documents produced by a computer generally.
Dickson v Sylva (2017) 8 NWLR (Pt. 1567) 167; (2016) LPELR-41257 (SC)	(a) Section 84 provides two methods of proof: oral evidence under subsections (1) and (2), or a certificate under subsection (4); either way the subsection (2) conditions must be met, subject to the Judge's power to require oral evidence. (b) Authentication is required at the point of production, not playback: the laptop or projector used to play an admitted DVD in court need not be certified. (c) An admitted electronic exhibit that is not played in open court remains a closed, "sleeping" document of no use to the Court.
Brila Energy Ltd v FRN (2018) LPELR-43926 (CA); *Jubril v FRN* (2018) LPELR-43993 (CA)	Oral evidence from a witness familiar with the operation of the computer can satisfy section 84 in place of a certificate.
IGP v Bello (2023) 1 NWLR (Pt. 1865) 265 (CA)	A party need not tender both a certificate and oral evidence; either suffices if it covers section 84(2).

Case	Principle
Rosehill Ltd v GTB Plc (2016) LPELR-41665 (CA); *UBN Plc v Agbontaen* (2018) LPELR-44160 (CA)	Computer-generated statements of account are governed by section 84; failure to comply renders them inadmissible.
BUA International Ltd v SAIMA (Nig.) Ltd (2023) LPELR-59533 (CA)	Treated bank statements as outside section 84(2), a departure from the earlier Court of Appeal line.
A.-G., Federation v Anuebunwa (2022) 14 NWLR (Pt. 1850) 211 (SC)	A bank statement relied on as computer-generated evidence requires certification under section 84.
Polaris Bank Ltd v Centre Point Travel Agency Ltd (2022) LPELR-57359 (CA)	A computer-generated document admitted without the required certificate is inadmissible and must be expunged at judgment.
Ayoola v Dominion Trust Ltd (2025) LPELR-82534 (CA)	A person not in control of the device generally cannot validly certify that it was working properly.
Davou v COP, Plateau State (2019) LPELR-47034 (CA)	Photographs admitted without compliance with section 84 were wrongly admitted and expunged.
Oguntoyinbo v Ogunfolaji (2025) LPELR-81675 (CA)	Digital photographs were properly admitted on the oral evidence of the person who took them, covering the device, the process and its integrity.
Madueke v Okoroafor (1992) LPELR-12795 (CA); *Federal Polytechnic, Ede v Oyebanji* (2012) LPELR-19696 (CA)	A tape recording requires a proper foundation: its source, how it was made, identification of the voices, and safe custody free from tampering.

On bank statements, the safer course after *Anuebunwa* is to comply with section 84 in every case.

5.7 Practical rules on admissibility

1. **Identify the evidence as computer-produced.** Print-outs, emails, WhatsApp chats, text messages, call logs, CCTV footage, digital photographs, voice notes, bank statements and social media posts all fall under section 84.
2. **Choose the method of proof.** File a section 84(4) certificate, or call a witness who can give oral evidence covering all four conditions in section 84(2), or both where the evidence is likely to be contested.
3. **Get the right signatory.** The certificate should be signed by a person who operated the device or managed the relevant activity: the owner of the phone, the bank's officer in charge of the system, the operator of the CCTV.
4. **Front-load it.** File the certificate with the documents under the Rules of Court, and tender it at the same time as the electronic evidence.
5. **Tender through a competent witness, not from the Bar** (*Kubor v Dickson*).
6. **Public documents need certification.** A print-out of a public document, such as an INEC record or a gazette, needs a certified true copy.
7. **Then demonstrate it.** Admission is only half the work. Audio and video must be played in open court (Part VI).

5.8 AI-generated evidence and deepfakes

Section 84 was designed to test whether a computer was working properly. It was not designed to detect a machine that was working perfectly to create a convincing fake. A deepfake video can satisfy the formal conditions of section 84: the phone was used regularly, it worked properly, and the file is exactly what it produced. The certificate tells the Court how the file was produced; it does not prove that the events shown actually happened.

When authenticity is challenged, the Court and counsel must therefore look beyond the certificate. Where authenticity is disputed, paragraph 12.3 of the Practice Direction allows the Court to require evidence of provenance, creation, modification, original files, metadata, chain of custody, the systems or software used, prompts or the generation process where relevant, and expert examination. Where there is a credible allegation of AI manipulation, paragraph 12.4 empowers the Court to give directions on preservation, disclosure, inspection, authentication, expert examination, and production of original files and devices. Useful practical tools include:

- the original file from the original device, not a forwarded copy;
- metadata (date, time, device model, location data and editing history);
- a hash value (a digital fingerprint such as SHA-256) taken when the file is extracted and again in court, to show it has not changed;
- a documented chain of custody;
- forensic expert evidence under section 68 where manipulation is alleged.

The Court is not bound to accept a deepfake simply because section 84 has been complied with. Admissibility and weight are separate questions, and section 34 allows the Court to give little or no weight to evidence whose integrity is doubtful. This accords with paragraph 12.1 of the Practice Direction: AI-generated or AI-assisted material acquires no special presumption of accuracy, authenticity, reliability or evidential weight.

The Practice Direction also lays down a procedure for these disputes:

- **Disclosure by the tendering party (paragraph 12.4A).** A party seeking to tender a document, image, audio or video recording that was generated or materially altered by AI must disclose that fact at the earliest opportunity and, in Court proceedings, not later than the close of pleadings or the pre-trial conference, whichever is earlier.
- **Notice of challenge (paragraph 12.4B).** A party challenging authenticity on the ground that the material is or may be Synthetic Media must give written notice to the other party and to the Court, specifying the grounds and the particular features relied on, not later than 14 days after service of the material or such further time as the Court may allow.
- **Burden and forensic examination (paragraph 12.4C).** The party tendering the material remains responsible for establishing authenticity in accordance with the law of evidence. The Court may direct forensic examination and make such order as to its costs as is just.
- **Section 84 preserved (paragraphs 12.2 and 12.4D).** Admissibility, authentication, relevance and weight remain governed by the Evidence Act 2011, as amended in 2023, and nothing in the Practice Direction displaces the requirements of section 84.

PART VI: TENDERING AND DEMONSTRATING AUDIO AND VIDEO EVIDENCE WITHOUT "DUMPING"

6.1 What "dumping" means and why it is fatal

A document is "dumped" on the Court when it is tendered but never linked, through a witness in open court, to the facts it is meant to prove. ***A Judge is an adjudicator, not an investigator. He may not retire to chambers and examine exhibits that were never examined in open court***: ***Action Congress of Nigeria v Lamido (2012) Appeal No. SC.25/2012***, per Fabiyi JSC.

For audio and video the rule is strict, because the content of a disc or flash drive cannot be seen by looking at it:

- ***Dickson v Sylva (2017) 8 NWLR (Pt. 1567) 167 (SC):*** an admitted electronic document that is not played in open court remains a closed, "sleeping" document which the Court cannot use.
- ***APC v Zailani (2023) LPELR-59510 (CA):*** a trial Judge who watched a video privately, when it had not been played in open court, embarked on an investigation; his finding on it was perverse.
- ***Obiajulu v State (2024) LPELR-62782 (CA):*** viewing a video in chambers, without demonstration in open court, was condemned as cloistered justice; the exhibit was treated as dumped and the offence was not proved beyond reasonable doubt.
- ***Nwafor v Ecobank (Nig.) Ltd (2024) LPELR-61814 (CA):*** an audio cassette admitted without objection but never played in open court had no probative value.

The rule protects fair hearing under section 36 of the Constitution. The other side must hear and see the evidence, and be able to cross-examine on it, in public.

I have discussed this subject in an earlier paper, ***How to Tender and Play Video Evidence in Court (February 2026)*** [12]**.** What follows is a step-by-step guide.

6.2 Stage one: before the trial

1. **Secure the original.** Obtain the recording from the original device (phone, CCTV recorder, camera or broadcaster's server). Avoid copies forwarded through WhatsApp or social media, which are compressed and stripped of metadata.
2. **Make a working copy and record its hash value.** Copy the file to a new flash drive or disc. Record its hash value (for example SHA-256) at the time of extraction, so that its integrity can be proved later.
3. **Document the chain of custody.** Note who recorded it, who extracted it, when, on what device, and who has kept it since.
4. **Prepare the section 84(4) certificate,** signed by the person in charge of the device (template at 6.6). Alternatively, prepare the witness to give oral evidence covering section 84(2).

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[12] ***https://nigerianlawguru.com/articles/practice_and_procedure/how-to-tender-and-play-video-evidence-in-court/***

5. **Prepare a transcript.** Transcribe the recording word for word from the authentic copy, with time-stamps, identification of each speaker and notes of relevant actions. Where the recording is in Bini, Esan, Pidgin or another language, provide a certified translation. The transcriber should certify the transcript. If an AI transcription tool is used, a human must check the transcript word for word against the recording. Purely mechanical transcription that has received human verification does not require a declaration of Material Use (paragraph 9.3(g) of the Practice Direction), and translation is permitted only subject to meaningful human review (paragraph 3.3(h)).
6. **Front-load everything.** List the recording, certificate and transcript among the documents to be relied on, and deliver copies of the recording and transcript to the other side. If the recording, or any image or document you intend to tender, was generated or materially altered by AI (for example, an enhanced or reconstructed video), disclose that fact at the earliest opportunity and not later than the close of pleadings or the pre-trial conference, whichever is earlier (paragraph 12.4A). Reconstructions and other demonstrative media are allowed if appropriately disclosed and permitted by law or authorised by the Court (paragraph 8.3).
7. **Mark the key passages.** Prepare a short schedule of the time-stamps you will play and the fact each proves. You do not have to play two hours of CCTV footage; play the relevant parts, but make the whole available.
8. **Test the equipment.** Bring a laptop with the right software, external speakers, a projector or large screen if the courtroom allows, spare cables, and a back-up copy. Test in the courtroom before the sitting where possible.

6.3 Stage two: laying the foundation

The witness who tenders the recording should be the person who made it, or a person who can speak to its making and custody. Examination-in-chief should establish:

- who made the recording, when and where;
- the device used and that it was working properly (section 84(2));
- how the file was extracted, stored and kept, and that it has not been edited;
- the identity of the voices or persons in the recording, and how the witness knows them;
- the certificate, which the witness identifies.

A short illustration of examination-in-chief:

> ***Counsel:*** *What is in your hand?* ***Witness:*** *A flash drive containing the video I recorded on my phone on 3rd March 2026 at the disputed land.* ***Counsel:*** *What phone did you use?* ***Witness:*** *My Samsung phone, which I have used every day for two years. It was working properly.* ***Counsel:*** *How did the video get onto the flash drive?* ***Witness:*** *I copied it directly from my phone on 5th March 2026. I have kept the flash drive in my locked drawer since then. I did not edit it.* ***Counsel:*** *Who appears in the video?* ***Witness:*** *The defendant and two labourers. I have known the defendant for ten years.* ***Counsel:*** *I seek to tender the flash drive, the certificate of compliance and the certified transcript.*

> ***TAKE NOTE that in this era of adoption of Depositions and front loading of evidence, the witnesses deposition should be comprehensive enough to cover the above scenario.***

6.4 Stage three: tendering and admission

1. Tender the recording, the certificate and the transcript through the witness.
2. The other side may object. Admissibility objections (relevance, section 84, foundation) are decided at that point; arguments about authenticity and weight may be reserved for the final address. Where the objection is that the recording is or may be a deepfake, the objecting party must give written notice of the challenge, with its grounds and the particular features relied on, within 14 days after service of the material (paragraph 12.4B of the Practice Direction), and the Court may direct forensic examination (paragraph 12.4C).
3. If admitted, the Court marks the exhibits.

6.5 Stage four: demonstration in open court

This is the step most often missed.

1. **Apply for leave to play the recording in open court** immediately after admission, or on a date fixed by the Court.
2. **Play it from the admitted exhibit.** Under *Dickson v Sylva*, the laptop or projector used to play it does not need its own certificate.
3. **Guide the Court.** As each relevant segment is played, the witness identifies the time-stamp, the persons and what is happening. Counsel should ask the Court to note the time-stamps in the record.
4. **Read the transcript against the recording,** so that the record of proceedings captures what was heard.
5. **Cross-examination.** The other side may cross-examine on the recording, its making, possible editing and the identification of voices.
6. **Final written address.** Link each relevant time-stamp to the issue for determination and the fact it proves. An exhibit that is played but never argued is little better than one that is dumped.

6.6 Template: certificate under section 84(4)

The template below should be adapted to the facts of each case.

> ***IN THE HIGH COURT OF JUSTICE OF EDO STATE IN THE BENIN JUDICIAL DIVISION, HOLDEN AT BENIN CITY SUIT NO: _____ CERTIFICATE OF COMPLIANCE PURSUANT TO SECTION 84(4) OF THE EVIDENCE ACT 2011 (AS AMENDED)***
>
> *I, [name], [occupation], of [address], hereby certify as follows:*

1. The electronic record to which this certificate relates is a video recording titled [file name], of [duration], contained in a flash drive marked [identification].

2. The recording was made on [date] at [place] with a [make and model] mobile phone, IMEI [number], which I own and have used regularly to record and store information in the ordinary course of my activities over the period [period].
3. Throughout that period the phone was operating properly. [Or: any malfunction did not affect the recording or its accuracy.]
4. On [date] I transferred the recording directly from the phone to the flash drive by [method]. The SHA-256 hash value of the file at transfer was [value]. The recording has not been edited or altered.
5. The recording reproduces the information captured by the phone in the ordinary course of its use.
6. I occupy a responsible position in relation to the operation of the device, being its owner and sole user.
7. The matters stated here are true to the best of my knowledge and belief.

Signature: _____ Date: _____

6.7 Criminal trials: recorded statements

The ***Administration of Criminal Justice Act 2015 (sections 15(4) and 17(1) and (2)) and sections 15(4) and 17(1), (2) and (3) of the Administration of Criminal Justice Law of Edo State 2016*** provide for the electronic recording, on video, of statements made by suspects. Where a recorded confessional statement is relied on, the prosecution must lay the section 84 foundation, tender the recording through the officer who made it, and play it in open court. Where voluntariness is disputed, the recording may be played within the trial-within-trial. Because the Practice Direction applies to criminal proceedings (paragraph 1.1(2)), a defence allegation that a recorded statement has been manipulated with AI should be raised by written notice under paragraph 12.4B.

In ***FRN v Nnajiofor*** **(2024) 10 NWLR (Pt. 1947) 443 and** ***FRN v Akaeze*** **(2024) 12 NWLR (Pt. 1951) 1,** the Supreme Court emphasised the duty of law enforcement officers to record confessional statements electronically. More recent decisions of the Supreme Court, however, hold that failure to record does not by itself make a confession inadmissible. In ***Iwah v State*** **(2026) LPELR-83365 (SC) and** ***Eduenoh v State (2026) LPELR-83734 (SC),*** the Court treated the recording requirement as procedural. Admissibility remains governed by the voluntariness test in ***sections 28 and 29 of the Evidence Act***, and non-compliance goes at most to weight. The safe course for prosecutors is still to record the statement and, where a recording exists, to tender it and play it in open court.

6.8 Checklist for counsel

- ☐ Original file secured from the original device
- ☐ Hash value recorded at extraction
- ☐ Chain of custody documented
- ☐ Section 84(4) certificate signed by the responsible person, or witness ready to give oral evidence
- ☐ Certified transcript, and translation where needed

- ☐ Recording, certificate and transcript front-loaded and served
- ☐ Any generation or material alteration of the material by AI disclosed (Practice Direction, paragraph 12.4A)
- ☐ Schedule of time-stamps and facts prepared
- ☐ Equipment tested and back-up copy ready
- ☐ Witness prepared to identify the device, process, persons and custody
- ☐ Leave sought to play the recording in open court
- ☐ Time-stamps noted in the record
- ☐ Final address links each time-stamp to an issue

CONCLUSION AND RECOMMENDATIONS

AI will not replace the lawyer, but the lawyer who uses AI well will outpace the lawyer who does not. The tool is powerful in drafting, structuring and administration, and reliable in finding the law. ***The Edo State Practice Direction puts the matter in one sentence: every person remains responsible for material presented to the Court in that person's name (paragraph 1.5).*** On the evidence side, the ***Evidence (Amendment) Act 2023*** has brought the law up to date, but the arrival of deepfakes means that the old discipline of proper foundation, authentication and open-court demonstration matters more, not less.

Recommendations for the Ministry of Justice

1. **Adopt an internal AI policy** for the Ministry, consistent with the Practice Direction, the NBA Guidelines and the Nigeria Data Protection Act 2023, stating which tools may be used, for what tasks and with what data.
2. **Provide approved enterprise tools** under contracts that protect Government data, rather than leaving officers to use free public tools with personal accounts. This mirrors the approach the Practice Direction takes for the Judiciary itself, where only Approved AI Tools may be used for official Court work (paragraphs 2.14, 8A.2 and 8A.4).
3. **Train every officer,** legal and administrative, in prompting, verification and data protection, and repeat the training as the tools change. Compare the duty of technological competence in paragraph 5.2 and the AI literacy requirement for Judicial Officers and Court staff in paragraph 8A.7 of the Practice Direction.
4. **Require verification and sign-off.** No written address, legal opinion or Bill leaves a department until a named lawyer has checked every authority against the law reports or the official text. Where the Practice Direction requires it, that lawyer should also complete the Certificate in Schedule 3 (paragraphs 6.6 and 9.2).
5. **Subscribe to reliable law reports and databases,** so that verification is easy and quick.
6. **Keep a simple AI-use record** on important files, so that the Ministry can answer any inquiry by the Court into AI use under paragraphs 9.4 and 9.5 of the Practice Direction.
7. **Build digital-evidence capacity** in the Department of Public Prosecutions and Civil Litigation: standard section 84 certificates, hash-value and chain-of-custody procedures, and access to forensic experts.

8. **Equip courtrooms and prosecutors** with laptops, speakers and projectors, so that electronic evidence can always be played in open court.
9. **Update contracts** with consultants to address ownership of AI-generated work and disclosure of AI use.
10. **Designate a focal officer in each department to monitor compliance** with the Practice Direction, including the deadline for disclosing AI-generated evidence (paragraph 12.4A) and the 14-day notice period for challenging authenticity (paragraph 12.4B).

I thank the Honourable Attorney-General and Commissioner for Justice, the Permanent Secretary and the organisers for the opportunity to share these thoughts, and I look forward to the discussion.

Hon. Justice P. A. Akhihiero
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Judge, High Court of Justice, Edo State

SOURCES

Primary materials:

- Edo State Judiciary Practice Direction on the Use of Artificial Intelligence in Court Proceedings, Practice Direction No. 1 of 2026 (made and in force 9th October 2026)
- Evidence Act 2011; Evidence (Amendment) Act 2023
- Nigeria Data Protection Act 2023; NDPC General Application and Implementation Directive 2025
- Rules of Professional Conduct for Legal Practitioners 2023
- NBA-SLP Guidelines for the Use of Artificial Intelligence in the Legal Profession in Nigeria (2024)

Commentary and reports:

- P. A. Akhihiero, How to Tender and Play Video Evidence in Court (February 2026)
- Voice of Nigeria: CJN urges judges to verify AI-generated authorities (November 2026)
- The Nigeria Lawyer: demonstrating electronic evidence in open court
- The Nigeria Lawyer: certificate and oral evidence under section 84
- Legal 500: emerging issues on admissibility of electronic evidence in Nigeria
- Mondaq (Babalakin & Co.): AI and legal services in Nigeria