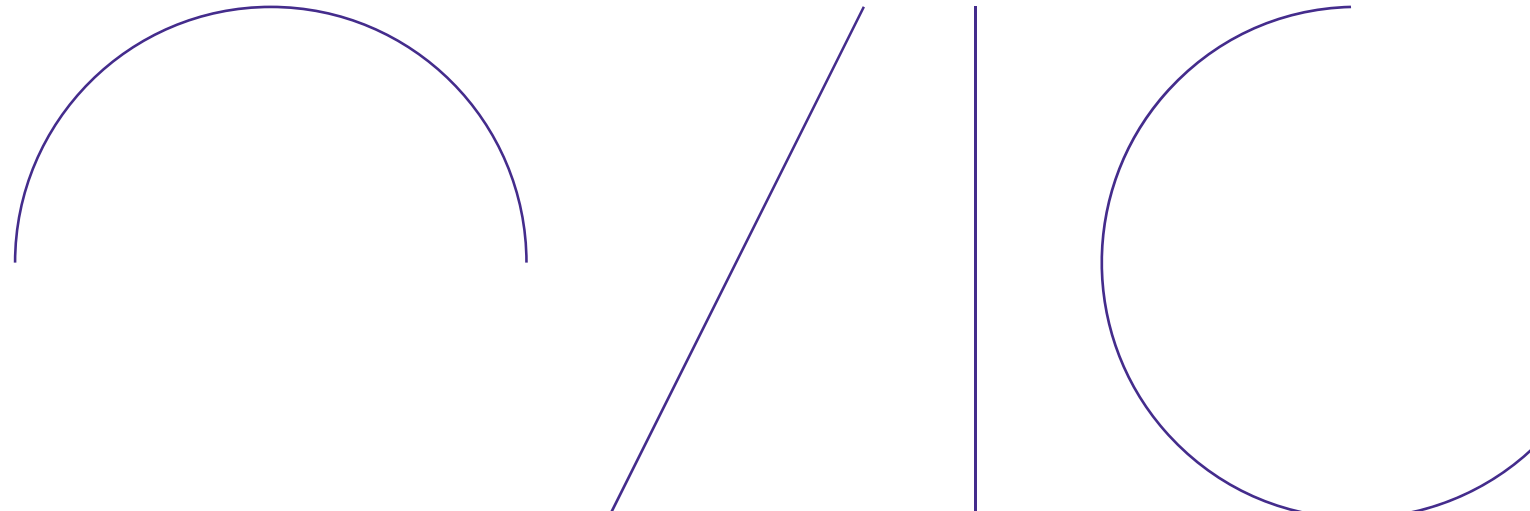# Public transparency when using AI and automated systems

FOI and privacy obligations

Agenda

- Transparency obligations

- Why transparency is important

- AI and automated system use cases where transparency is needed

- Minimum expectations and tips

Transparency obligations

FOI Act – Proactive release

- **Part II** of the FOI Act (sections 7, 8 and 11)

- **Obligation -** to proactively release information about the organisation and the documents it holds

PDP Act

Privacy Policy

- IPP 5 (Openness)

- **Obligation -** to publish a privacy policy clearly expressing the organisation's management of personal information

Notice of collection

- IPP 1.3 (Collection)

- **Obligation -** to make individuals aware of certain information when collecting their personal information

Why is transparency important

Dignity

Integrity

Respect

Rights

Accountability

Trust

Power

Innovation

AI and automated systems

AI

Artificial intelligence

in its broadest sense is a range of techniques to enable software to approximate human thinking and behaviours.

Machine learning

is a subset of AI and uses advanced algorithms to detect patterns in large datasets to allow software to learn and adapt.

Neural networks

are machine learning programs that process inputs and generate outputs through interconnected nodes or artificial neurons. These nodes loosely model the neurons in a brain.

Deep learning

All deep learning systems are made of neural networks. They can recognise complex data patterns.

General-purpose AI

operates on the foundations of machine learning and deep learning. It can handle a broad range of tasks.

Generative AI

is one subset of general purpose AI and can generate text, images, video, sound, etc.

NLP

is a subfield of AI that uses machine learning to enable computers to understand and communicate with human language.

Large language models

is a subset of foundation models focused on written text.

AI
Machine learning
Neural networks
Natural language processing (NLP)
Deep learning
General-purpose AI
Generative AI
Large language models

Source: Fan Yang, Jake Goldenfein, and Kathy Nickels, 'GenAI concepts', ADM+S and OVIC, https://www.admscentre.org.au/genai-concepts/
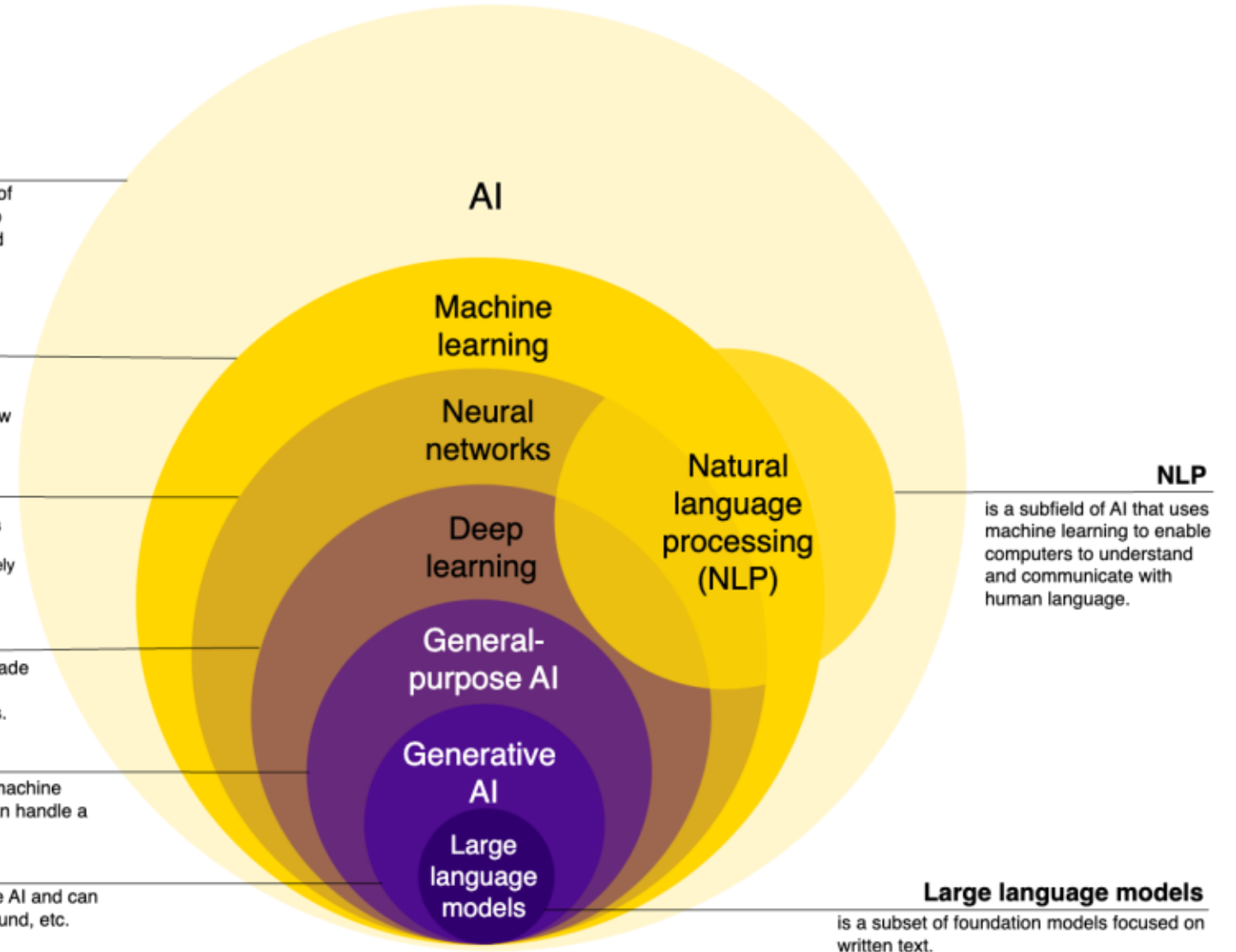
Use cases where transparency is needed

Human impact

An AI or automated system will have a human impact, where it is used in a way that:

- **Handles personal information**

and/or

- **Directly interacts** with members of the public

and/or

- Has a **significant effect** on one or more members of the public.

Human impact

An AI or automated system can have a human impact where it is used:

- to make the final decision, or

- used in an earlier decision-making step that is relied on by the organisation in making the final decision.

For example, a prediction, recommendation, assessment, summary, conclusion, evaluation, content generation or inference made by the AI or automated system.

Minimum expectations

Minimum expectations

- Publish **just-in-time notifications** when an AI system **interacts directly** with the public.

- For all AI systems that have a human impact (significant effect, direct interaction or handle personal information), disclose the fact the system is being used, and general information about the purpose and operation of the system (**Part II information**).

- Where personal information is being handled in an AI system, review and update your privacy policy and notice of collection to include information about these handling practices (**IPP 5 and IPP 1.3**). This includes disclosure of personal information **inferred or created** by the AI system.

Types of information to publish

New guidance coming soon

- Specific transparency obligations when using AI and automated systems
- Minimum types of information that must be published
- Additional information an agency may publish
- Covers proactive release under the FOI Act and privacy policy and notice of collection obligations under the PDP Act.

Level of detail

It depends…

Look at:

- risk of harm
- severity and nature of the human impact,
- information needs of the affected individual, and
- the type of information involved

Higher transparency is required:

- The higher the risk or human impact
- Handling sensitive, delicate or biometric information.

Sensitive information (a reminder):

- Racial or ethnic origin
- Political opinions
- Membership of a political association
- Religious beliefs or affiliations
- Philosophical beliefs
- Membership of a professional or trade association or trade union
- Sexual orientation or practices
- Criminal record

How and where to publish

Reasonable steps

- Practical
- Timely
- Clear
- Easy to find
- Accessible
- Capable of being understood by a person without specialist knowledge.

Providing notice of collection under IPP 1.3

Where reasonable and practicable, provide notice:

- o before, or at the time of collection,

- o in a way that puts the most important information first and uses layering, to minimise information overload and disempowerment for individuals, and

- o in a way that demonstrates an understanding of context, including the individual's circumstances, information rights and information needs.