

Translating Regulatory Changes into Day-to-Day Data Strategy

Automated decision making • Consent •
Children's privacy • Rules on collection



Automated decision making

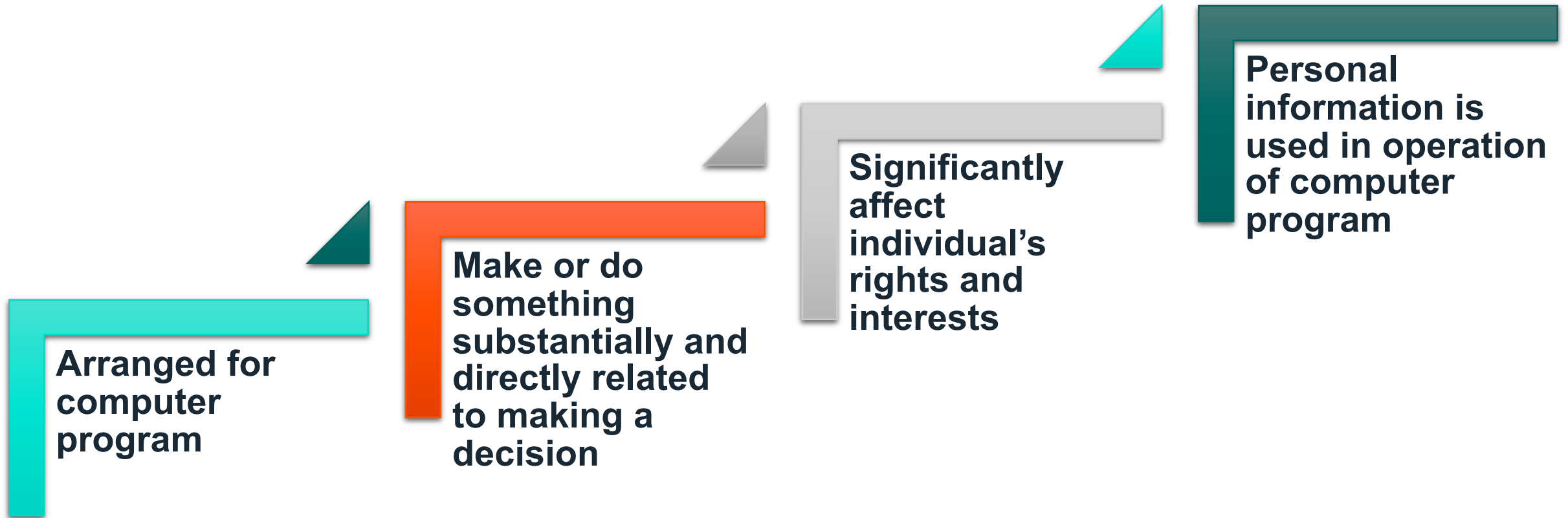


The problem: trust has broken down

- Robodebt: Federal Government agency used automated service to calculate debts owing and overpayments on government subsidy (Centrelink).
- This led to false and incorrectly calculated debt notices being issued, which caused distress and harm to recipients.
- Federal Court found scheme to be illegal and Royal Commission into Robodebt was established.



Australian Privacy Principle 1.7 – transparency around automated decisions



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What does this mean in practice?

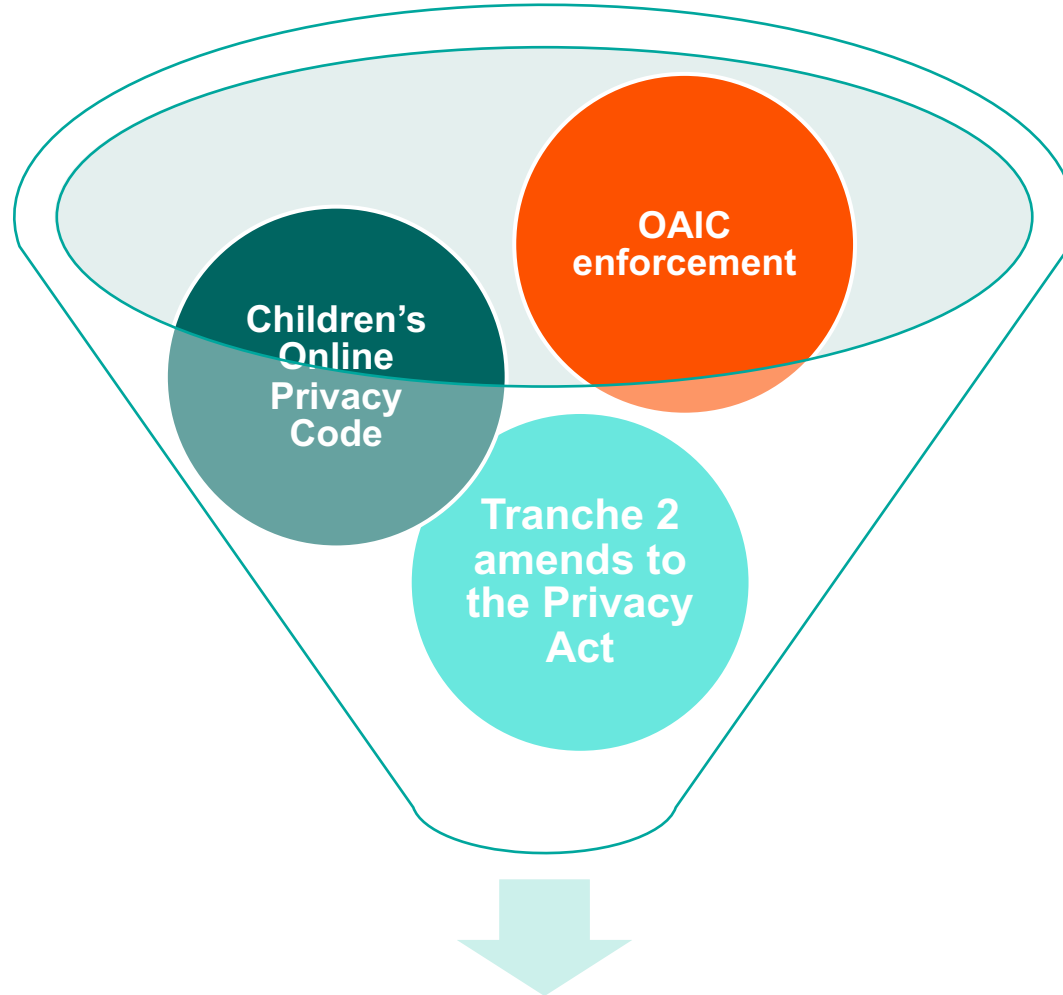
- No right to object or not be subject to decision.
- Privacy Commissioner: this is intended to flush out an organisation's use of ADM and help with other obligations (retention and deletion).
 - Disclosure may minimise need for individuals to seek meaningful information about the decision.
- “Substantially and directly related” to making a decision.
 - GDPR requirements apply where a decision is made “solely” by automated means.
 - Is there a high level of reliance and can human input override the “decision”?
- Individual's rights and interests:
 - Differential pricing or access to significant goods or services, e.g. different pricing based on a post code.
 - This applies even if the different pricing is justified.
- Disclosures need to be meaningful and accessible but also comprehensive and avoid sharing trade secrets.

10 December 2026

Consent

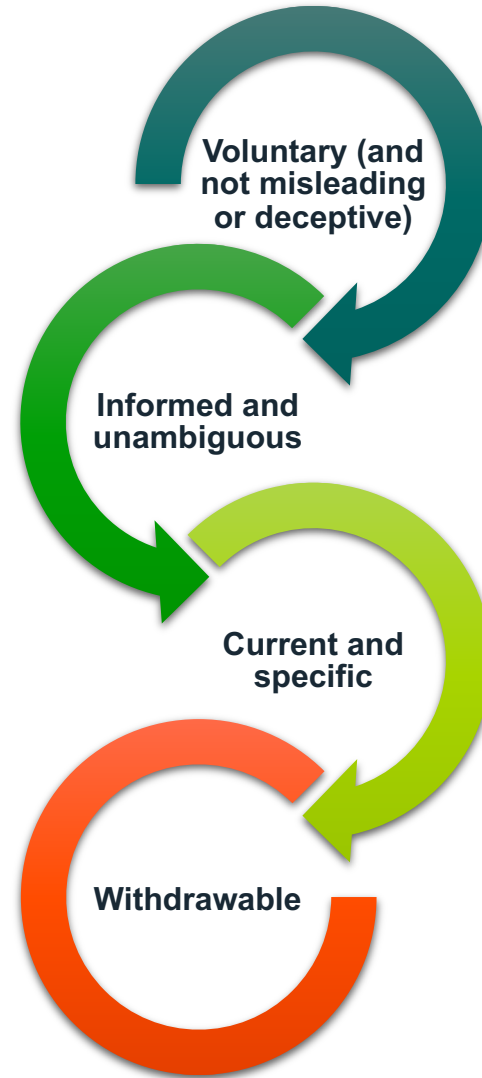


A lot has changed...even if it does not seem like it



**Stricter requirements
around consent**

What elements make up valid consent?



Consent may not be obtained through coercion, manipulation or in a way which substantially impedes the individual's ability to consent

Deep dive into relevant law

COPC only allows **direct marketing** to children if **consent** is obtained, it is consistent with the child's **best interests** and the personal information was **collected directly**.

The Privacy Commissioner has made clear some of her expectations around **pixel tracking** (for sensitive information and for advertisers) and **fair and reasonable**.

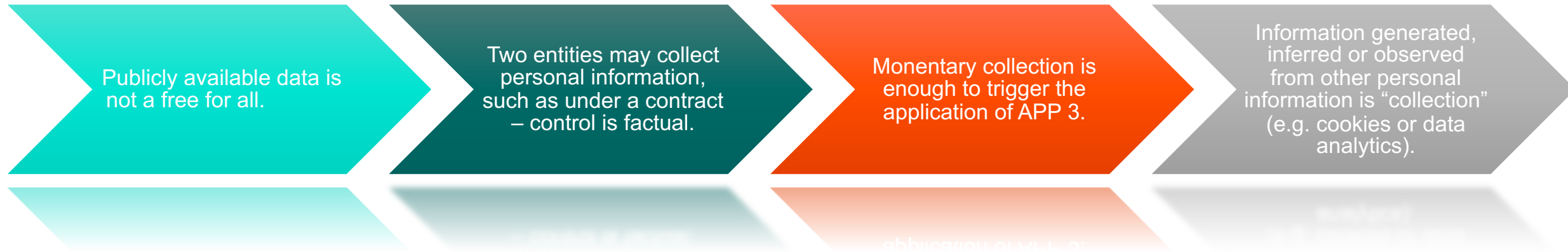
The Consumer Law will, from 1 July 2027, prohibit conduct that **unreasonably manipulates** consumers or **distorts the environment in which they make decisions** (among other things).

Tranche 2 proposes additional changes, including **enhanced consent**, additional requirements for **targeted advertising** and **unqualified right to opt out of direct marketing**.

Collection of personal information



What is “new” in the OAIC’s updated guidance on Australian Privacy Principle 3?



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