

INSIGHT SUMMARY

The State of AI Governance in Australia

TLDR: The quick guide to AI Governance in Australia

This summary outlines the insights from the Human Technology Institute's (HTI's) report, *The State of AI Governance in Australia (2023)*, published in May, 2023 and which was based on surveys, structured interviews and workshops engaging over 300 Australian company directors and executives, as well as expert legal analysis and extensive desk research.

1

Australian corporate leaders (company directors and senior executives) are increasingly aware of the potential of AI systems to create commercial value. The vast majority of Australian firms are exploring how they can use AI to add value to customers, drive productivity or increase efficiency, a trend that is accelerating since the public release of a series of highly-capable generative AI tools.

2

Simultaneously, corporate leaders are increasingly cognisant of harms and risks that can flow from AI system failure, misleading or malicious use, and overuse. When an organisation uses or relies on an AI system that causes harm, the organisation will generally be responsible. The nature of existing liabilities related to these harms and risks may be under-appreciated by corporate leaders distracted by discussions about future-oriented AI regulation.

3

To ensure that AI systems are accurate, accountable, fair and fit-for-purpose, Australian organisations must match their growing investment in technological systems with a corresponding transformation of their governance systems.

01.

What is AI and how is it being used by Australian organisations?

“Most boards and management are not aware where AI is used, either in their own organisations or in the supply chain.”

HTI AI Corporate Governance Survey -
Company Director, 2023

What is Artificial Intelligence?



There is no standard or universally agreed definition of ‘artificial intelligence’. This is partly because AI is a vast field encompassing a wide range of techniques.

A helpful definition, adapted from work by the EU and OECD, is the following:

Artificial intelligence (AI) is a collective term for machine-based or digital systems that use machine or human-provided inputs to perform advanced tasks for a human-defined objective, such as producing predictions, advice, inferences, decisions, or generating content.

Different kinds of AI systems:

- Machine Learning Systems
- Expert systems
- Natural language systems
- Facial recognition technologies
- Recommender Systems
- Automated decision-making systems
- Robotic process automation
- Virtual agents and chatbots
- Generative AI
- AI-powered robotics.

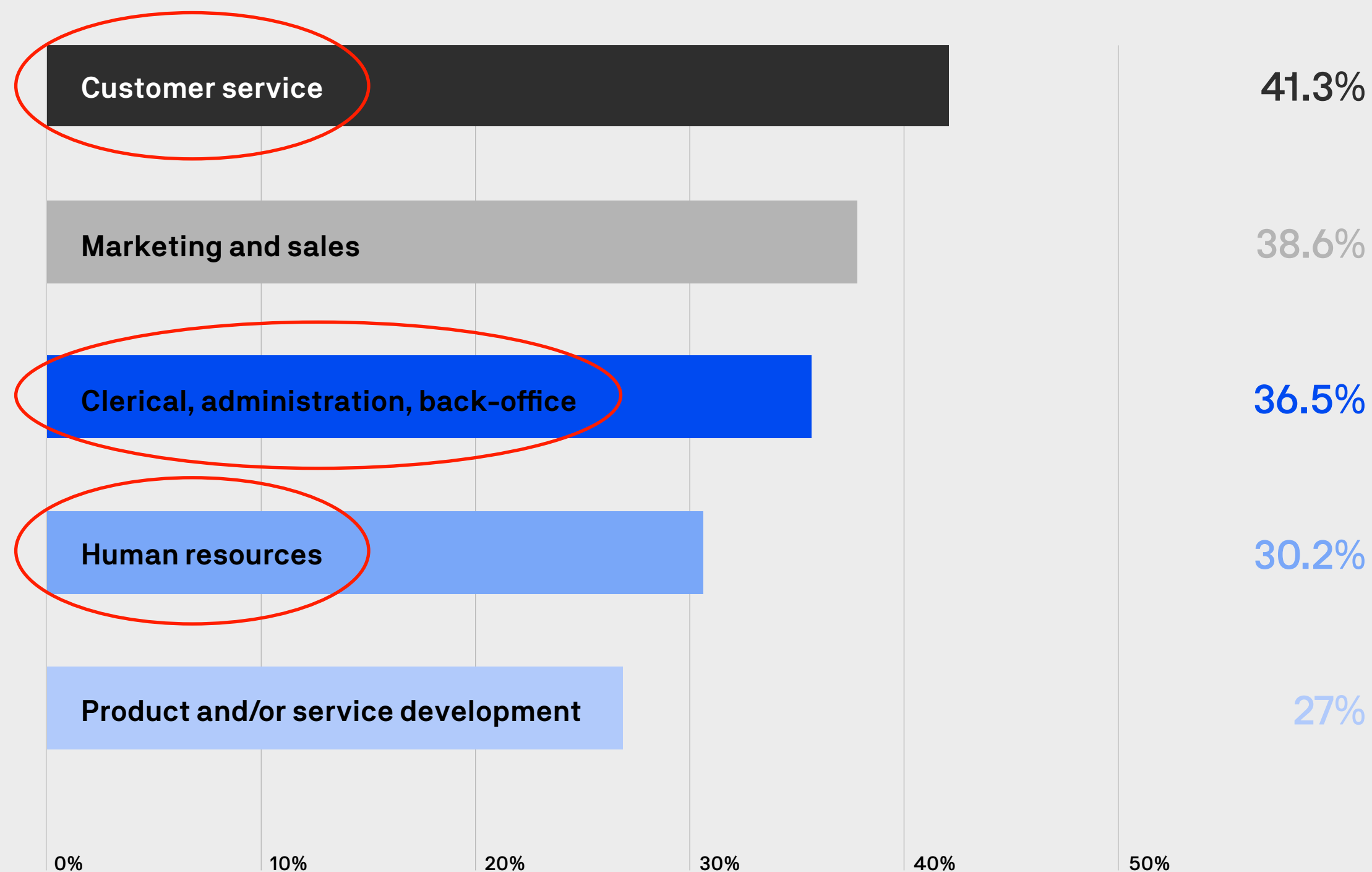
How and why is AI being used by organisations?

AI is rapidly becoming an essential part of how Australian organisations operate. While Australia lags behind many other developed nations in AI uptake, **almost two-thirds** of Australian organisations are already using, or actively planning to use, AI systems in a wide variety of ways.

Yet, most corporate leaders across Australia:

- are unaware of where and how AI is being used to create value; and
- that they lack the awareness, skills, knowledge, and frameworks to guide responsible AI investment and use effectively.

Three of top five AI use cases in Australian organisations directly affect people



Percentage of responses to survey question: 'In which operational areas are you using or planning to use AI in your organisation?'

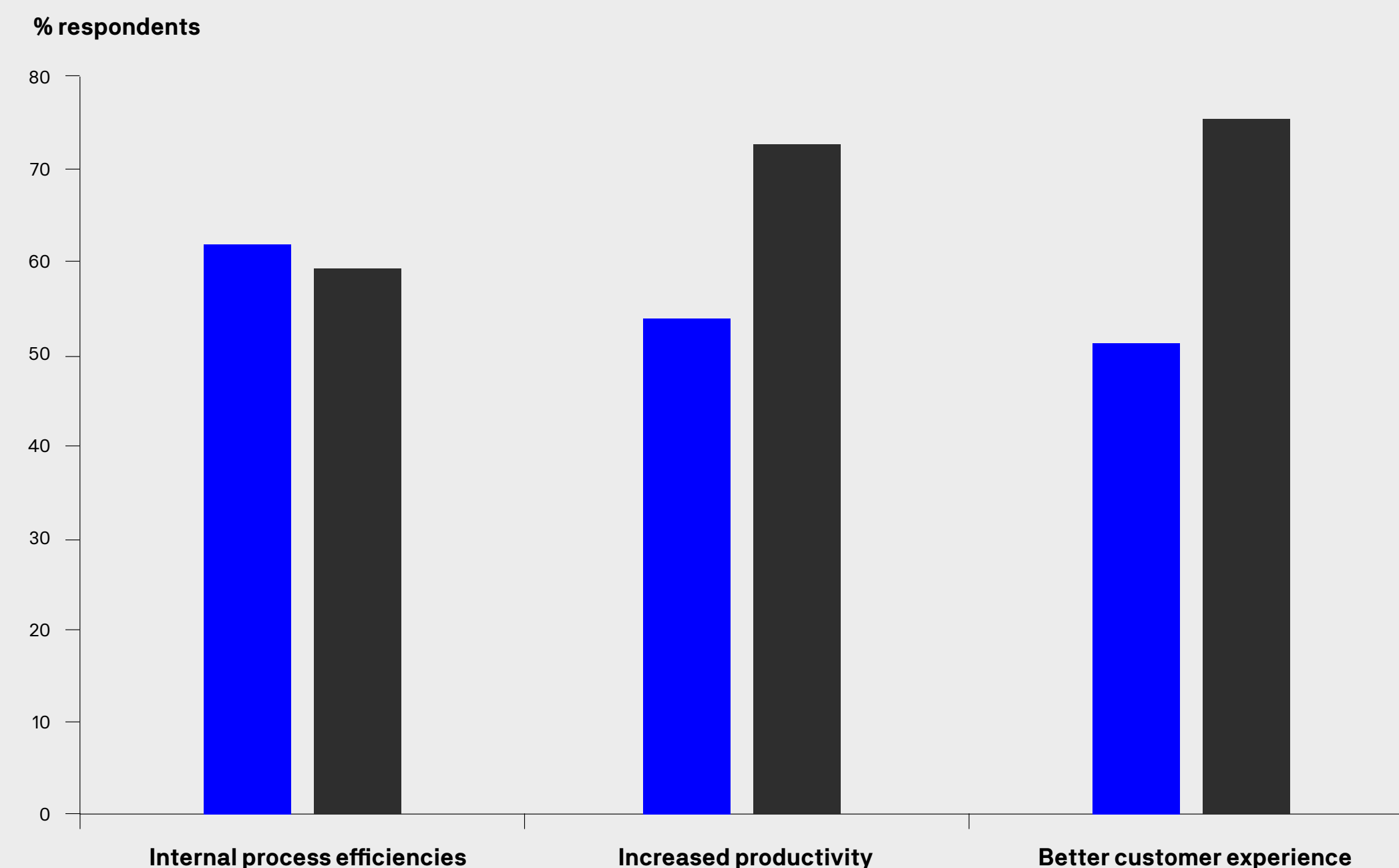
How and why is AI being used by organisations?

Organisations are introducing AI systems to improve productivity, achieve process efficiencies and improve customer service.

But the use of AI systems is shifting in two important ways:

1. AI is being bundled into products and services that organisations procure through technology partners, and being used by employees and across supply chains in ways that are often not fully visible.
2. AI systems are being applied closer to the 'core' of organisations, with the most rapid growth in strategy, corporate finance and risk functions.

Top expected benefits: business leaders (BL) & company directors (NEDs)





The benefits of AI systems

AI promises to add significant value to organisations and the economy:

\$

Increased productivity driven by AI is projected to contribute **\$6.6 trillion** to the global economy by 2030.

%

88% of programmers feel more productive when using a generative AI system.

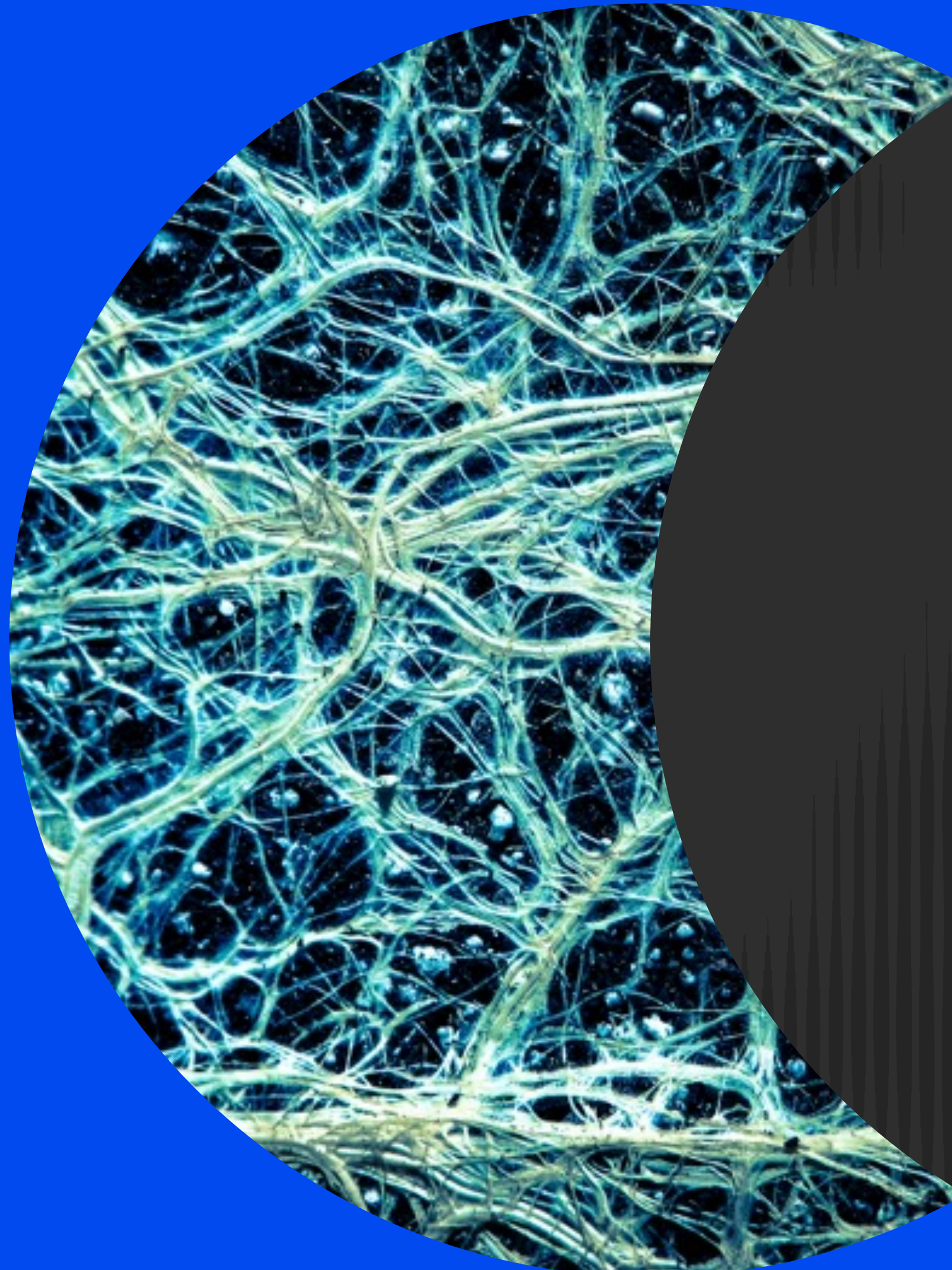
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Access to generative AI assistance increased worker productivity of customer support agents by **14 percent**.

But... the use of AI systems may also give rise to potential harms and risks.

02.

What harms and risks arise from AI systems?

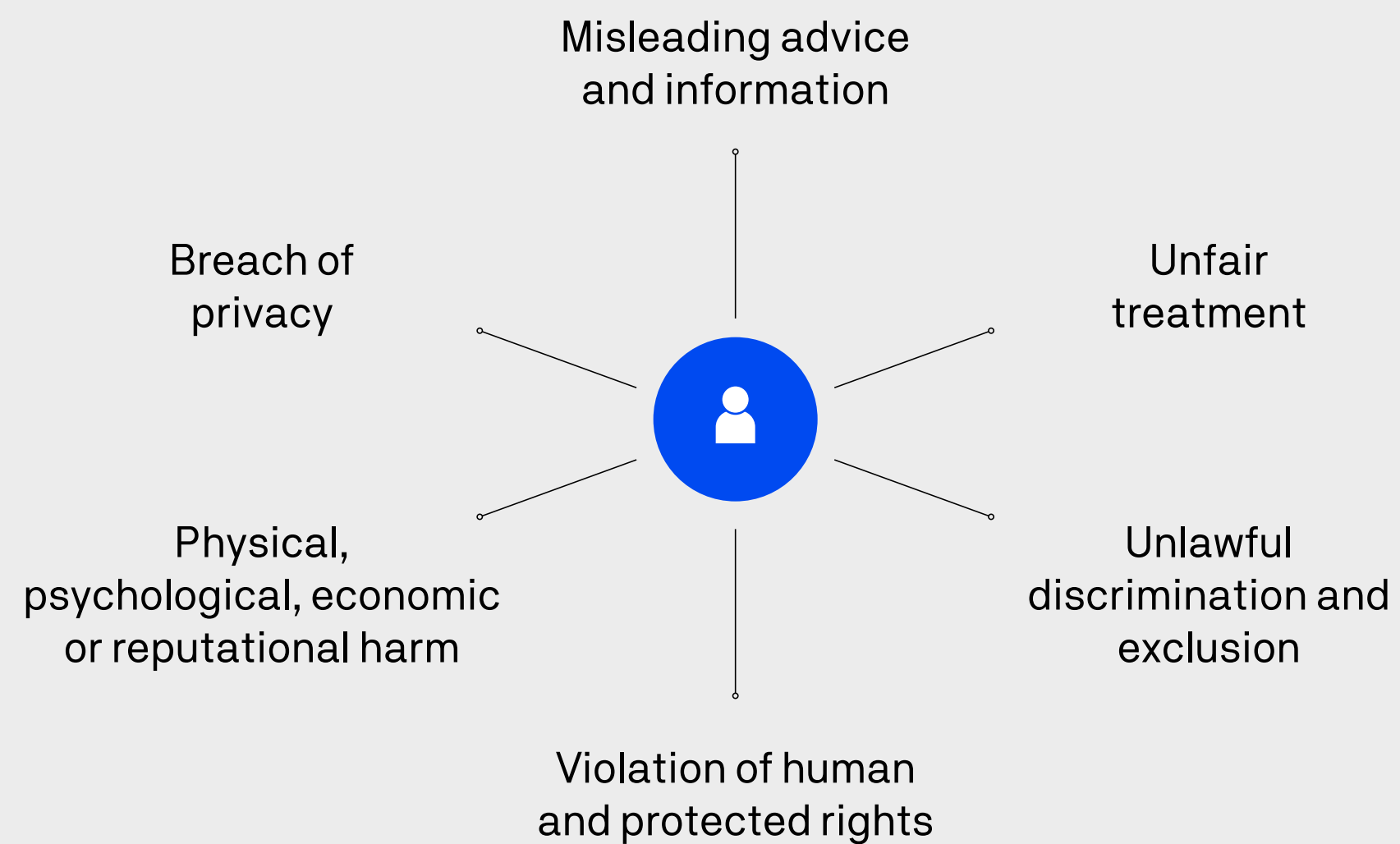


“I think I understand the risks but need much better education.”

HTI AI Corporate Governance Survey -
Company Director, 2023

What harms can arise from AI systems?

Harms arising to individuals



Collective harms



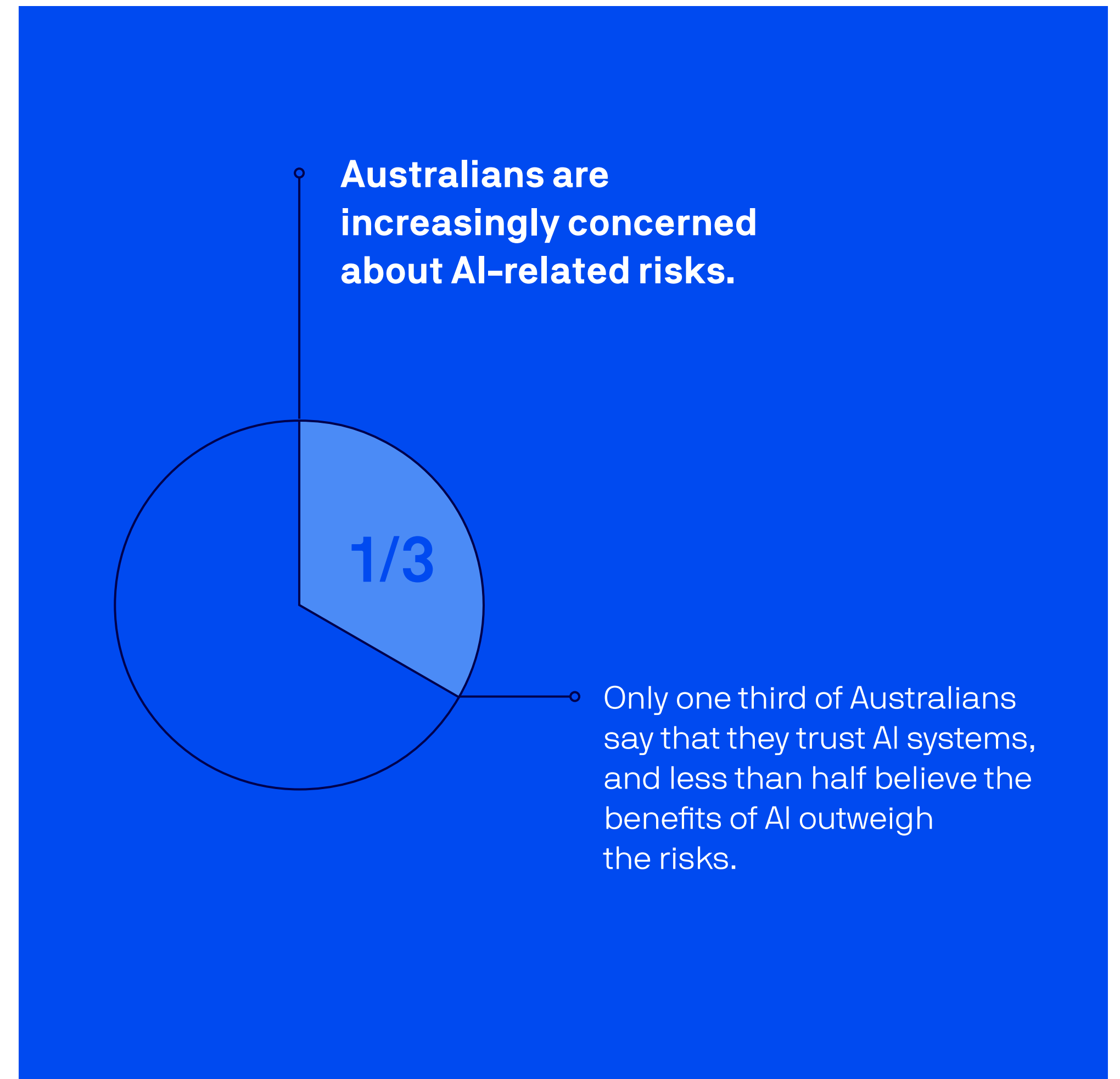
What are the sources of harm of AI systems?

While the opportunities associated with AI are real, so are the risks and harms:



Risks to organisations

As the deployment of AI systems accelerates, organisations are increasingly exposed to AI-driven commercial, regulatory and reputational risks.



03.

AI Governance and Regulation



*“We are playing governance
catch-up with where the
AI systems are at.”*

HTI AI Corporate Governance Survey -
Company Director, 2023

How are organisations currently governing AI?

AI systems are different from and require different oversight to traditional IT systems.

AI-related harms are not inevitable nor unforeseeable. However, Australian organisations generally lack a systemic governance or risk-management approach to identify and address AI-related harms and risks.

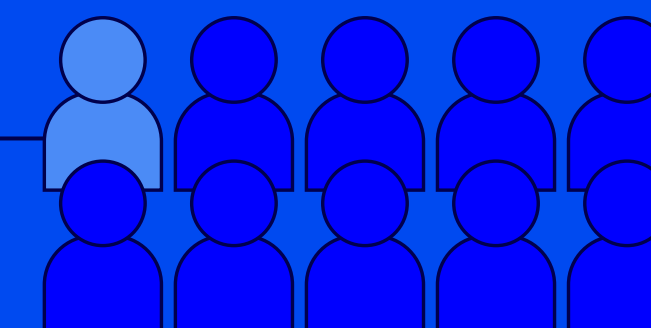
A significant proportion of AI-related use – including systems embedded within suppliers and used without authorisation by employees – is not recognised or captured by current governance processes.

A common form of AI-specific governance is the adoption of a set of ethical or responsible AI principles. Principles are necessary but insufficient: they do not help executives and teams within organisations make practical decisions about procuring, designing, deploying and managing AI systems.



Only 10% of corporate leaders

indicated that their organisation possesses an AI strategy.



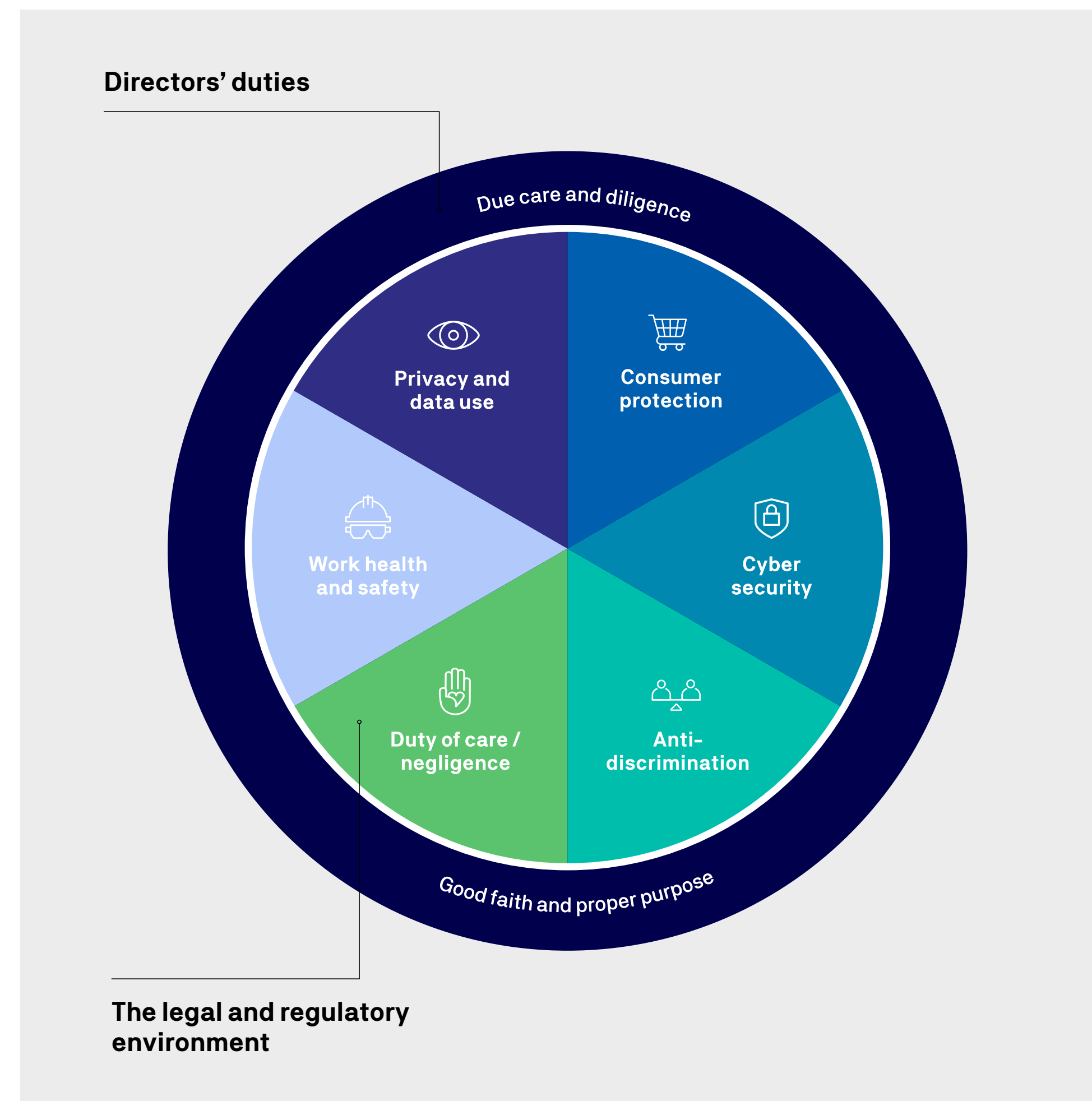
What obligations apply to corporate leaders and organisations using AI in Australia today?

AI use is increasing, so corporate leaders need to understand the current and evolving rules governing AI use in Australia and other markets.

While Australia has few laws directed expressly towards AI, there are a range of technology-neutral laws which apply to AI use and development.

For example, pursuant to their duties under the *Corporations Act 2001* (Cth), directors should ensure effective risk management and compliance systems apply to their organisation's use of AI.

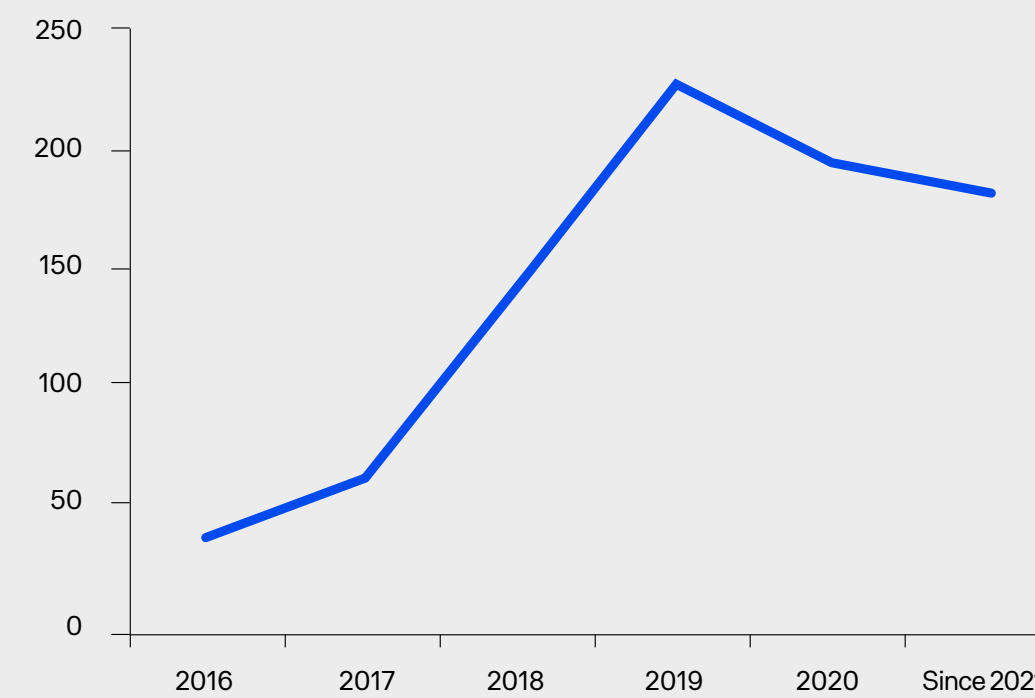
Corporate leaders should anticipate regulators' increasing enforcement of these laws.



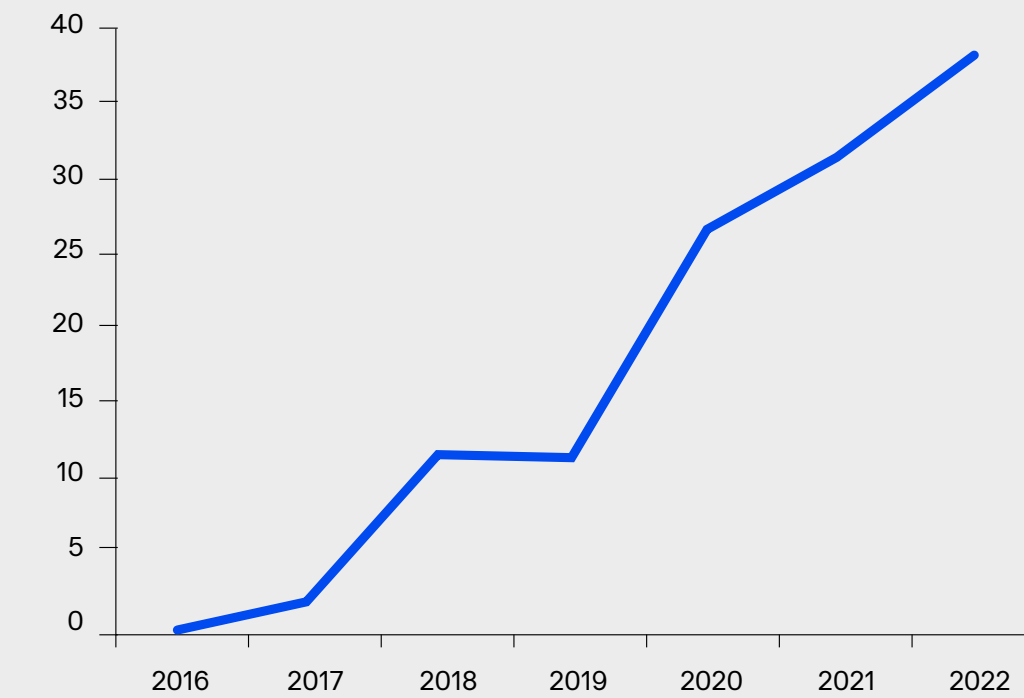
What can corporate leaders expect from AI regulation?

- Internationally, countries are enacting laws that encourage positive AI use while protecting people from harm. Some are amending technology-neutral laws to do this, while others are regulating AI directly.
- Australia has been slow to respond but is now exploring AI-specific laws in line with international principles for how best to regulate AI systems.
- An evolving set of international standards are setting expectations for how companies should approach AI governance and risk management.

AI-related policy instruments and laws



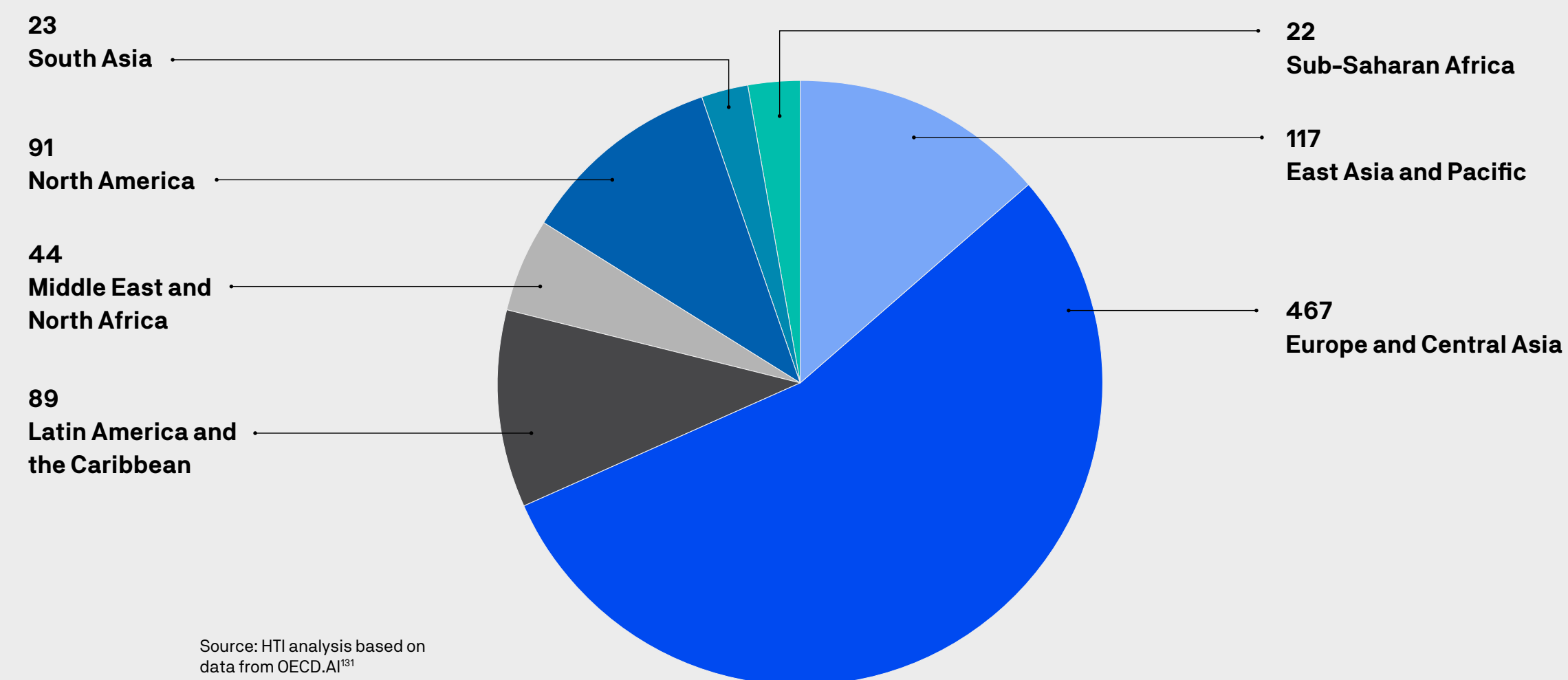
AI-related policy instruments



AI-related bills passed into law

Source: HTI analysis based on data from OECD.AI (top chart)¹²⁸; Stanford HAI, AI Index Report 2023 (bottom chart).¹²⁹

Policy instruments by region



Source: HTI analysis based on data from OECD.AI¹³¹

04.

How can AI governance be improved?



*“The risks are considerable
but once identified, and a strategy
developed, manageable.”*

HTI AI Corporate Governance Survey -
Company Director, 2023

How can AI governance be improved?

Action 1: Build capacity and develop strategic expertise in AI

While many organisations have invested heavily in acquiring technical data science skills and capabilities, there is a critical shortage of strategic AI knowledge and experience among non-technical teams involved in decision-making or use of AI systems. Given how essential AI systems are to organisations today, corporate leaders, operational teams and front-line staff need a ‘minimum viable understanding’ of how AI systems work.

Action 3: Implement an integrated, comprehensive AI governance system

Corporate leaders should design and implement an integrated, structured, and comprehensive governance system for AI systems. Such a governance system should, at a minimum, establish clear and accessible processes, policies and standards, including mechanisms for oversight and assurance, document systems, identify potential impacts, determine legal requirements, and establish appropriate delegations and accountability for failures, malicious use and overuse.

Action 2: Create a fit-for-purpose AI strategy

Corporate leaders should ensure that their organisation has a comprehensive AI strategy that prioritises opportunities, uncovers potential harms and risks, recognises legal obligations, and establishes a risk appetite for AI deployment. The strategy should be aligned to broader organisational objectives, as well as existing policy frameworks and risk and assurance practices. This strategy should be a dynamic document, able to be updated as novel AI approaches become available, risks and opportunities emerge or organisational risk appetite changes.

Action 4: Set a human-centred AI culture

Corporate leaders should support the development of a human-centred culture regarding the development and use of AI. AI systems should deliver value to all stakeholders, including employees. AI systems should serve the interests of customers and employees.

What questions should company directors be asking?

Action 1: Build capacity and develop strategic expertise in AI

- Do all directors understand how, where, and why AI is being used in their organization?

- Do all directors appreciate their obligations under s180 regarding AI?

- Is the board confident that executives possess the strategic expertise to execute to the strategy?

- What additional support, advice or training do board members need to execute their duties with regard to using AI?

- Do we have sufficient diversity in expertise and experience, or do we need to draw on outside capabilities?

Action 2: Create a fit-for-purpose AI strategy

- Do we have a comprehensive AI strategy?

- Does the AI strategy accurately leverage strategic foresight and reflect the evolving technical, commercial, regulatory, and social environment?

- What external stakeholder perspectives should be brought to the board to strengthen our strategy?

- Does the strategy identify at a high level both the business case for investing in AI, and the key risks and legal obligations relevant to the organisation?

- How does or might our AI strategy intersect with other organizational strategies, particularly cyber security and data management?

- Does the strategy clearly set a risk appetite for investment in AI systems, and is this in line with the board's expectations?

What questions should company directors be asking?

Action 3: Implement an integrated, comprehensive AI governance system

- Does the organisation have appropriate structures in place to support strategic discussion and effective decision making related to AI?

- What governance structures are in place to manage the operations of AI systems across the organisation?

- Are we confident that the organization is effectively identifying, mitigating, and documenting key AI risks and opportunities?

- Are there effective mechanisms to ensure the board is appropriately and expeditiously informed around critical risks and emerging strategic opportunities related to AI systems?

Action 4: Set a human-centred AI culture

- Does the board have a unified view on how organisational values translate into its use of AI across functions and contexts?

- How are the views of stakeholders such as employees, customers and marginalised communities reflected in board discussion?

- Does the board appreciate the current culture around AI of the organisation, and the level of alignment between stated mission and values and the embedded assumptions that drive behaviour?

- What actions can the board and directors take to model the desired culture around AI?

What questions should senior executives be asking?

Action 1: Build capacity and develop strategic expertise in AI

- Do all members of the executive team understand how, where, and why AI is being used in their organisation?

- Do all members of the executive team possess the strategic expertise in AI to execute the strategy, realise opportunities, mitigate harms, and manage risks?

- What additional support and strategic and technical expertise do internal operational teams – in particular, IT, data and analytics, legal, procurement, compliance, HR, and ESG – need to make effective decisions and deliver to the AI strategy? What external support is needed?

- Do our front-line team members who rely on AI systems, or who deal with customers exposed to AI systems, possess the skills and information to faithfully execute their roles and identify potential failures as they emerge?

Action 2: Create a fit-for-purpose AI strategy

- Do we have a comprehensive AI strategy?

- Does the AI strategy accurately leverage strategic foresight and reflect the evolving technical, commercial, regulatory, and social environment?

- What external stakeholder perspectives should be explored and deeply understood by the organisation to strengthen our strategy?

- Are all relevant executives aware of the potential risks, opportunities and legal obligations posed by the use cases outlined in the strategy?

- How does or might our AI strategy intersect with other organisational strategies, particularly cyber security and data management?

- Which senior leaders bear responsibility for the strategy within the organisation, and how are they held to account?

What questions should senior executives be asking?

Action 3: Implement an integrated, comprehensive AI governance system

- What is our current model of AI governance?

- How are AI systems identified, tracked and managed?

- What mix of governance models and processes are required for the organisation's particular portfolio of AI systems?

- How is accountability distributed to ensure that appropriate individuals are responsible for governing and managing AI systems?

- What policies and practices are in place to identify, document, track and mitigate AI risks?

- What are the processes to keep senior management and the board informed of critical risks, governance failures and new opportunities?

- How can AI governance approaches integrate with existing impact assessment and risk management processes to be as efficient as possible?

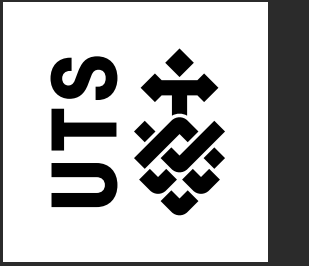
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**Human Technology
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