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Cyber risks - how they affect your business

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Everywhere you turn the prefix "cyber" has replaced the letter 'e' to describe everything from culture to bullying.

We find ourselves drinking coffee whilst sitting in cybercafés, surfing in cyberspace and cyber dating with our online friends!

But in the business environment, we are increasingly coming across terms like "cyber risks", "cyber terrorism" and "hacktivists".

But what does it mean and how does it relate to your practice? When you think of cyber risks don't think it's about supercomputers or something that doesn't affect you.

Know that much of it comes down to data security breaches and subsequent loss of data.

The threat posed by cyber risks is now as tangible as physical threats to a firm's assets and is faced by any business dealing with electronic data whether that's online, held on servers, computers or on mobile devices.

Small businesses are vulnerable

In June 2011 George Osborne told an international conference that British government computers were experiencing 20,000 hostile email attacks every month.

By December of last year, Cabinet Office minister Francis Maude reported that attacks on government departments had continued to increase dramatically.

High profile cyber attacks on companies like Nintendo, Sony and Citigroup make global news and many smaller firms think that they are immune from hackers or will be overlooked in favour of bigger targets.

However, small and medium sized businesses are more vulnerable to cyber attacks.

As larger organisations continue to implement efficient security systems, criminals have looked for and identified UK small businesses as softer and easier targets.

The 2012 PwC Information Security Breaches Survey found that 76% of small businesses had a cyber-security breach in the past year.

With the cost of a security breach estimated between £100,000 - £250,000 for large businesses and £15,000 - £30,000 for smaller ones, these are losses which UK businesses simply cannot ignore.

The reality of cyber-security breaches

The question many law firms ask is whether or not they are really targets for such attacks.

I'll answer that with a real claims example from the US. t relates to a 55 employee law firm with an annual fee income of $20million (circa £13m).

Hackers gained access to the firm's network and claimed to have access to sensitive client information, including a public company's acquisition target, another public company's prospective patent technology, the draft prospectus of a venture capital client and a significant number of class action lists containing claimants' personally identifiable information.

A forensic technician determined that there was a bug in the network.

The firm received a call from the intruder seeking $10million not to place the stolen information on to the internet.

The law firm incurred $2m for the forensic investigation, extortion-related negotiations, a ransom payment, notifications, credit and identity monitoring, restoration services and independent lawyers' fees.

It also sustained more than $600,000 in lost business income and expenses associated with the system shutdown.

Responsibility to safeguard your clients' details

As solicitors you hold data on clients, whether that's confidential medical information, bank details, data on mergers and acquisitions, litigation strategy or information on intellectual property.

And the bad news is that it's all considered very attractive to criminals or hackers who seek out sensitive information that they can sell or exploit for financial or competitive gain.

As lawyers you have a regulatory obligation to comply with, and the SRA Code of Conduct addresses the importance of data security for law firms.

Outcome 7.5 states that "you comply with legislation applicable to your business, including anti-money laundering and data protection legislation." Indeed data again gets a strong endorsement in Indicative Behaviour 7.3.

Possible consequences of a data breach

But what could it really mean to your firm? Looking at this objectively there are a number of areas where a data breach could adversely affect a practice.

You could be exposed to regulatory fines; damages and litigation costs associated with defending claims from 3rd parties; the costs of reconfiguring your network, re-establishing security and restoring data;

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implementation of disaster recovery plan costs, lost billable time and notifications costs.

There is then the unquantifiable reputational damage that could ensue, which could ultimately cost the firm more than the financial damage suffered by the original breach.

Don't expect to fall back on your Professional Indemnity cover either.

It's unlikely that coverage required in the event of a data breach will be provided by standard Professional Indemnity, Directors' & Officers' or Commercial Liability policies and it's also possible you won't be compliant with your regulatory obligations.

The stakes are high when it comes to data security and privacy in the legal sector.

Getting to grips with the risks associated with evolving technology solutions can be daunting.

To ensure adequate protection, firms should speak with a knowledgeable broker about the benefits of specialist insurance coverage to mitigate the growing exposures associated with holding sensitive client information.

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