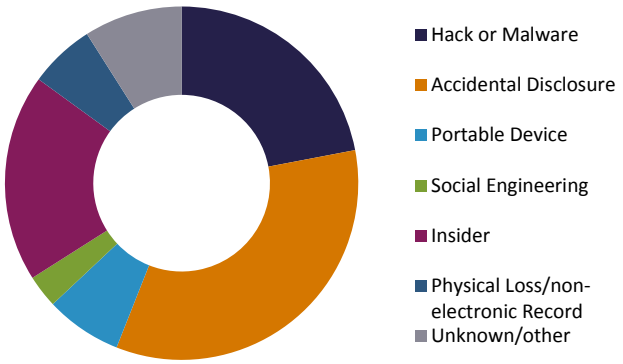
bms. Pilates Alliance Australasia

# IF YOU HAVE DATA, YOU HAVE RISK.
## NEW DATA BREACH LEGISLATION AND HOW IT COULD IMPACT YOU

The risk of cyber attacks on Australian businesses is considered "High". Recent data also shows that Healthcare professionals and organisations continue to be one of the most targeted.

**Healthcare Incidents - Q4, 2017**




As of February 2018, it is mandatory for businesses to notify of any data breach, and this must be done within 30 days to avoid a penalty. Last year, less than half of the documented cyber breaches were self-reported.

**Who does this apply to?**

This legislation is focused on businesses earning more than $3M annually, however the new law applies to all Australian businesses storing potentially harmful data.

**What is a notifiable breach?**

The Office of the Australian Information Commissioner (OAIC) advises that a breach is notifiable where the following 3 criteria are met:

1. **Unauthorised Access**
There is unauthorised access to, disclosure or loss of personal information that you hold.
2. **Harmful Data**
This is likely to result in serious harm to one or more individuals.
3. **No Prevention**
The likely risk of serious harm has not been prevented with remedial action.

## You Experience a Data Breach. Now What?

1. **Confirm the risk of serious harm**

While "Serious Harm" is not defined in the Privacy Act it may include physical, psychological, emotional, financial or reputational harm.

The OAIC advises a broad approach should be taken when assessing the likelihood of harm, and to evaluate a number of key factors:

- The type & sensitivity of data
- Protection measures
- Likelihood of a data breach
- Nature of the harm

Having assessed that the data breach is likely to result in "serious harm" and remedial action is either not possible or unsuccessful you must notify affected individuals and prepare a statement for the Australian Information Commissioner.

2. **Notifying Individuals**

There are 3 options for notification:

| Method | To Consider | Requirements |
|---|---|---|
| **Notify all affected individuals** | You may not have up-to-date contact details for all individuals involved. | N/A |
| **Only notify individuals at risk of "serious harm"** | Avoid any unnecessary alarm to individuals who aren't affected. However, individuals who were affected could be missed. | N/A |
| **Publish Notification** | Could help notify affected individuals if you don't have current contact information. | A copy of the statement must be published on your website (if one exists) |

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### 3. Notify the Australian Information Commissioner

You will need to prepare a Notifiable Data Breach (NDB) Statement from the OAIC website which will need to include:

- Your business's identity and contact details
- A description of the eligible data breach
- Kind(s) of information involved in the data breach
- The steps you recommended individuals take in response to the data breach

**Not sure how to structure your statement?**

The OAIC provides access to an online form allowing the ability for you to notify of a data breach online. You can access this online form at:

**Additional OAIC resources available**

Click here to access the OAIC online NDB Statement

Click here for a guide to managing data breaches

Click here for a guide to securing personal information

Click here for a webinar on preparing your business for the NDB scheme

Click here for information on notifying individuals

Click here for information on what to include in an NDB statement

Click here for a data breach response summary

Click here to view the 2017 ACSC Threat Report

## Cyber Security & Privacy Liability Insurance

The PAA Insurance Program provides members exclusive access to leading Cyber coverage.

Premiums start at $300 for limits up to $1M.

This product covers you for:

- Notification costs, identity restoration services, and credit monitoring for the individuals whose information was compromised;
- The costs to engage a computer expert with the technical know-how required to identify the source of the data breach and protect against future incidents;
- The costs to hire a public relations firm to repair any damage done to your organization's reputation or image as a result of the breach;
- Fees associated with a regulatory investigation, including your legal defence, any fines and penalties the organization is required to pay (as permitted by law), and compensation for individuals who have been affected by the breach.

**Call a specialist broker today to discuss your individual circumstance and ensure you're adequately covered.**

**PAA & BMS are *Your Partners in Protection.***

If you have any questions relating to coverage or the PAA Member Insurance Program, contact BMS on 1800-940-764 or email pilatesaa@bmsgroup.com.