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Managing Insider Risks to Company Data

Internal data breaches may be malicious or inadvertent. Regardless of the circumstances, the commercial and legal consequences are invariably significant. The occurrence and impact of data spills and misappropriation can be prevented with robust risk management and response protocols.

Please find below two checklists to assist with benchmarking your organisation's processes.

Prevention

- [ ] Identify key person risks
- [ ] Vet new employees. External services are available for this purpose.
- [ ] Mitigate risks through robust systems, controls and monitoring
- [ ] Policies / procedures for:
  - Data governance, confidentiality and cyber security
  - Grievances / complaints
  - Whistleblowing
  - Privacy
  - Risk management
- [ ] Review employment contracts to ensure strong confidentiality protections and reasonable restraint of trade
- [ ] Review D&O indemnity policies and insurance
- [ ] Audit and enforce data security procedures for:
  - BYO devices and USB restrictions
  - File and network access privileges
  - Data loss prevention and monitoring software
  - Password hygiene and multi-factor authentication
- [ ] Employee departure procedures, including:
  - Imaging and storage of devices prior to wiping
  - Checks for data transfers
  - Swift removal of access
  - Exit interviews
  - Consider need to monitor remaining staff

Managing the Response

- [ ] Act quickly if there are red flags
- [ ] Make any investigation short, sharp and well-planned
- [ ] Consider whether external advisers are needed for independence and privilege protection
- [ ] Communicate clearly and effectively
- [ ] Decide where you stand on confidentiality v transparency
- [ ] Consider complicating factors such as:
  - Whistleblowing protections
  - Privacy laws
  - Regulatory disclosure and reporting obligations
  - Insurance
- [ ] Preserve and gather evidence (forensic, documentary, oral)
- [ ] Keep records of steps undertaken
- [ ] Gather the right team from inside and outside the business, keeping the circle close
- [ ] Assess and address potential claims
- [ ] Remove emotion and focus on the big picture
- [ ] Expect the unexpected
- [ ] Learn for next time

Key Contacts



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Kristy is an accomplished commercial litigator and risk specialist. She has represented clients in disputes regarding cross-border insolvency and restructuring, international arbitration, breach of directors duties and shareholders disputes, contractual issues, financial disputes, professional negligence claims, defamation and investigations involving fraud. She draws on this experience to advise clients on the avoidance and resolution of emerging disputes, including pre-action strategies. Her experience includes advising clients on internal investigations, the resolution of misconduct claims and handling difficult senior departures.



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Amy has over 20 years of experience litigating commercial disputes and resolving legal and strategic risks and challenges for her clients. She has deep experience in commercial and financial disputes, director and auditor liability, employee misconduct, regulatory inquiries, insolvency and restructuring, and misuse of data, confidential information and IP. Amy also advises on complex regulatory and compliance issues, including privacy, data governance, whistleblowing, critical infrastructure and sector-specific regulation. Clients appreciate her strategic approach, her excellent legal and analytical skills, her ability to quickly grasp complex industry issues, and her tenacity and steady hand in resolving their sensitive disputes and regulatory concerns.



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Lisa is an experienced disputes and risk management lawyer, advising clients on regulatory compliance and enquiries and investigations. Lisa draws on her disputes experience when assisting clients to devise and implement effective risk mitigation strategies. Her experience includes advising clients on data breaches involving employees and former employees, the misappropriation of confidential information by employees, exit arrangements for senior executives and partnership disputes. When disputes cannot be avoided, Lisa pursues cost effective and commercial resolutions and builds strong constructive relationships with clients and other professionals who appreciate her strategic, pragmatic and personable approach.



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Brooke is a seasoned commercial litigator, risk advisor and technologist, who has acted for clients in relation to cyber incidents and data spills, including advising an institutional US bank, energy and property companies in relation to data breaches. Brooke advises boards and executives on data migration, digital transformation and their cyber risk and strategy, as well as the unintended consequences of AI programs or software and information governance. Brooke's experience includes representing a satellite company in negotiations with an international space agency and resolving commercial disputes.