

Industry Update – Data and Privacy

Changes to the privacy and data landscape

2022 saw significant developments for data and privacy. Apple, Meta, Twitter, and Uber all saw large breaches while locally Optus, Medibank, and Deakin University made headlines.

A Privacy Legislation Amendment in December 2022 made sweeping changes with a further 116 recommendations from the Attorney General currently under review. Where does that leave us?

As of December 2022:

- Fines increased from **\$2.2m**, to the greater of: **\$50m**, three times the value of benefits obtained or attributable to the breach (if quantifiable), or **30%** of the corporation's 'adjusted turnover' during the 'breach turnover period'
- Any foreign entity carrying on a commercial activity in Australia will be captured by the Act
- Greater oversight through information sharing between regulatory and enforcement authorities

Currently under review:

- Removal of the small business exemption, bringing **2.3 million** businesses within the scope of the Privacy Act
- Broadening the definition of 'Personal Information' to include data relating to a person rather than specifics such as names and dates of birth
- Shortening the timeframe for a notifiable data breach to be reported to OAIC from **30** days to **72** hours after the entity becomes aware of a breach

Draft legislation for items under review is due to be released later this year. The coming changes to the 1988 Act will undoubtedly force businesses to consider the data they hold and how it is treated.

A Cyber Insurance policy covers costs for Data Breaches and Business Interruption. It also provides Incident Response which is particularly key if the small business exemption is removed. With a cyber policy, clients have access to expert incident responders who can help with end-to-end solutions for mandatory notification requirements.

Use the below Data Breach Cost Calculator to see how much a Data Breach could cost your business:

[Data Breach Cost Calculator \(at-bay.com\)](https://www.at-bay.com/Data-Breach-Cost-Calculator)

