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TRAINING & DEVELOPMENT PROGRAMME

Knowledge Network

Webinar Series

Data Security & Cyber-Attacks - How to prepare for the inevitable

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Data Security & Cyber-Attacks -
How to prepare for the inevitable

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Doug McMahon, Partner and Amy Brick, Senior Associate

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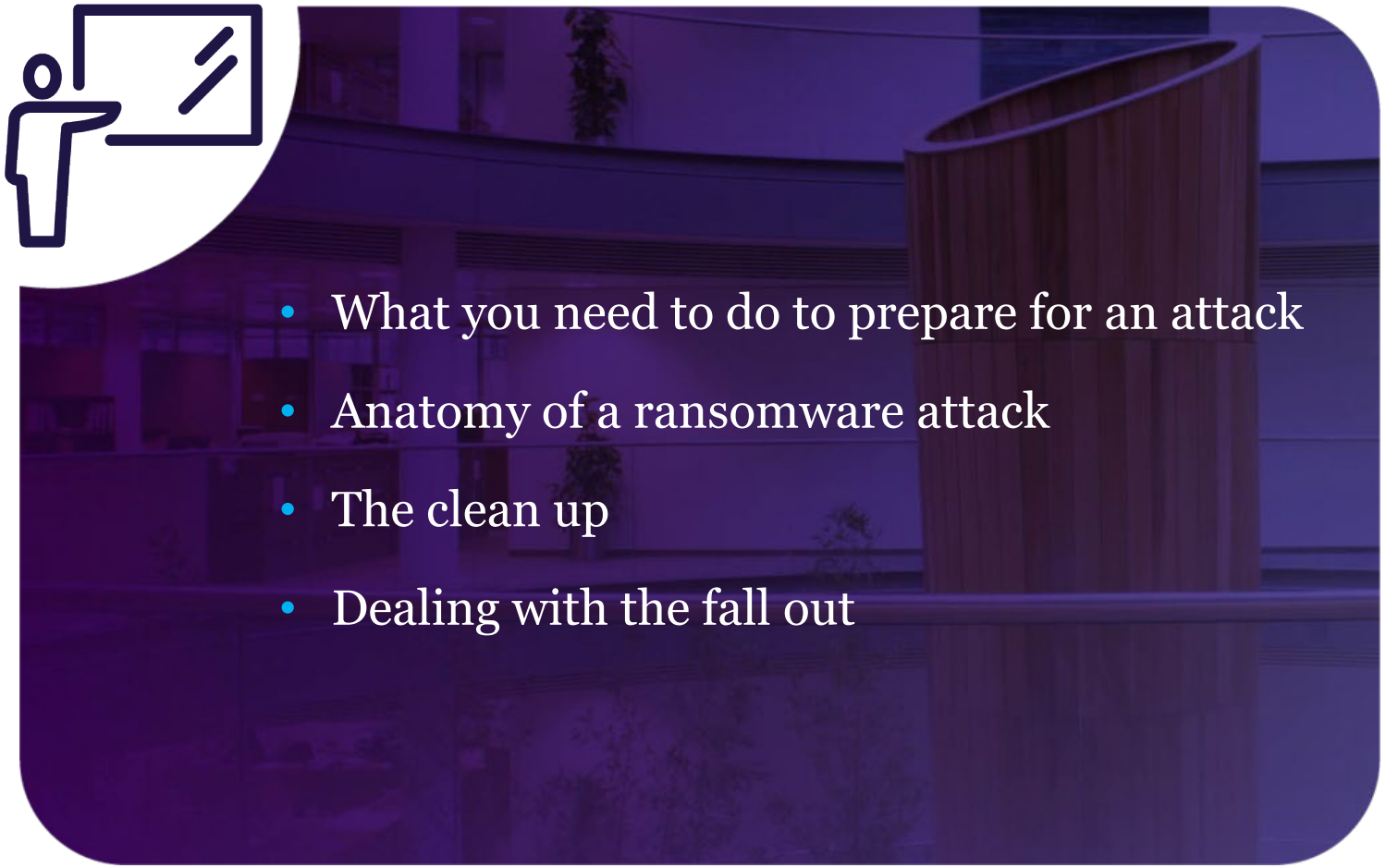
What we are covering



- What you need to do to prepare for an attack
- Anatomy of a ransomware attack
- The clean up
- Dealing with the fall out

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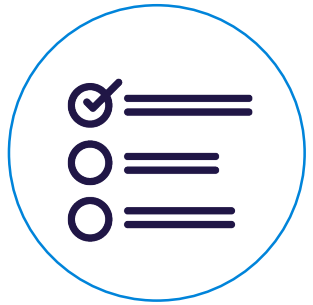
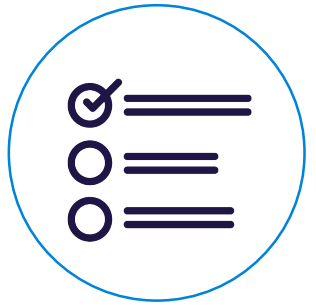
Key steps to mitigate attacks



- **Backup strategy**
  - Offline/offsite backups
  - Multiple backup strategies
- **Prevent malware being delivered and spreading**
  - User training (e.g. simulated phishing attacks)
  - Technical measures – filtering, internet security gateways, safe browsing lists etc.
- **Prevent malware from running**

Key steps to mitigate attacks



- **Prepare for an incident**
  - Developing an incident response plan
  - Make sure the plan is available even if the network is not
  - Assume an attacker might access the plan

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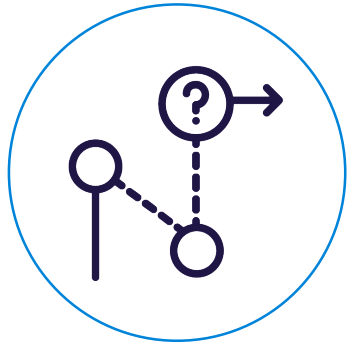
Preparing an incident response plan



- Key contacts (including IR team/provider, IT, Senior Management, Legal, PR, HR, Insurance)
- Escalation criteria and decision process
- Teleconference/video conference number and backup
- Basic guidance on legal and/or regulatory requirements (e.g. reporting requirements to the DPC)

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The “Tabletop” exercise

- Key to preparing for cyberattacks is to build “muscle memory” in the organisation
- Typically run through different scenarios with differing levels of complexity
- Useful to simulate:
  - Missing decision makers
  - Difficult calls (e.g. threats to publish sensitive information)
  - Escalation of decisions through the organisation
  - Use of the backup teleconference/video conference facilities

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What happens when we're subject to a ransomware attack?

- **How will the attackers get in touch?**
  - Email to executives
  - Unencrypted note
  - Full screen takeover
- **Four attack vectors:**
  - Encryption
  - Data Leakage
  - Harassment
  - Denial of Service

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Contacting the attackers

- Typically provided with instructions for accessing site on the dark web
- Negotiations are in English
- Time limit to apply pressure

Paying a ransom?

- Ransom demand can be either arbitrary or based on knowledge of company finances
- Typically expect to negotiate the ransom down significantly
- Payment made in cryptocurrency, typically bitcoin

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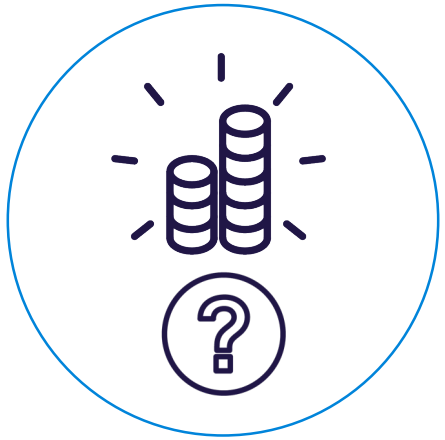
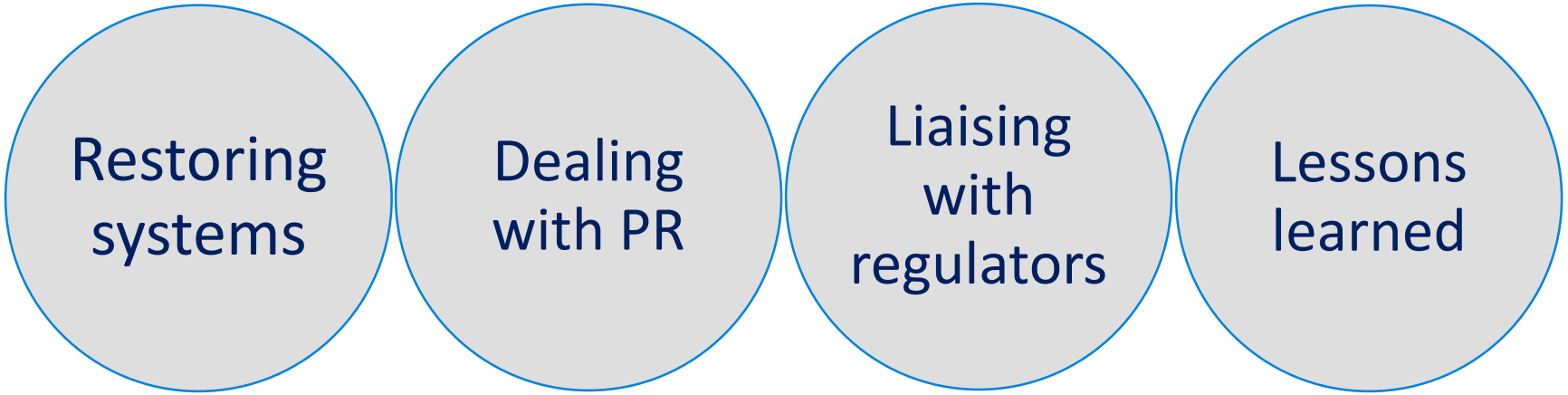
Should you pay?

- Is it legal to pay a ransom?
- Is it common to pay a ransom?
- Should you have a policy in relation to paying ransoms?



The clean up



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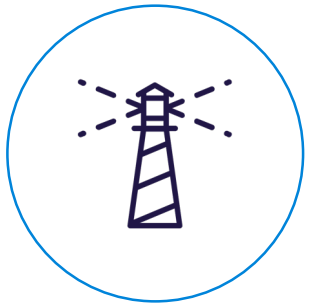
Dealing with the fallout

Amy Brick, Senior Associate

Notification requirements

- **Article 33 GDPR/Section 86 2018 Act**
  - Notify the DPC without undue delay and, where feasible, within 72 hours of becoming aware of a data breach
  - No requirement to notify where breach is unlikely to result in a risk to the rights and freedoms of data subjects
- **Article 34 GDPR/Section 87 2018 Act**
  - Notify data subject without undue delay where breach results in a high risk to the rights and freedoms of a data subject

Tools to assist in the aftermath



- Injunctive relief – possibly against “persons unknown”
- Potential to obtain anonymously
- Norwich Pharmacal orders e.g. against a bank, an internet service provider
- Freezing orders
- Asset tracing

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Potential claims under the GDPR

- A number of different types of claim may follow a cyber attack/data breach
- In relation to GDPR claims, some recent developments
- Warren v DSG Retail Limited [2021] EWHC 2168 (QB) and other interesting English decisions
- Preliminary references on “non-material damage”

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Questions?

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