



LSBC's Cloud Computing Checklist Four Key Considerations

by Brian Mauch, President of BMC Networks

The promise of cloud computing is now a reality. The ability to access your data anywhere on any device, and at a reduced capital cost, has many BC law firms considering the cloud.

In January 2013, the Law Society of BC (LSBC) published a due diligence checklist, intended for lawyers who are considering using cloud computing services. This checklist is available on the LSBC website at www.lawsociety.bc.ca/docs/practice/resources/checklist-cloud.pdf. The checklist is 13 pages long, and contains over 150 considerations when evaluating a specific cloud service. The substantial length of the checklist was intentional – it was drafted to be inclusive of as many of the potential issues as possible.

Many lawyers and administrators have asked for an executive summary of the checklist. They are grappling with several issues, including questions such as: Is it OK to use the cloud? Which cloud services are OK? And how will they help our firm be more profitable, or provide better service to our clients?

Contrary to some people's misperceptions, the LSBC is not against the use of cloud computing. In fact, BC is one of the

most cloud-friendly jurisdictions in North America, according to David Bilinsky (one of LSBC's practice advisors, and author of the checklist). "We have certainly done far more than most in terms of trying to deal with the issues of moving to the cloud," said Bilinsky.

While it is important for lawyers and administrators to review the entire checklist, there are four key considerations that should be taken into account when contemplating using cloud services in a BC law practice:

1. Utilize services that keep lawyers' data (and backups of their data) in Canada, and ideally within BC. This measure alone will satisfy many of the compliance questions in the checklist, and will remove any concerns

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Cloud Computing... continued from page 10 about the USA Patriot Act or jurisdictional authority. Lawyers also need to be aware of circumstances where there is a statutory requirement to keep data within Canada. An example of this is ICBC's requirements for personal injury defence firms, which stipulate that client data cannot be stored in international services such as Gmail and Hotmail.

2. Ensure that the ownership and intellectual property rights of the data do not pass to the cloud provider, and that the confidentiality and privilege of clients' data is protected. To do this, lawyers must review the cloud provider's SLA (Service Level Agreement) and Privacy and Confidentiality Agreement. If the necessary provisions are not in place, the lawyer must negotiate the necessary changes to the agreements before proceeding.

3. Use services that are focused on the legal profession, and have therefore been designed with lawyers' requirements in mind. For example, Dropbox is a convenient file transfer utility designed for a broad audience including consumers and home users. However, Dropbox is not a good choice for BC lawyers, because it stores data in Amazon's Simple Storage Service (S3) which is located in multiple data centres across the USA, and it lacks some security features which are critical to the exchange of confidential data. Instead, the due diligence questions raised in the checklist should lead a lawyer to use a Canadian-based virtual data room service that is designed for law firms.

4. Refer to the due diligence checklist, and document the answers for each cloud service that is used. Lawyers and administrators should occasionally go back to review the checklist, in case the cloud provider has changed an aspect of their service, or the law firm has changed how they are utilizing the cloud service. If something goes wrong in the future, it will be important to prove that the proper due diligence was done.

As with all aspects of information technology, cloud computing is a rapidly-developing area, and the key issues of today may not be same in a few years' time. Law firms, the LSBC, and cloud computing providers will all need to keep abreast of changes in both technology and the law, and work together to continue to meet the needs of lawyers and their clients.



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Thanking Our Volunteers

The BCLMA 2014 biennial conference took place on March 6–7, at the River Rock Casino Resort in Richmond. Ninety delegates attended the one and a half day conference, learning, networking, meeting, consulting, socializing and having fun.

We're thanking everyone who attended, and those who volunteered many hours of their time in planning the conference agenda, securing qualified speakers, coordinating the market place and arranging the festive dinner event.

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