

# Cyber risks – legal considerations

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# Areas of legal risk

- Regulatory constraints and risks
- First party risks – your own losses. Not generally ‘legal’ risks.
- Third party risks – liability to others

# Regulatory risks (1) – NZ law

- Privacy Bill – current stage
- Privacy Commissioner's response
- Where is this going?
- Note mandatory breach reporting in Australia
- Penalties



\$2,000 -> \$10,000: 400% increase  
[Note HRRT jurisdiction – up to \$200,000.]

# Regulatory risks (2) - GDPR

\$10,000 -> €20,000,000: 177,000% increase  
(or 4% of global turnover)

Application. In EU or providing services to persons in EU.

Principles for data processing of personal data:

- Lawfulness, transparency and fairness
- Stated purpose and use
- Data minimisation
- Accuracy
- Accountability: compliance, must be demonstrable
- Storage limitation
- Integrity and confidentiality
- The right to be forgotten
- Mandatory breach notification (generally) within 72 hrs

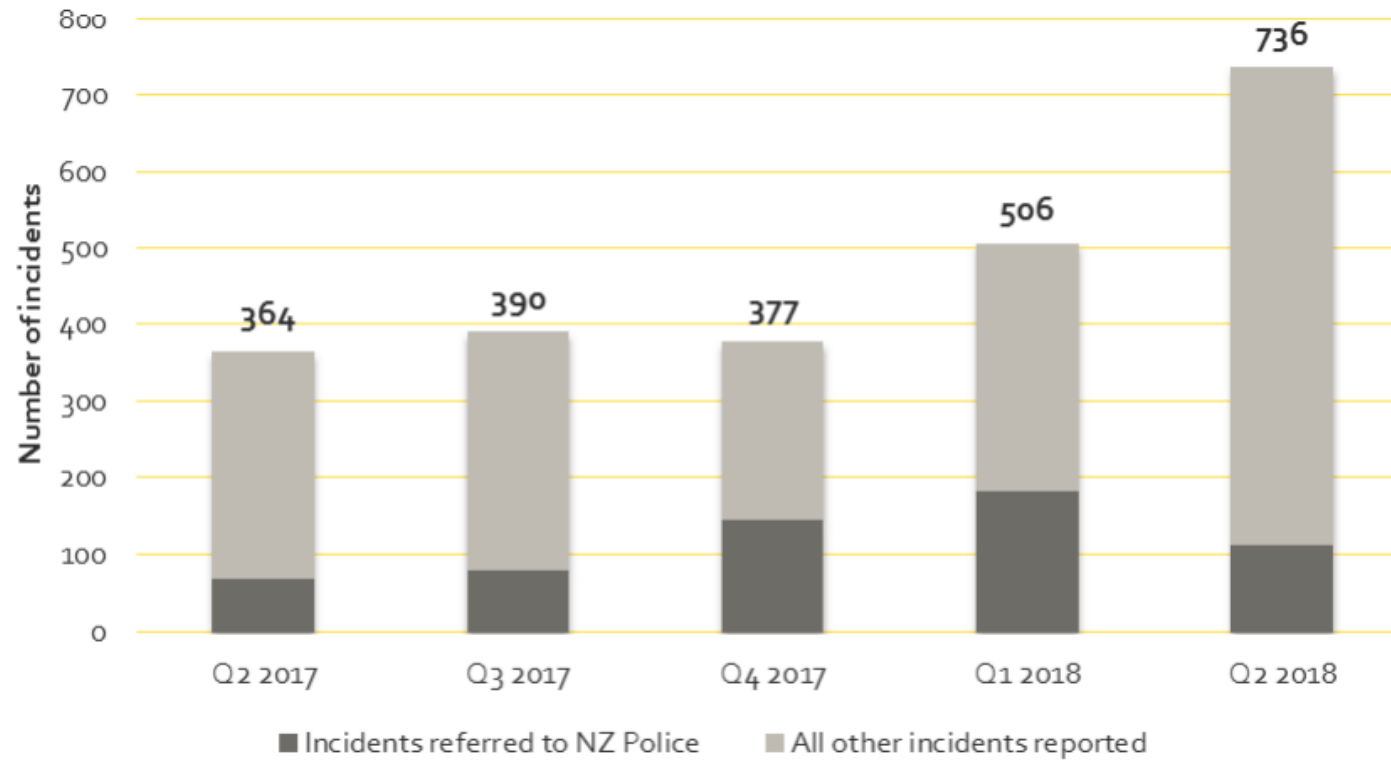


# Third party legal risks

- Tort of breach of privacy
- Liability in negligence:
  - Pre-breach
  - Post-breach
- Liability in contract
- Terms in supplier contracts and customer contracts
- Particular issues with IT suppliers
- Court decisions?

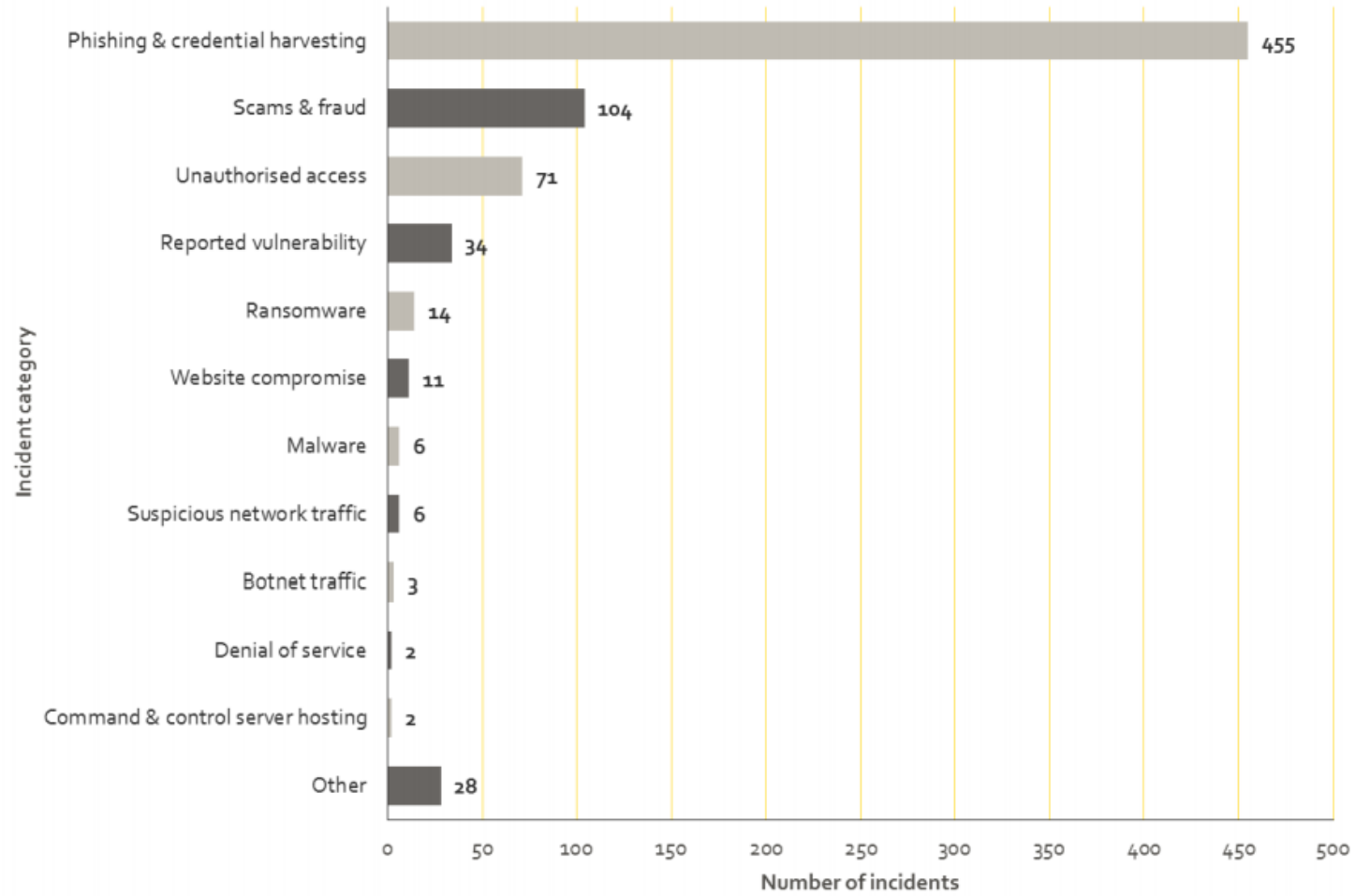
# CERT NZ – Q2 2018

Figure 1: Number of incidents reported by quarter



The tip of the iceberg...

**Figure 2: Breakdown by incident category**



Only 21% of total reported incidents included some kind of loss.

Figure 8: Distribution of direct financial loss

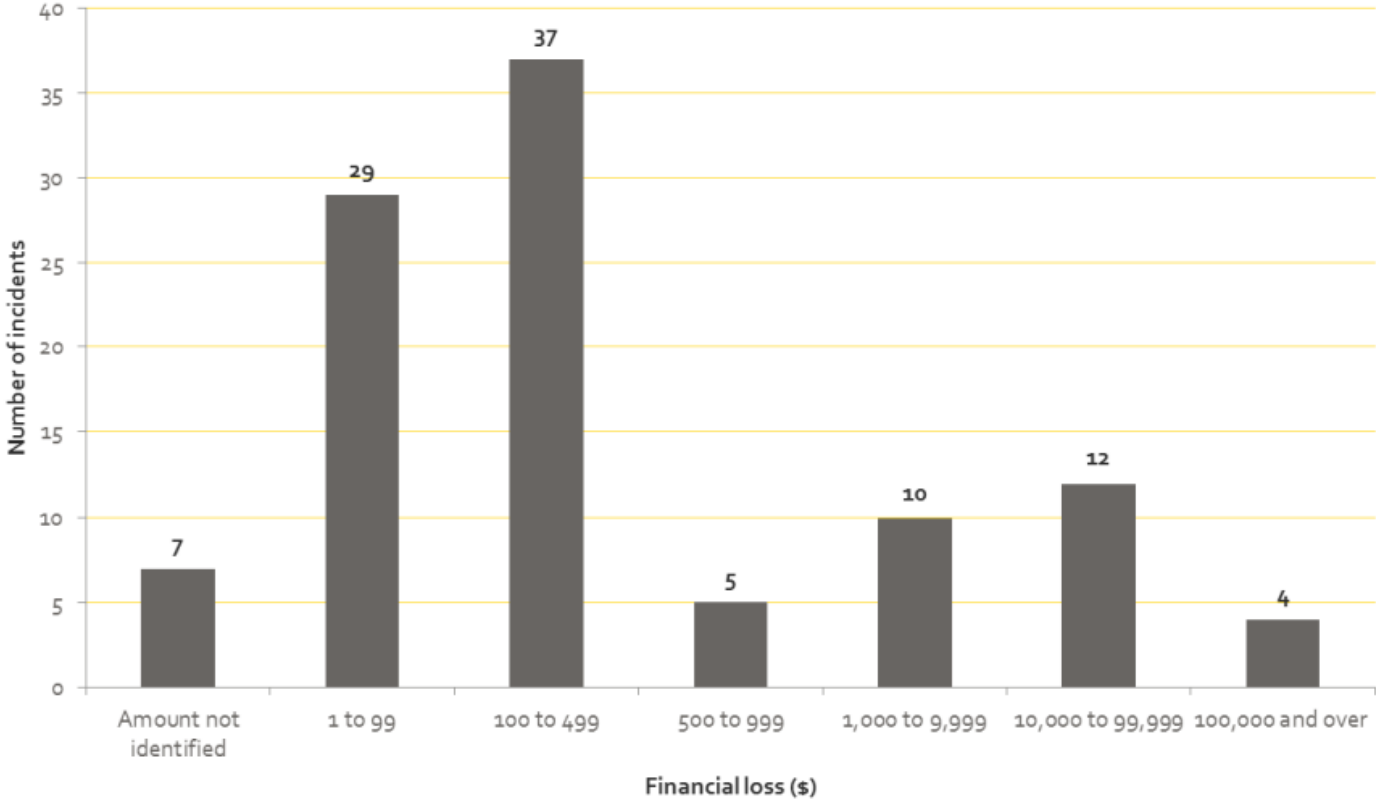




Figure 9: Reports about organisations; breakdown by sector

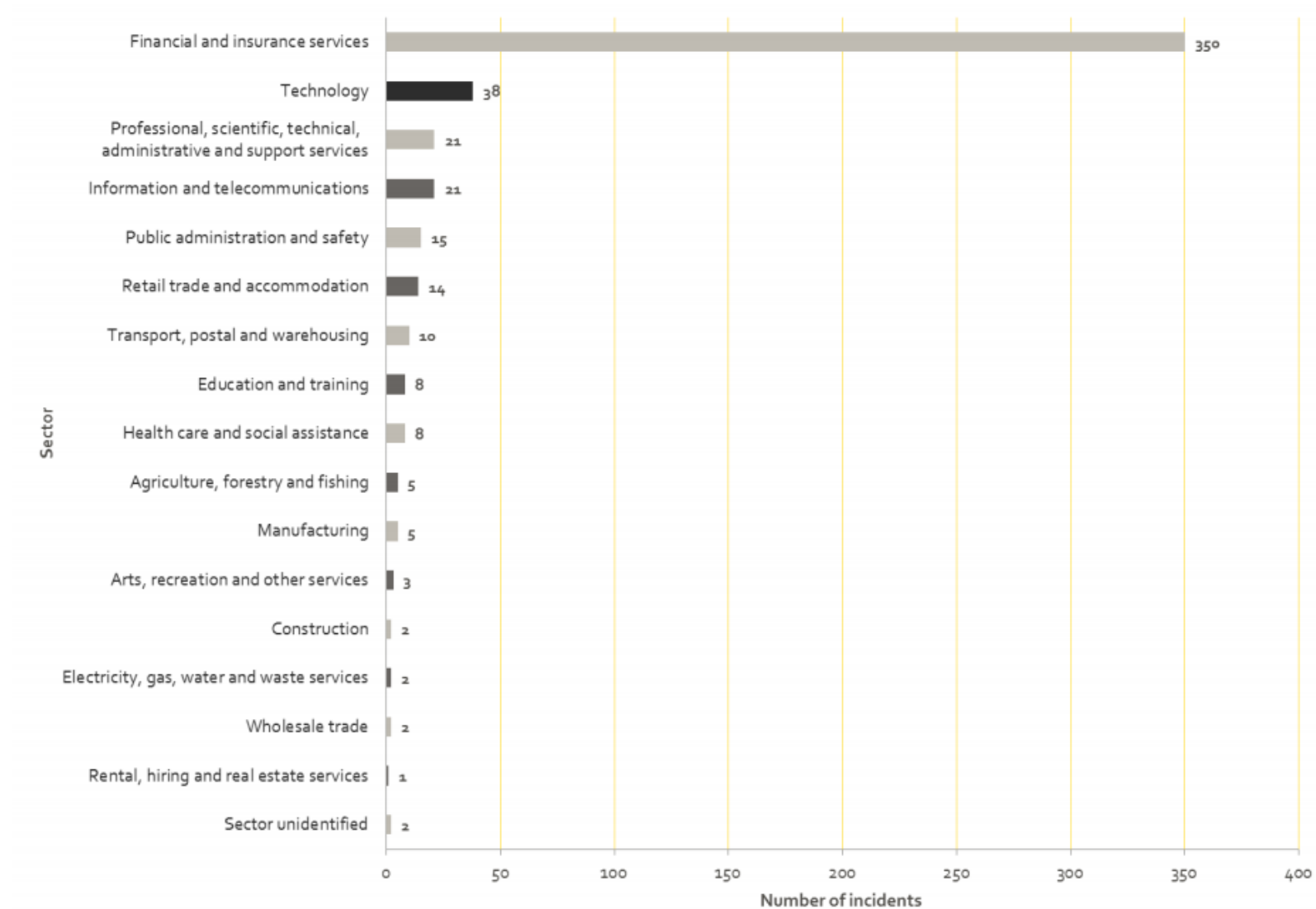
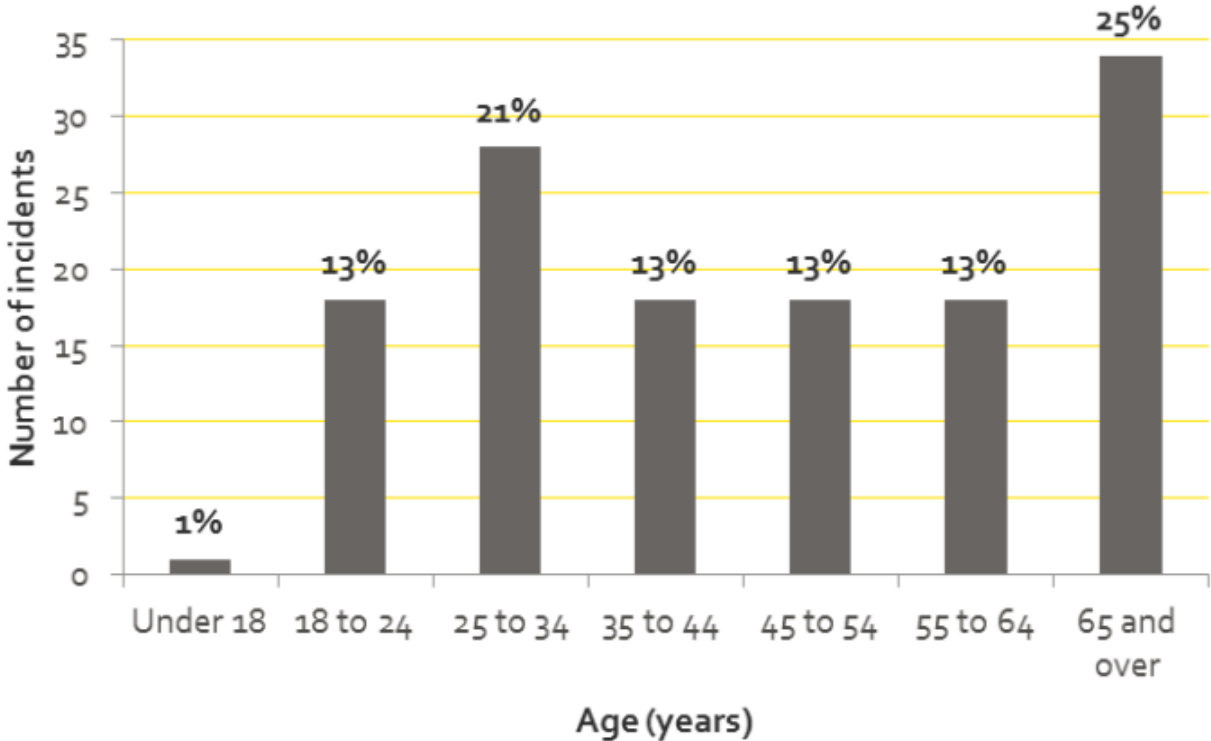


Figure 12: Reports about individuals; breakdown by age



The loss amounts for all age groups are down on last quarter except for those aged 35-44. The losses for those aged 55 and over represents 75% of the value of direct losses reported by individuals<sup>2</sup>. This is consistent with the trend seen in Q1 2018.