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ICO call for views on incident reporting thresholds under NIS Regulations 2018

The Information Commissioner is calling for views on potential incident reporting thresholds for digital service providers under NIS Regulations 2018. The Government is proposing amendments to the existing Regulations that would enable the Commissioner to set incident reporting thresholds in guidance. We recognise that there are a number of approaches that can be taken when determining appropriate incident thresholds. We are seeking feedback on two sets of thresholds. This feedback will enable us to further develop the content of the guidance that we will be required to publish if the proposed amendments to the Regulations are approved.

You can email your response to [nisincidentthresholds@ico.org.uk](mailto:nisincidentthresholds@ico.org.uk)

Alternatively, print off the document and post to:

Information Commissioner’s Office  
Wycliffe House   
Water Lane  
Wilmslow  
Cheshire, SK9 5AF

If you would like further information on the call for views, please email us at [nisincidentthresholds@ico.org.uk](mailto:nisincidentthresholds@ico.org.uk).

Please send us your views by midnight on Thursday 7 October 2021.

## Privacy statement

For this call for views we may publish the responses received from organisations or a summary of the responses. We will not publish responses from individuals. If we do publish any responses, we will remove email addresses and telephone numbers from these responses, but apart from this we will publish them in full. Please be mindful not to share any information in your response which you would not be happy for us to make publicly available.

Should we receive an FOI request for your response we will always seek to consult with you for your views on the disclosure of this information before any decision is made.

For more information about what we do with personal data please see our [privacy notice](https://ico.org.uk/global/privacy-notice/).

# Questions on Proposal 1

1. What do you believe are the advantages of this approach?
2. What do you believe are the disadvantages of this approach?
3. Do you have any comments on the proposed threshold for unavailability?
4. Do you have any comments on the proposed threshold for loss of confidentiality, integrity and authenticity?
5. Are there any additional risks that should be added to the situation outlined at *(iii)*?
6. Do you have any comments on the proposed level of material damage caused to at least one user in *(iv)*?
7. Are there any other situations that should be added to these thresholds?
8. Based on experience of incidents that have occurred since the NIS Regulations 2018 came into force, are you able to estimate how many incidents your organisation would be required to notify to the Commissioner each year, if these thresholds were implemented.
9. Please give an estimate (or outline if an estimate cannot be provided) of any additional costs that would be incurred by your organisation in order to satisfy reporting requirements if these thresholds are implemented.

# Questions on Proposal 2

1. What do you believe are the advantages of this approach?
2. What do you believe are the disadvantages of this approach?
3. Do you have any comments on the proposal to use impact on function, information and recovery requirements as the basis of these thresholds?
4. Do you have any comments on the proposed impact score matrix?
5. Are there any further changes that you would recommend to these thresholds?
6. Based on previous incidents that have occurred since the NIS Regulations 2018 came into force, are you able to estimate how many incidents your organisation would be required to notify to the Commissioner each year, if these thresholds were implemented.
7. Please give an estimate (or outline if estimate cannot be provided) of any additional costs that would be incurred by your organisation in order to satisfy reporting requirements if these thresholds are implemented.

# Additional questions

1. Of the two proposed options for incident thresholds, which do you prefer and why?
2. Are there any alternative approaches to incident thresholds that you would invite the Commissioner to consider?

About you or your organisation

1. Please indicate whether you are answering as::
2. An individual
3. On behalf of a digital services provider;
4. On behalf of a competent authority; or
5. Other

## Thank you for participating in this consultation exercise.