

# READY FOR THE FUTURE ISSUE 6

“33%

of all charities  
surveyed did nothing  
about GDPR before  
Sept 2017\*

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# How are firms preparing for a shortage of EU workers post-Brexit?

Firms cannot prepare adequately for a shortage of EU workers because we still do not have a coherent post-Brexit immigration policy from the Home Office.

This is not really the Home Office's fault: whichever of two options they take, they risk infuriating large chunks of the population because the issue has become so toxic.

However, unless our immigration policy changes, the British workforce growth rate will fall from 9% in the 10 years to 2015 to 2.4% by 2025. This fall is unquestionably due to Brexit: labourers from economically weak parts of Europe can come to the UK visa-free and work without a permit. After Brexit, they won't be able to.

This drop in the workforce is worrying when more (low-paid) workers are needed to enter the health and social care professions to care for Britain's ageing population. There are likely to be 2 million more retirees alive in 2025 than there are now. Old people are more likely to get sick than young people. Hence the need for more NHS staff. And that's just one of many industry sectors that need foreign labour.

This grim view of a Britain with a depleted workforce assumes, of course, that the Home Office will do absolutely nothing about the workforce shortage. This is unlikely. It is also based on a myth: the myth that the UK's potential workforce has reduced. It has not.

The reality is that Britain is still seen as an attractive place. The number of applicants far exceeds the number of approved immigrants. For example, we turn away more doctors than we bring in, not because we don't need them but because we hit Home Office quotas each month. We don't need these quotas. At the stroke of a pen, all of the UK's employment gaps could be filled.

The fall-off in immigration applications is only from the EU. From outside the EU, applications to settle in Britain are as numerous as ever, and the government is still employing its "hostile environment" policies to deter or reject them. There is no reason why such workers need to come from the EU. They could come from anywhere, as long as they are good enough.

Businesses are not responding well. They are, sensibly enough, hunting for UK workers to fill in the place of the EU workers they are losing. They are also fiddling with their diversity policies in the hope of attracting new sections of the population. But in addition to this, they should be lobbying the government to adjust immigration policies to fill the gap. Instead, all their lobbying has been

directed at undermining the government's hard-won compromise on Brexit.

That is pointless. There is no way the government can back down on its promise to dismantle Freedom of Movement, which favours EU workers, so instead businesses should be pressuring the Home Office to stop rejecting non-EU applicants. They would find they are pushing at an open door.

## Deal or no deal – what firms should do

The Government has been busy publishing technical advice notices on many aspects of a no-deal Brexit, while stressing that it continues to work towards a deal for March 2019.

But firms need to plan ahead, whatever the government does, and should tackle the following points:

- The movement of goods; e.g. customs, supply chains and export licences
- Product compliance; e.g. more detailed technical specifications, how WTO rules might affect you and the importance of keeping standards up to date
- Contracts; your form terms and conditions will need clarification when you trade across EU borders – this may also affect tax
- Employees; workplace rights, residency status and workforce planning
- Know your partner; the Government hasn't stressed this but firms need to get to grips with vetting overseas counterparties and developing trust.

All technical notices can be found at <https://www.gov.uk/government/collections/how-to-prepare-if-the-uk-leaves-the-eu-with-no-deal> and you can also register for updates from HMRC at <https://public.govdelivery.com/accounts/UKHMRCED/subscriber/new?preferences=true#tab1>

21/11

## Brexit Conference

8:00 am- 1:00 pm, Three Counties Showground, Three Counties Showground Malvern, WR13 6NW



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# Data breaches – help is at hand

From terms and conditions or contracts to data breaches and how to deal with them, companies are now travelling further down the road to General Data Protection Regulation (GDPR) compliance.

We have seen clients move from their immediate concerns about the agreements and notices they have in place to considering the future and how to protect themselves against a data breach, or handle one when necessary.

Appointing their Data Protection Officer and establishing their Incident Management Plan are key steps in this process. But it is also vital to make sure that staff understand the need to alert management to a data breach immediately as even if the ICO doesn't need to be notified, you need to be able to document both the breach and your actions.

Because we have seen clients progressing to this stage, we are holding a series of events focusing on real-life scenarios, taking participants through the investigation and compliance processes with practical advice. Aimed at business leaders, data controllers and Data Protection Officers (DPOs) the events, in partnership with Marsh Ltd (Jelf) will equip you with the steps you need to take to keep the risk of a serious data breach to a minimum:

- 20/9** **Birmingham Workshop with Marsh Ltd (Jelf),**  
9:30 - 12:30 pm, Hotel du Vin, 25 Church St,  
Birmingham, B3 2NR
- 27/9** **Thames Valley (Reading) Workshop with Marsh Ltd (Jelf),**  
9:30 - 12:30 pm, Merlin House, Commerce Park Brunel  
Road, Reading, RG7 4BY
- 3/10** **HCR GDPR Autumn Seminar,**  
7:30 - 9:30 am, Hilton Puckrup Hall Hotel, Puckrup Lane,  
Tewkesbury, GL20 6EL
- 23/10** **Newport Workshop with Thomas Carroll,**  
5:00 - 9:00 pm, University of South Wales, Usk Way,  
Newport, NP20 2BP

To find out more and book on any of our events visit <https://www.hcrlaw.com/events>

As well as these events, we also provide bespoke training sessions for companies, either for groups or one-to-one, as part of our GDPR offer. We can provide staff or team briefings, workshops or webinars specifically designed for your business.

Our training advice comes with the support of a helpline. Call us on 0800 910 1189 if you have questions about GDPR for your business, or if you face a subject access request (SAR) or a data breach either within your own firm or that of a supplier. We also offer a Small Business GDPR Survival Pack for SMEs, containing essential documents you need to have in place for compliance. For more details, visit <https://www.hcrlaw.com/insight/gdpr>



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## What's your passion?

By Sam Payne  
Head of  
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I'm passionate about helping businesses to turn their fortunes around. My mantra is that if you see the warning signs of difficulties to come, ask for help now; there's so much more that can be done if we can catch it early.

I act for lenders, companies, directors and insolvency practitioners (administrators and liquidators), trying to make sure businesses survive, keep job losses to a minimum and ensure creditors get as much money back as possible. So, if you need someone to help you turn your business situation around, I'm here to help.

When I take on a case, I try and put myself in my clients' shoes and understand what represents a successful outcome – then I try to better it. I'm always available for a chat, and often work round the clock to get the best results. From day to day, I work with and for lenders and accountants, from local firms to the Big 4.

Outside work, I'm passionate about sports, including cricket, rugby, tennis, squash, skiing and football, and, of course, my wife and three children.



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“12%

drop in immigration in year after referendum (ONS)\* ”

# Charities and – facing the challenge

The impact of GDPR on the processing of employee, supplier and customer data, is well-known, but spare a thought for charities, who also have to manage data related to volunteers and donors.

Charities' initial concerns focused on the administrative burden of GDPR. A survey by the Institute of Fundraising last September\* showed that a third of all charities surveyed had done nothing about GDPR at that stage and almost half felt that they didn't have the expertise in-house to deal with it.

But while more guidance from the Information Commissioner's Office has made the picture clearer, it still presents problems, as Francis Evans, head of the executive committee at a faith-based UK charity, explained.

"We have two particular difficulties," he said, "because of the nature of our support base – one is that our supporters and donors are quite elderly and don't really want to engage with the administrative process. After sending the obligatory e-mails we are supposed to delete them from our database if they don't opt in, but we know that often they don't want that. We arranged for someone they knew to call them and make a note of the call for our records. It was time-consuming, but worth it not to lose touch with them.

"The second difficulty is that our volunteers have their own networks with whom they keep in touch about the charity's activities. Their record-keeping is not GDPR-compliant and the dividing line between communication from the charity and from a friend is blurred. In this case, we decided that if the mailing was coming from an employee then it must be sent from an official address using the charity's systems. Personal mailings from supporters are allowed on the understanding that they keep their own records and are not acting on behalf of the charity."

A key principle of GDPR is that personal data must be processed lawfully, fairly and transparently. Many charities rely on legitimate interests (i.e. that the processing is necessary for the purposes of its legitimate interests or those of a third party) as their lawful basis for personal data usage. The requirement for fair and transparent processing make it more important than ever that charities (and all organisations) set out the details of their processing activities. This includes what data they are processing, their lawful basis for doing so, information about any data transfers, their data storage and deletion policies and the data subject's rights in a privacy notice. People still have an absolute right to object to direct marketing, and the rules on electronic communications – in particular the requirement for the recipient to consent to most types of direct marketing by email and SMS – still stand.

There is no magic formula, but if charities have reviewed and cleansed their data, documented their decisions and actions in line with GDPR, and are prepared to deal with SARs and data breaches in accordance with the new requirements, they will be on the right track.

[\\*https://www.institute-of-fundraising.org.uk/library/how-charities-are-preparing-for-gdpr-september-2017/](https://www.institute-of-fundraising.org.uk/library/how-charities-are-preparing-for-gdpr-september-2017/)

The ICO has drawn together resources to help charities, ranging from its FAQ list to checklists and business resources pages. Its micro business page might also prove helpful.

<https://ico.org.uk/for-organisations/charity/charities-faqs/>

It has also worked with the Fundraising Regulator to produce briefings for charity fundraisers

<https://www.fundraisingregulator.org.uk/information-registration-for-fundraisers/guidance/gdpr-charitable-fundraising-guidance-briefings/>

Eight charities volunteered for risk reviews carried out by ICO audit teams and the ICO has published the results

<https://ico.org.uk/media/action-weve-taken/audits-and-advisory-visits/2259675/charities-audit-201808.pdf>

## Did you know ?

\*86,000 fewer EU workers worked in the UK from April to June this year, compared to the previous year – the drop to 2.28m is the largest fall since comparable records began in 1997.

When the Office for National Statistics first recorded this data, from April-June 1998, only 500,000 EU nationals worked in the UK, with another 565,000 non-EU nationals working here then; non-EU nationals now account for 1.27m workers in the UK.

## Key Action Points



Carry out a data audit to assess what personal data the charity holds and how it flows around the organisation – how is it collected? where is it stored? who has access to it?



Identify any gaps or areas of non-compliance, come up with a plan to remedy and implement it.



Policies and privacy notices – update and/or develop new inward-facing policies for staff and volunteers regarding processing data, dealing with SARs and data breaches, etc. as well as outward-facing privacy notices relating to how you process personal data belonging to donors and supporters.



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**Talk to us**

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We'd love to have a chat.

**Sources:**

\* <https://www.institute-of-fundraising.org.uk/library/how-charities-are-preparing-for-gdpr-september-2017/>

\*\* HCR survey conducted March 2018

\*\*\* <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/ukandnonukpeopleinthelabourmarket/august2018>

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