

BRIEFING NOTE:

23 January 2019

Brexit! – Implications for charities

Presuming that Brexit will go ahead (either on 29 March 2019 or later if Article 50 is extended), the UK's withdrawal from the EU might affect charities in various ways, depending on (a) their activities and where they operate and (b) in some circumstances, if we leave the EU without a deal. Some examples are highlighted below, but do note that the list does not go into any degree of detail and it is not exhaustive.

Immigration: the right to live/work/study in the UK

EU employees, contractors, volunteers and students based in the UK will need to follow certain procedures to ensure that they will have the right to live/work/study in the UK. See the link below to the Home Office website:

<https://www.gov.uk/settled-status-eu-citizens-families>

It will also be necessary to check what the relevant procedures are in relation to UK persons based in EU countries.

Data protection

Privacy policies and procedures may need to be amended in relation to the transfer of data between the UK and the EU.

The ICO has produced a checklist highlighting six steps for organisations to take in the event that the UK leaves the EU without a deal. See the link below:

<https://ico.org.uk/media/2553958/leaving-the-eu-six-steps-to-take.pdf>

Intellectual property

Charities will need to ensure that EU registered trade marks and designs will have continued UK and EU protection. (Contact the UK Intellectual Property Office (IPO) regarding continued UK protection and undertake relevant checks regarding continued protection in EU countries). See the link below to the IPO's guidance entitled *Intellectual Property and Brexit*:

<https://www.gov.uk/government/publications/ip-and-brexit-the-facts/ip-and-brexit>

Also note that the definition of "territory" in any intellectual property licence agreements may need to be amended.

Commercial contracts

Where charities have entered into contracts that have an element of cross border trade with the EU (either directly or indirectly), the contractual provisions should be reviewed (and possibly renegotiated) to assess/cover the commercial impact of Brexit. New contracts should include specific clauses to deal with Brexit related factors.

Branches in EU countries: reporting and accounting requirements

Where a charity has branches in EU countries that are not established as separate legal entities in those countries, then any such branch is likely to be regarded as a “third country business”. This means that they will be required to comply with the specific reporting and accounting requirements in force in the relevant country.

EU funding

Charities that are currently in receipt of EU funding should contact their relevant UK government department to obtain (a) confirmation that the government’s commitment to replicate EU funding will apply and (b) clarification of the required procedure to ensure that they benefit from this commitment.

State aid and public procurement

Existing EU rules and procedures will be imported into UK law/replicated in the UK.

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This note provides a general summary only and it does not constitute legal advice. It is recommended that specific advice is sought in relation to the particular facts of a given situation. If you have any queries on any aspect of this note, please contact Sarah Chiappini: sarah@filanthropia.co.uk

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