

## EU Exit and Charity Beneficiaries

### A Quick Recap

Although Brexit has been discussed extensively since the EU Referendum in June 2016, it is vital to remember that the vast majority of Brexit-related changes only take effect from **11pm on 31 December 2020** when the UK leaves the EU Transitional Arrangements.

This has been such a drawn-out process that many people have forgotten the huge changes involved. On 23 June 2016 the UK voted by 52-48% to leave the European Union (under Prime Minister David Cameron). On 29 March 2017, Prime Minister Theresa May gave notice to the EU under the European Union (Withdrawal) Act 2018 that the UK was triggering the Article 50 process, which was meant to mean the UK would be due to leave the EU on 29 March 2019. Charities and business made plans for Brexit to take effect at that time.

But the date of departure was extended several times. Following a further change of Prime Minister, a period when the UK Supreme Court ruled that the Westminster Parliament was unlawfully prorogued, and a General Election in December 2019 with the slogan "Get Brexit Done", Prime Minister Boris Johnson signed a Withdrawal Agreement that became law under the European Union (Withdrawal Agreement) Act 2020. The UK formally left the European Union on 31 January 2020.

But whilst the UK's departure from the EU on 31 January 2020 marked a fundamental change, very few changes took place on that date. The UK was no longer an EU Member State and no longer had any MEPs or representation in the EU Commission, but the UK remained subject to almost all aspects of EU law and remained part of almost all EU programmes for an 11-month Transition Period until 31 December 2020.

That Transition Period is about to end. The UK Government had options to extend the transition, but declined to take advantage of those options, and confirmed in summer 2020 – notwithstanding all the additional complications arising from the Coronavirus crisis – that the Transition Period would not be extended.

There is still some possibility of an UK/EU Trade Deal before 31 December, with deadlines having been repeatedly postponed. But *even if a Trade Deal is agreed*, the UK will be outside the EU Customs Area, Freedom of Movement will end, and the UK will become a "third country" in relation to the EU.

So, all the benefits and obligations that apply as a result of the UK's membership of the EU will end at 23.00 on Friday 31 December 2020.

### Issue for Charities Themselves

For any charity that has *any* kind of relationship with the EU itself or with any of the EU27 countries there are very significant changes to consider from 1 January 2021. For example, the end of freedom of movement means that UK citizens visiting EU countries for work purposes, or even for leisure purposes for more than 90 days, will generally need a visa. UK employers can no longer recruit staff from other EU countries without satisfying UK immigration criteria. Charities sending products of any kind to EU countries need to comply with export processes. Charities receiving goods from other EU countries need to comply with import procedures and many goods will be subject to import tariffs under WTO (World Trade Organisation) rules.

There are also significant issues for charities sending goods between Great Britain and Northern Ireland, because for most purposes Northern Ireland is treated as remaining within the EU Customs Area, under the Northern Ireland Protocol of the Withdrawal Agreement.

There are also issues for charities using businesses elsewhere in the EU to process personal data.

Even at 18 December, with just two weeks to go, many of the details are not yet pinned down: the EU is calling on the UK to implement emergency regulations if no trade deal is agreed, but even this is uncertain.

If, as a charity, you need support on any of these issues, do get in touch: we are certainly not experts on all the details of import/export and immigration under the new rules but we have been following the principles. However that is *not* the focus of this Bulletin. The focus is on charities' users and beneficiaries.

## Practicalities for Businesses and Charities: It's Almost Impossible to Prepare Properly

Regardless of the arguments for and against the UK's membership of the EU, Brexit is happening and major changes are taking place from 31 December 2020. These are the largest legal changes in the UK that have happened for generations. Massive changes are needed to all kinds of systems and procedures.

Normally, a major legal changes in known months, often years ahead. Consider, for example, a small issue such as the implementation of new charity accounting regulations: typically the government announces that a change will take place for accounting years starting on or after a certain date (several months ahead), the regulations are updated, but even from the start of the change, charities have a full 12 months before the first year when they have to prepare accounts under the new rules.

The implementation of Brexit is the exact opposite:

- The details of the UK's new relationship with the EU are *still* not confirmed in terms of whether or not free trade will be allowed, just two weeks prior to the end date of the Transition Period.
- Even where the general principles are known, key legislation and regulations are still being made.
- There has been an unbelievable lack of preparation for the biggest change in a generation, because in many cases *businesses (including charities where applicable) simply do not have the details.*
- The Government has been encouraging businesses of all sizes that deal with the EU to prepare for the changes, but much of the guidance on [www.gov.uk/transition](http://www.gov.uk/transition) is extremely general. Businesses that have never dealt with import or export processes, because they have only dealt with the EU, are told that they need to have procedures in place to submit custom declarations, pay important tariffs, appoint new agents within the EU for regulatory certification, and have sponsor licences if they wish to recruit EU staff.
- Some of the Government's own IT systems needed from 1 January are still not ready to accept data.
- Chaos at ports seems almost certain, with many trucks heading into the EU not expected to have the correct documentation.

## How will Brexit affect your Beneficiaries/Services Users: What can you do?

Whatever the impact on charities themselves of the full implementation of the UK's exit from the EU on 31 December 2020, the impact on charities' beneficiaries and service users will, we suggest, be much greater.

*We are calling on all charities to consider the likely impact of Brexit on the specific individuals who use your services, and to implement practical measures to support them at this time.*

Some or all of the following consequences are very likely as we get into January 2021 and beyond:

- Shortages of certain food items and other supplies imported into the UK from the EU
- Price rises due to import tariffs (or increased customs costs even if a free trade deal happens)
- Small UK businesses unable to export to the EU – because they do not have the right permits and procedures in place – or goods held up due to new procedures at ports – or, where their goods are subject to significant import tariffs into the EU, unable to achieve the higher sales prices needed
- Difficulties for EU citizens in the UK facing discrimination if they have not achieved 'EU Settled Status' (EUSS). Even for those who have achieved this, there is no document to prove EUSS, so it may be difficult for them to access services, apply for jobs or access housing that will normally be restricted to UK nationals and those with EUSS. Further issues are likely for many who only have 'Pre-Settled Status'.
- Similar issues for UK citizens in other EU countries.
- Horrendous delays and welfare issues for truck drivers, ports staff, and everyone involved in import/export.

*As always when difficulties and disaster strikes, society needs charities to be there for those in need. We are calling on charities to be ready with support for those directly affected in early 2021 as Brexit takes effect.*

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- If your organisation or firm belongs to the *Kuberthesis Charity Advice Service* (KCAS) and you have any queries on the points mentioned – including issues for your own charity – please contact us at the special e-mail address for this purpose (see covering e-mail). There is no charge for responding to reasonable queries if you belong to the KCAS.
- If you are not currently in KCAS it is possible to register online (see [www.kuberthesis.uk/advice-service](http://www.kuberthesis.uk/advice-service)) and then queries can be raised immediately subject to the terms of the scheme. For other enquires, please e-mail [info@kuberthesis.uk](mailto:info@kuberthesis.uk).