



Retail Risk Report

June 2017

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Introduction

Our Retail Risk Report, now in its third year, is a single point of reference to help retailers understand the legal and regulatory changes taking place in 2017 and beyond.

Our retail specialists also provide guidance to help you prepare for these changes and reduce the risk that they pose to your business.

With the 2017 General Election having resulted in a hung parliament and Brexit negotiations underway, the UK's political and economic future remains uncertain.

Brexit will almost certainly have an impact on regulatory developments but our exit from the EU is not expected to take place until March 2019 and there is a possibility that exit negotiations will be extended beyond this deadline.

In the meantime, retailers must prepare for a number of major new EU laws such as the General Data Protection Regulation and the ePrivacy Directive. Both are expected to come into force in May 2018 and will have a significant impact on most retailers.

What else should retailers look out for? There is a great deal of emphasis being placed on transparency, with various regulations being enacted requiring businesses to report on payment practices, non-financial information and any gender pay gaps.

2017 has already seen the arrival of the Apprenticeship Levy, the taxation of salary sacrifice schemes, and an increase in the National Living Wage. These changes will have a profound impact on the relationships between employers and employees, with serious risks for non-compliance.

There will also be changes that impact on retailers' property estates, with the introduction of regulations that restrict landlords from granting a new tenancy of premises with an EPC rating of below E. This change will also impact on retailers looking to sublet premises.

With so many changes on the horizon, we hope that you find this report helpful in planning for the years ahead. If you have any questions about these changes or would like help in preparing for them then please do get in touch.



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Retail regulatory timeline 2017/18

Click on the linked headings below to find out more about each change

Impact on retailer

M Medium

H High



Non-financial reporting

From January 2017 | Corporate and company secretarial law  | Impact on retailers 

What's changing?

Changes to the UK's narrative reporting regime have come into effect for financial periods starting on or after 1 January 2017. For such periods, large listed companies will now be required to prepare a non-financial information statement as part of their strategic report.

The updated narrative reporting framework applies to "large undertakings which are public interest entities (banks, insurers, financial services and listed companies etc.)" with over 500 employees. As part of the new reporting obligation, these companies will now have to disclose a range of non-financial information relating to environmental, social and employee-related matters, respect for human rights and anti-corruption and bribery issues.

The statement will need to include a description of the company's business model and policies relating to non-financial information as well as the outcome of these policies. The new requirement also includes a requirement to report on the relevant principal risks relating to these areas and how the company manages them. If the company does not pursue non-financial policies, it must provide a clear and reasoned explanation of the reason for not doing so.

What should retailers do to prepare?

To ensure compliance with the new non-financial reporting obligation, retailers should start getting to grips with what information needs to be disclosed. It would also be advisable to consider allocating responsibility within retailers for compliance within particular areas. This would include the on-going task of monitoring policy outcomes, as well as the requirement to produce the statement.



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Payment practices reporting

April 2017 | Regulatory  | Impact on retailers 

What's changing?

New regulations came into force in April 2017 which require large companies and LLPs to publish reports on their payment practices and policies together with their payment performance. This requirement has been introduced in an effort to increase transparency of payment practices and reduce late payment and cash-flow problems for small and medium sized businesses.

In December 2016, the government published an updated set of draft regulations, to implement the new requirement. These regulations affect companies that are classed as large sized companies under the Companies Act 2006. To fall into this definition, an organisation must meet two or all of the three following requirements:

- An annual turnover of £36 million;
- A balance sheet total exceeding £18 million; and
- More than 250 employees.

The revised regulations provide that organisations must report on their payment practices on a government web-based service every six months, providing information about their standard payment terms and the proportion of invoices paid within certain timeframes.

What should retailers do to prepare?

Retailers should review the BEIS guidance on how to comply with the new reporting obligation, as well as reviewing existing payment practices and identifying areas in which improvements can be made if necessary. It would be advisable to designate a person within the business to take responsibility for ensuring compliance with the requirement and to prepare and publish the report.

Retailers should also consider putting in place internal procedures governing payment practice policies and developing internal systems which allow the collation of the data necessary for compliance.



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Gender Pay Reporting

April 2017 | HR  | Impact on retailers 

What's changing?

In April 2017 regulations came into effect requiring UK employers with 250 or more employees (headcount as opposed to FTE) to report on the gender pay gap in their organisation. The report has to be made and published on the employer's website by April 2018 and the exercise will then be repeated on an annual basis, with the results remaining available on a rolling three year basis.

Employers will need to report on the overall "ordinary pay gap" – the difference, as a percentage, between the average hourly pay of female employees and that of male employees. They will also have to conduct the same exercise in relation to bonus payments made to the workforce as a whole over a 12 month period, as well as indicating the percentage of male and female employees who get a bonus. Information about pay quartiles will also have to be provided.

Whilst the gender pay reporting regulations themselves do not create individual employment rights enforceable by the workforce, there is widespread concern that

the reported figures may fuel or be used to support claims of sex discrimination or equal pay. Of equal concern for employers in the retail sector is the extent to which publication of pay data will negatively affect an employer's brand.

What should retailers do to prepare?

- Employers should be running example calculations to get an understanding of what they need to report and how their figures are looking;
- If the data throws up particular areas of concern, remedial action should be taken to address any equal pay issues;
- Finally, employers have the ability to publish a detailed narrative alongside their figures, so employers should be thinking about how to position their results and what actions or explanations their narrative might refer to.



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Apprenticeship Levy

April 2017 | HR  | Impact on retailers 

What's changing?

From April 2017, UK employers with an annual wage bill of £3 million or more are obliged to pay an apprenticeship levy. The aim of the levy is to help fund apprenticeships across the UK.

The levy is set at 0.5% of an employer's annual wage bill, with each employer receiving an allowance of £15,000 per year to offset against the levy. This means that whilst the levy will apply to all employers, only those with a pay bill of £3 million or more will pay the levy.

The levy will be collected from employers via PAYE. How the funds can be used vary across the respective administrations in the UK. In England, for example, funds will

be allocated to a specific "online account" that can be used to fund apprenticeships in that business. Any funds in the account not used within 18 months will be lost.

What should retailers do to prepare?

- Assess whether the levy will apply to your business and if so what you will be paying based on your current wage bill;
- Investigate how the funding will be utilised in each devolved region of the UK;
- Seek to adapt existing apprenticeship and training schemes or create new ones, in order to benefit from the available funding.



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Salary Sacrifice

April 2017 | Tax  | Impact on retailers 

What's changing?

In April 2017 new legislation came into force which is aimed at "optional remuneration arrangements". Optional remuneration arrangements include traditional salary sacrifice schemes, for example, where an amount of earnings is given up in return for a benefit. However, it also includes a situation where an employee is provided with a choice as to whether to receive a benefit or to receive a cash alternative.

The effect of the legislation means that tax will be charged on some arrangements on the higher of the earnings foregone (or the cash alternative offered) and the taxable value determined under the benefits code, which might have unexpected tax consequences for some participants. As an example, if you offer workplace parking through a salary sacrifice scheme then the amount of salary foregone will be treated as taxable, whereas previously this would have been tax free.

Importantly there are some safe harbours within the legislation that mean the tax

treatment will not change, for example when using salary sacrifice for pension contributions or childcare vouchers.

The changes will not come into effect for a specified period of time for some benefits where arrangements are already in place.

What should retailers do to prepare?

- Review what benefits you provide to your employees and how you provide them to your employees
- Be aware that if you are offering a choice between a cash allowance and a benefit then you may well be caught by the legislation.
- Assess which benefits will be affected by the change.
- Consider whether it may be appropriate to start offering some benefits from net pay.



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National Living Wage

April 2017 | HR  | Impact on retailer 

What's changing?

From April 2017 the level of the National Living Wage increased from £7.20 per hour to £7.50 per hour. This is the first increase to the National Living Wage since its introduction in April 2016, and is payable to all employees over 25 years' of age for each hour they work. The new rate applies to the pay reference period in which 1 April falls.

What should retailers do to prepare?

- The key thing is to ensure that the correct levels of pay are processed following the introduction of this increased rate;
- Given the increased cost of wages, retailers will want to plan in this rise in base costs, which will have a knock on impact on pension costs, holiday pay, sick pay and other bonuses or allowances that relate to hourly rates.



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Anti-competitive conduct in e-commerce sector

May 2017 | Competition  | Impact on retailers 

What's changing?

In May 2017 the European Commission concluded its two-year long inquiry into the e-commerce sector. The Commission's final report identified a number of anti-competitive practices which it considers may restrict online competition.

The Commission is particularly concerned with certain types of online sales restrictions, for example bans on selling through online marketplaces or through price comparison websites. Selective distribution agreements that discriminate against online-only retailers are also under the spotlight, together with certain types of 'price parity' clauses that operate across multiple online platforms.

The Commission's final report also raised concerns regarding the exchange of sensitive information between online marketplaces and third-party sellers (or between suppliers and retailers) where these parties are also competitors at the retail level.

These findings are significant for all UK retailers with an online presence. Following recent investigations into digital comparison tools, alleged online sales bans and online gambling, the Competition and Market Authority (CMA) has said that it continues to see online markets as a key strategic. The feeling is that further competition enforcement action in this area may be on the cards.

What should retailers do to prepare?

This is an area that is clearly on the CMA's radar, and retailers should monitor developments closely as future CMA investigations could focus on an area of online sales that has a direct impact on your business.

From a competition law compliance perspective, retailers should:

- Ensure that when using price monitoring software to track rivals' prices online, they do not use algorithms that could be seen as facilitating or strengthening collusion between retailers;
- Take extra care when disclosing or exchanging commercial information; and
- Consider whether any agreements they have with suppliers could be deemed to restrict online competition and have regard for what the wider impact on online markets may be;

Retailers with a strong online presence may also wish to take advantage of the Commission's findings and argue that restrictions imposed by their suppliers (for example selective distribution agreements) fall foul of competition rules.



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New rules and guidance for advertisements aimed at young people.

June 2017 | Advertising and promotions  | Impact on retailers 

What's changing?

The Advertising Standard Association ("ASA") has released new rules coming into effect on 01 July ("the rules") that ban the advertising of high fat, salt or sugar ("HFSS") food or drinks products in children's media. The ASA has also published new guidance ("the guidance") dealing with advertising and promotions directed towards children under the age of 12. The guidance will come into force on 01 June 2017.

These new rules mark a more targeted approach towards advertisements aimed at children under 12 which will undoubtedly make advertising products to this demographic more challenging. The rules surrounding recognition of advertising in online marketing

to children, although more targeted, are easier to comply with, and it will still be possible for businesses to advertise their products, albeit in a more structured manner.

What should retailers do to prepare?

The ASA are allowing a transitional period of 6 months from 01 June, where marketers will be able to resolve any complaints received informally in return for their adverts being changed. We would suggest making use of the leniency being offered in this time to review upcoming advertisements and how they may affect young people, and implementing changes to these adverts if necessary.



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Modern Slavery Act

June 2017 | HR  | Impact on retailer 

What's changing?

Although the Modern Slavery Act will soon have been in place for two years, there will still be some retailers who have yet to publish their first annual statement on supply chain transparency.

The Modern Slavery Act required businesses with a year end of 31 March 2016 to publish a statement under section 54 of the Act which deals with supply chain transparency. Businesses with a financial year end before this date would not be required to produce a statement for that financial year. Due to the timing of the Act, it is now the case that all businesses meeting the relevant thresholds will be required to publish a statement in the near future.

For a commercial organisation to fall into the category of being required to publish a slavery and human trafficking statement, it must:

- Carry out all or part of a business in the UK;
- Supply goods or services;
- Meet a minimum total turnover threshold (currently set at £36m)..

What should retailers do to prepare?

- If you have not yet been required to publish a statement but meet the relevant threshold:
 - Designate a person within the company to write the statement.
 - Conduct a review of supply chains and policies to see what measures are already in place.
 - Form a committee including senior managers/directors to ensure compliance moving forward.
- If you have already published a statement:
 - Check that you are still required to publish one, has your turnover reduced?
 - Consider the consequences for your brand of not continuing to publish a statement if you are no longer required.
 - If you are required or choose to publish a second statement, consider what has changed in the past year and any processes that have been implemented, as well as looking forward to the next financial year.



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Consumer protection: EU Commission Fitness Check

Mid 2017 | Consumer protection  | Impact on retailer 

What's changing?

Following the end of the consultation period for the Fitness Check of EU consumer and marketing law, the European Commission has published the responses received and has released its report on the results of its evaluation of the Consumer Rights Directive.

The European Commission had invited comments from consumer associations, business associations, public authorities, companies and consumers. The recently released report, which was based on criteria such as effectiveness, efficiency, coherence, relevance and EU added value, has found the following:

- Effectiveness has been limited due to a lack of compliance by traders, low levels of enforcement action and a lack of awareness of the Directive's provision amongst traders and consumers.
- It has been highlighted that there are costs burdens for businesses surrounding pre contractual information requirements and the consumer's right to cancel.

- There is potential for other EU consumer and marketing legislation to be streamlined and clarified alongside the Directive.
- There is scope to introduce transparency requirements for online marketplaces, ensuring that consumers are informed about the differences in levels of consumer protection when contracting with a trader rather than another customer, as well as simplifying the presentation of pre-contractual information and standard terms and conditions.
- There is a lack of awareness of the Directive's general and specific application to contracts for the supply of digital content. There is scope to expand the Directive to cover contracts for 'free' digital services, such as cloud storage.

What should retailers do to prepare?

It is likely that there will be a number of changes in line with the recommendations above flowing from EU level in the coming months and years. This may take the form of legislation, and retailers should keep an eye on any further developments in this area. As this is an EU led project, the timing of Brexit may affect any changes that are to come.



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New corporate criminal offence of failing to prevent the facilitation of tax evasion

September 2017 | Tax  | Risk to retailer 

What's changing?

The Criminal Finances Bill received Royal Assent in April, confirming that a new criminal offence of failing to prevent the facilitation of tax evasion would come into force in the UK from September 2017.

The offence is broadly based on the provisions of the failure to prevent bribery offence in the 2010 Bribery Act, meaning that there will be strict liability for corporate criminality for the actions of persons associated with the business, for example employees, suppliers and contractors.

Similarly to the failure to prevent bribery offence that this new offence is based on, companies will be able to put forward a defence of putting reasonable preventative measures in place, if unable to rely on this defence, companies are open to an unlimited fine if they, or any person acting on its behalf, aids or abets someone to evade tax criminally.

What should retailers do to prepare?

The strict nature of this offence means that it is imperative for retailers to have robust procedures in place to ensure compliance with the provisions before September 2017. We would recommend:

- Designating a person or team within the organisation to review internal procedures
- Conduct thorough risk assessments of business operations
- Where weaknesses have been identified, draw up plans to eliminate weaknesses
- Implement plans at the earliest possible stage, it is important to be compliant before the 'go live' date and the earlier plans are rolled out the more time retailers will have to identify any procedural weaknesses.



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Failure to prevent economic crime

Expected late 2017 | Regulatory  | Impact on retailers 

What's changing?

The UK Government has launched a consultation on the reform of corporate liability for economic crime. The call for evidence seeks views on whether reform is needed; considers deficiencies in the way that economic crime is currently governed; and proposes alternative approaches.

In particular, the consultation considers the current legal difficulties of prosecuting companies under the "identification principle" and the potential benefits of adopting the "failing to prevent" approach used in the current the Bribery Act 2010.

The consultation closed on 24 March 2017 and, subject to the outcome of this call for evidence, the Government may consult further on the detail of any proposed reform.

What should retailers do to prepare?

Although at present there is no guarantee that the government will decide to take action, it is likely that if they do, the offence will follow the same strict liability test used in the Bribery Act. The practical implication of this would be that retailers could be liable for any economic criminal activity carried out by associated persons (ie employees, agents, and sub-contractors) anywhere in the world.

If a similar implementation is followed, there should be a defence available if retailers can show that reasonable procedures had been put in place to prevent any criminal activity.

Although nothing is certain at present, as the consultation period progresses it would be useful for retailers to keep abreast of any developments and begin to review and implement new processes to prepare the business for change.



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Draft regulations on unjustified geo-blocking

Expected by the end of 2017 | IT  | Impact on retailers 

What's changing?

On 28 November 2016, the European Council agreed a draft regulation to ban unjustified geo-blocking of cross border sales between member states. Although the draft regulation still requires further approval, it offers a helpful indication of what we can expect to see when the final regulation comes into force – expected to be by the end of 2017.

The draft measures include a prohibition on online retailers restricting or limiting access to goods and services where consumers are based in a different member state. However, in order to address a number of practical concerns for online retailers, the draft regulation includes several carve-outs where geo-blocking practices are justified.

For instance, retailers will be relieved to hear that price differentiation remains permissible. This means that retailers are free to target general terms, prices or

promotions at a specific country, provided that any such offer can be accessed by all customers regardless of location.

What should retailers do to prepare?

As flagged in our previous report, retailers should be aware that by the end of the year, they may well need to:

- Remove all barriers to their online interfaces; even where the business operates country specific portals.
- In certain circumstances, cease imposing different pricing or payment terms based on nationality or place of residence of the purchaser.
- Review existing operational practices and consider what changes are necessary to allow cross border sales on the same terms as domestic sales.



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Digital Content Directive

2018 | Ecommerce  | Risk to retailer 

What's changing?

Under the Digital Single Market initiative the European Commission has proposed a Digital Content Directive that differs significantly from the equivalent provisions in the Consumer Rights Act (CRA).

Unlike the CRA the Directive will:

- Apply to all supplies of digital content for consideration, personal data or any other data.
- Require suppliers to return to consumers user-generated digital content on termination of the contract.
- Introduce a permanent reversal of the burden of proof for digital content supplied.
- Controversially for the UK market – prevent suppliers from imposing contracts longer than 12 months for the supply of digital content.

What should retailers do to prepare?

Retailers should be familiar now with the provisions in the CRA on digital content.

The Directive is now before the European Parliament. But it is very likely that the provisions will make it through to the final draft.

Retailers should also be aware that just because the digital content they provide is free, the Directive will still apply. The latest draft broadens the scope of the Directive so that it will apply to contracts in which consumers provide their data passively, or even without knowing it. It will also make illegal any terms that lessen the protection consumers have under data protection laws.

The Directive will most likely not be in force before the end of 2017 so retailers will have time to familiarise themselves with it. However it is likely to be in force before Brexit and would then become part of British law. So retailers should begin to review now how they provide and support digital content services to consumers as the Directive is more burdensome than the digital content provisions in the Consumer Rights Act.



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Termination payments

April 2018 | HR  | Impact on retailers 

What's changing?

From April 2018 a number of changes will come into force regarding the taxation treatment of termination payments. Specifically:

- All termination payments above £30,000 will be subject to employer class 1 national insurance contributions (NICs) Employee NICs will remain exempt;
- The treatment of payments in lieu of notice will be simplified so that they will be subject to tax and NICs (both employer and employee) as earnings – as if the employee did in fact work their notice. This will be the case whether there is a payment in lieu of notice clause in the contract or not.

What should retailers do to prepare?

The changes will create additional costs for retailers in circumstances where the termination payment is in excess of £30,000 and may make settlement packages involving payments in lieu of notice less beneficial for employees. These additional costs should be taken into account when calculating the costs of termination after April 2018.

In the meantime, the current rules will continue to apply. It is best practice to provide a breakdown of any termination payments to ensure that the correct tax treatment is applied. Getting this wrong could lead to HMRC seeking to recover unpaid tax and NICs, including penalties and interest from you.



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Legislation affecting commercial leases and poor EPC ratings

April 2018 | Real Estate  | Impact on retailers 

What is changing?

From 1 April 2018, it will be unlawful for a landlord to grant a new tenancy of premises with an EPC rating of below E, unless an exemption applies. From 1 April 2023, the prohibition will be extended to existing lettings. This means that if a property with an EPC rating of below E is let on a tenancy that extends beyond 1 April 2023, and, at that date the EPC is still valid, the landlord will be in breach of The Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015.

If a landlord lets a property in breach of the Regulations, it will not affect the validity or enforceability of the tenancy. However, the landlord could be liable to a fine of up to £150,000. The landlord's reputation could also suffer, as the penalty includes a "naming and shaming" element.

What should retailers do to prepare?

Retail tenants should not ignore the effect of the Regulations. A tenant who wishes to sublet its premises will need to comply with the Regulations. Tenants should, therefore, take note of the EPC ratings of their portfolios.

A retailer wanting to sublet premises with an EPC rating of below E on or after 1 April 2018 will need to either:

- Carry out all relevant energy efficiency works (as defined in the Regulations); or
- Show that an exemption applies.

The exemption likely to be most commonly used is the consent exemption. This applies if it has not been possible to improve the EPC rating of the premises as a result of a third party refusing to give its consent. Therefore, if the landlord refused its consent to the tenant carrying out works, the tenant would be able to rely on this exemption.

Tenants of multilet buildings should also keep a close eye on service charges and related lease clauses, to check whether landlords are able to pass on costs of complying with the Regulations.

For more information on the impact of the Regulations, visit our dedicated MEES webpage.



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ePrivacy Directive

May 2018 | Privacy and electronic communications  | Impact on retailer 

What's changing?

In January 2017, the European Commission published its Proposal for a Regulation on Privacy and Electronic Communications. The Regulation will update the existing privacy and electronic communications regime to cover recent technological developments, replacing the existing Privacy and Electronic Communications Directive and seeking to align ePrivacy law with the GDPR.

Some of the key changes in the Commission's draft are as follows:

- **Direct marketing:** consent to unsolicited commercial communications must be "freely-given, specific, informed and unambiguous"; this is a higher bar than under the current law. The current "soft opt-in" exemption to the requirements to obtain opt-in consent has been maintained, however.
- **Cookies:** the Regulation proposes simplification of the rules on cookies. User consent will not be required for non-privacy intrusive cookies that are used to improve a user's internet experience and ensure proper website functioning (for example, cookies set to remember an online shopping basket). Other cookies will continue to require consent. However, this may be obtained through the use of browser settings; a banner-type cookie consent request will no longer be required.

- **Application to OTT providers:** the Regulation extends the rules to apply to "over-the-top" (OTT) providers. These include providers of internet based services such as instant messaging, voice over IP and web-based email.
- **Sanctions:** the Regulation proposes increasing current fines to €20million or 4% of annual worldwide turnover, whichever is greater, in line with the GDPR. Significantly, there will also be a presumption in favour of individuals who have suffered damage as a result of the breach, meaning that companies will be presumed to be responsible unless they can prove otherwise.

What should retailers do to prepare?

In preparing for compliance, retailers should be aware that the Commission is aiming for the Regulation to apply from 25 May 2018 alongside the GDPR. It is unclear whether this timetable will be achievable, however, since the Proposal still faces a lengthy EU legislative process.

Retailers should therefore continue to monitor developments, in particular on the rules on cookies and direct marketing, to ensure that they are in the best position to comply once the Regulation is finalised.



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General Data Protection Regulation

May 2018 | Data protection  | Impact on retailer 

What's changing?

The government has confirmed that it will be implementing the General Data Protection Regulation (GDPR) in May 2018. Guidance is being developed on specific provisions of the GDPR both at European level and by the Information Commissioner's Office (ICO).

European level guidance (in the form of Article 29 Working Party guidelines) has now been published on certain aspects of the GDPR, including the right to data portability and the appointment of data protection officers.

The ICO has also recently published draft guidance on consent under the GDPR which provides practical advice on the changes that will be required to consent mechanisms as a consequence of the higher standard of consent introduced by the GDPR.

What can retailers do to prepare?

Retailers should continue with their GDPR compliance programmes in order to be ready

to comply with GDPR by May 2018. Elements which should be prioritised as part of those programmes include:

- Conducting a data mapping exercise to document all processing across the organisation;
- Creating and/or updating privacy policies and procedures to set out the standards expected of employees, consultants and contractors when they process personal data;
- Providing training for individuals who process personal data;
- Implementing organisational processes and policies to ensure that new and expanded rights of individuals can be complied with;
- Refreshing procurement procedures to ensure that due diligence of third party data processors covers not only data security measures but also wider GDPR compliance, as well as ensuring that all data processing contracts are GDPR compliant; and
- Establishing processes for reporting data breaches and escalating compliance concerns.



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Cyber insurance policies

Cyber Security  | Impact on retailers 

What's changing?

Cyber insurance is a rapidly developing insurance area, with policy coverage changing to meet new threats as data breaches multiply and the market matures.

The potential losses resulting from data breaches can be extremely high – particularly where third parties are involved. However, the growth in the cyber insurance market is not just being driven by the increase in cyber attacks; regulation is a major contributor too.

For example, data protection obligations introduced by the GDPR have the potential to lead to significant financial ramifications in the event of non-compliance. One potential consequence is of course severe financial penalties.

Cyber insurance policies can be wide ranging in their cover. For instance, cover for direct loss may include computer restoration, data recovery, business interruption from system failures and reputational damage arising from a data breach causing loss to customers. Some policies will also provide a team of experts and services, such as IT forensics, in the event of a breach.

What should retailers do to prepare?

Whilst cyber insurance is not yet seen as a standard business need, retailers should be moving it up their agendas and it would be wise to:

- Conduct a thorough risk assessment of cyber risks to gain an understanding of potential threats.
- Review current risk management processes and put in place a comprehensive cyber security plan – this is a sensible first step to understanding whether cyber insurance is necessary for your business.
- Review your existing insurance coverage – it is not uncommon for businesses to wrongly believe their usual insurance policies cover cyber security breaches. Speak to your insurance brokers and lawyers if you are uncertain.
- Consider taking out a cyber insurance policy.



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Brexit

Regulatory  | Impact on retailers 

What's changing?

The last twelve months have undoubtedly been the most significant witnessed by this generation in terms of political change. The timing of the Government's triggering of Article 50 means that the earliest date that the UK can expect to withdraw from the EU is March 2019, with the possibility of exit negotiations being extended beyond this. The result of the General Election 2017 now casts further uncertainty on the outcome of these negotiations and the impact this will have on retailers.

Although some of the economic fallout predicted prior to the referendum has not taken place, retailers have felt the steep fall in the value of the pound, and face continuing uncertainty on issues such as the employment of EU workers, creating much uncertainty in the short to medium term for the sector.

Whilst a weak pound has made imports for UK retailers more expensive, and has caused a tightening of consumer spending, there is potential for some of this to be offset by increased footfall from tourists visiting a more competitively priced UK and lower priced exports. The rights and status of EU citizens working in retail is

less clear however, as it is yet to be confirmed whether these workers will retain the rights previously enjoyed once the UK's membership ceases.

What can retailers do to prepare

Retailers will need to watch political and economic developments carefully over the coming weeks and months, and be prepared to take advice and act swiftly if major changes are made on issues like employment. Following the General Election result there is increased uncertainty regarding what the key issues on the Brexit negotiating table will be. Successful retailers will be those with business models that remain adaptable to any potential changes to the legal and regulatory framework that arise from Brexit.



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About us

We advise many of the UK's leading retailers and consumer goods businesses. Our multi-disciplinary team of retail lawyers has a genuine understanding of the industry, which we use to give advice in context and deliver solutions that work in this dynamic market place.

We provide the full range of legal services needed by retailers and can support you throughout the UK from our offices in London, Bristol, Manchester, Edinburgh, Glasgow and Belfast.

Services for retailers

- Advertising, marketing and promotions
- Brand management and protection
- Competition issues
- Construction, refits and capital investment
- Corporate structures, M&A and JVs
- Data protection and privacy
- Distribution, logistics and fulfilment
- Employment and pensions
- Estate management, acquisitions and development
- Financial services regulation
- Health, safety and environmental
- International partnering arrangements
- Labelling and packaging
- Outsourcing
- Planning
- Product liability and recall
- Supply chain and logistics
- Technology and e-commerce

Get in touch

If we can support you in growing your business or help you deal with any legal or regulatory challenges you face, please do get in touch.



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