



# GDPR and you

## 2017 chapter three



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# Introduction

The last year has been one of dramatic change. The calling of a snap election, the decision to Brexit and now just twelve months to go until the GDPR comes in force means things look unlikely to calm for the foreseeable future.

Over the previous two chapters of this research the DMA has tracked marketers' familiarity and readiness for the GDPR. Despite high levels of awareness, with a year to prepare for the new laws, the number of businesses that believe they will be ready in time has dropped to just over half. A further quarter have yet to even put a plan into place.

Recent announcements and guidance from the ICO have caused major concerns. Marketers worry that the interpretation of the laws will be overly strict and penalise the companies most committed to best practice, honest and transparency. Delays in the release of clear guidance may inflict lasting damage on businesses that have attempted to be proactive in their preparations for the GDPR.

Take the example of the RNLI, which last year made the high profile move to re-contact their entire database to make sure they only contact people those who have positively opted in. They did this in consultation with the ICO, but prior to the publication of the recent guidance on consent. The statement they used does not unbundle the different trading departments of the RNLI (RNLI, RNLI Shop and RNLI College), nor does it offer granularity of consent for their different activities that the initial guidance requires. Does this mean that all the work that RNLI has done, while consulting with the ICO, will not be compliant come May 2018?

The GDPR implementation is not taking place in isolation. Businesses are under pressure to adapt to the data and technological demands of the fourth industrial revolution. These new possibilities offer UK businesses huge challenges and great opportunities.

As a result of the decision to leave the EU and Britain's role in the world changes, we must look at a global approach to free trade with free movement of data at its heart and the UK at the centre. Britain, as the leading digital economy, is well placed to be this global centre of innovation, skills and competencies driving global economic growth.

In summary, for the UK's data-driven creative industries to continue to lead the world it must continue to prepare for the GDPR in earnest and set the global standard for responsible marketing. While the industry gets ready it needs regulators like the ICO and Article 29 Working Party to be balanced and fair and balanced in their guidance to ensure that it does not penalise the companies already doing the most to be open, honest and transparent with their customers.

For the latest advice and new guidance from the DMA, please visit our dedicated GDPR site at <https://dma.org.uk/gdpr> and in particular the GDPR checklist, designed to help you plan for the GDPR <https://dma.org.uk/article/dma-advice-gdpr-checklist>.

**Chris Combemale,**  
**CEO of DMA group**



# Executive summary

Between February and May 2017, the Information Commissioner's Office and others released specific GDPR guidance for business, which has caused concern among marketers about their ability to be ready by 25 May 2018.

In February, 68% of respondents said their business was on course or ahead of plans to be ready for the GDPR in May 2018. This proportion has now dropped to just over half (54%). In addition, 24% of companies are yet to start a GDPR plan.

DMA Members are almost twice as likely as non-Members to be ready for the GDPR, with 63% of DMA Members on-course or ahead compared to 39% of non-DMA Members.

Awareness of the GDPR has remained static at 96%, but those with 'good' rather than 'basic' knowledge has slipped from 66% to 59%.

Marketers felt less prepared than previously, those feeling 'extremely' or 'somewhat' prepared slipping from 71% to 61% of the total.

Respondents are more pessimistic about how likely it will be that their businesses will be ready by May 2018, 52% believing their business is 'extremely' or 'somewhat' prepared, down from 56% in February.

Marketers perceive the impact of the GDPR to have risen since February, with those saying they will be 'very' or 'extremely' affected rising from 44% to 54% of the total.

There remains little consensus on who 'owns' the transition to the GDPR, with 20% believing everyone in an organisation should 'own' GDPR implementation.

Marketers' biggest concerns are over: consent (for 68%), legacy data (48%), implementing a compliant system (38%) and profiling (30%).

Since the Brexit vote, a net 9% of marketers say trade has decreased within the UK, and a net 8% say trade has decreased with the EU. A net 2% of respondents think non-EU trade has increased.

The majority of marketers (93%) understand that the GDPR will happen in one form or another regardless of the decision to leave the EU.

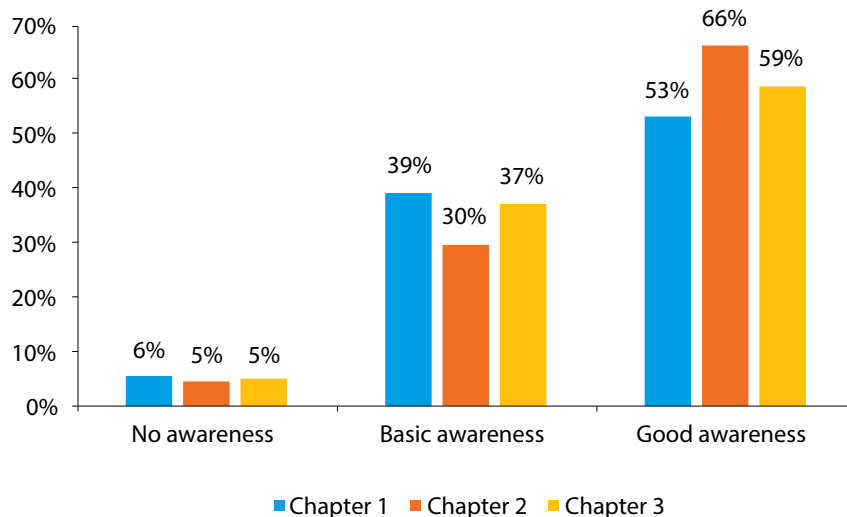
B2B marketers have continued to lag behind their B2C cousins in their preparedness for the GDPR in previous editions of this research. This trend has continued but the message has reached some of the B2B community.

B2B marketers are polarised – the group claiming to be 'most affected' by the GDPR as rules for consent marry with rules for B2C marketers; but also the group whose perceived preparedness for the GDPR *increased* since February from 44% to 53% while other groups reported falls in perceived preparedness.

# Awareness

Despite a significant increase in awareness of the General Data protection Regulation (GDPR) between the first and second iterations of this research, awareness of the GDPR has now waned.

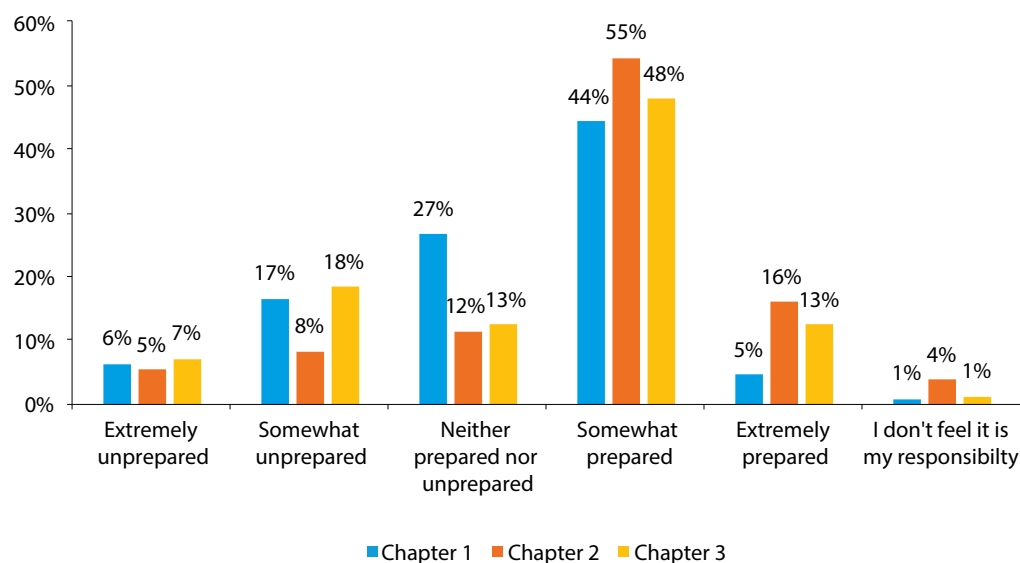
## How aware are you of the incoming changes contained in the new European data protection regulation?



In GDPR and you, chapter two, those claiming to have ‘good awareness’ peaked at 66%. This has now dropped 7% to 59% while those with ‘basic’ awareness has increased by the same proportion, from 30% to 37%. Those claiming to have ‘no awareness’ remained static at 5%.

Marketers feel less secure about the GDPR compared to three months ago. This is down to new information coming out of the Information Commissioner’s Office (ICO), giving marketers something concrete to work towards.

## At this time, how prepared are you, personally, for these changes?

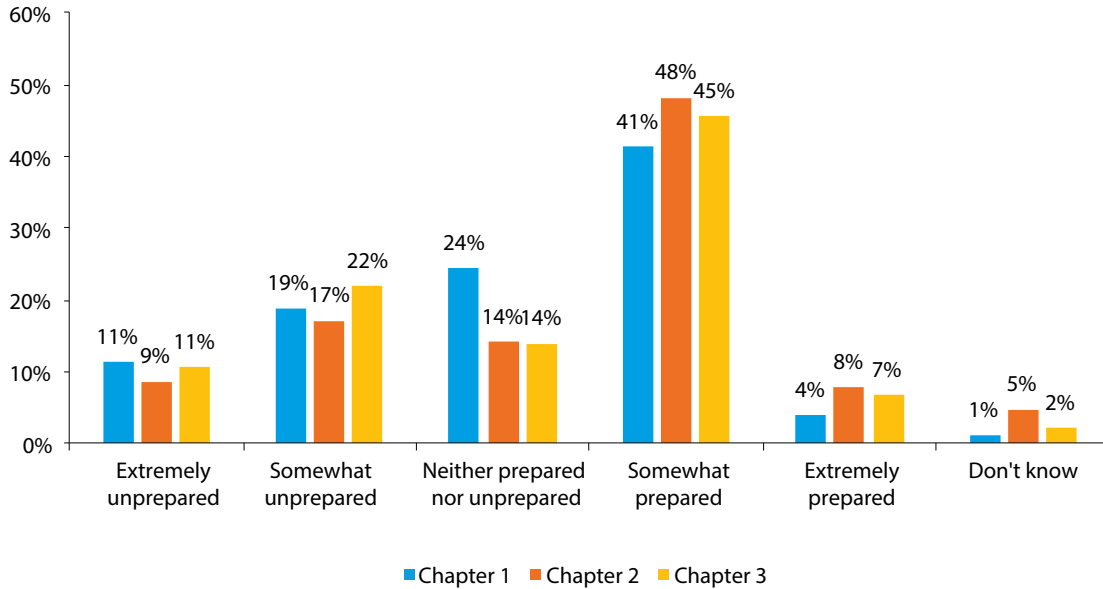


For personal preparedness, there is a clear shift from ‘prepared’ to ‘unprepared’.

Those claiming to be 'somewhat' or 'extremely' prepared slipped from more than seven in ten (71%) to three in five (61%), while those claiming to be 'extremely' or 'somewhat' unprepared rose from 14% to a quarter (26%) of the total.

So while those who are 'prepared' still outnumber those who are 'unprepared', the relative proportions have more than halved, from 5.1 to 1 down to 2.4 to 1.

**At this time, how prepared is your organisation for these changes?**

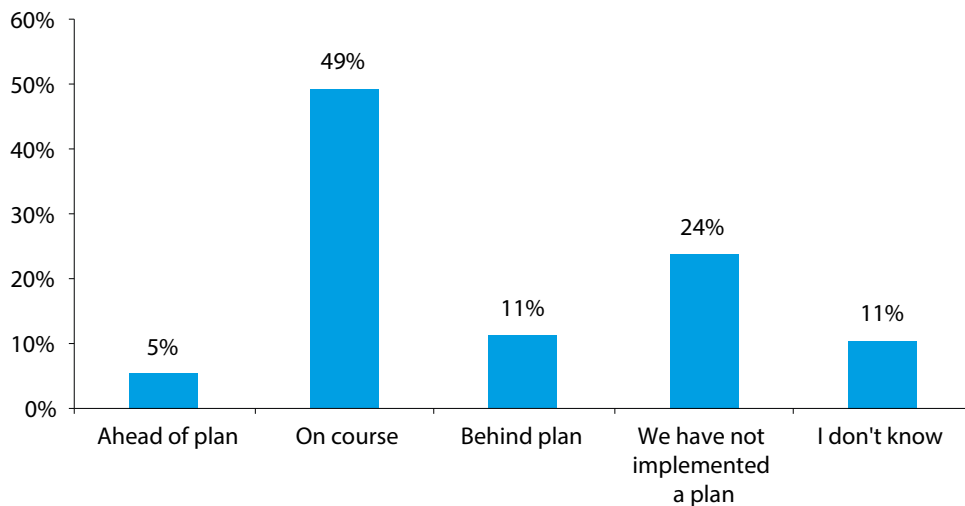


It's the same story with organisational preparedness.

Marketers are more pessimistic about their company's ability to prepare in time for May 2018 compared to how prepared they feel themselves to be, but they have now downgraded their predictions compared to the last edition of this research.

Just over half (52%) of respondents believe their business is either 'extremely' or 'somewhat' prepared for the GDPR, down from 56% in part two of this research. Those who believe their business is 'extremely' or 'somewhat' unprepared has increased from a quarter (26%) to almost one-third (32%).

**Is your organisation on-track to be GDPR compliant by May 2018?**

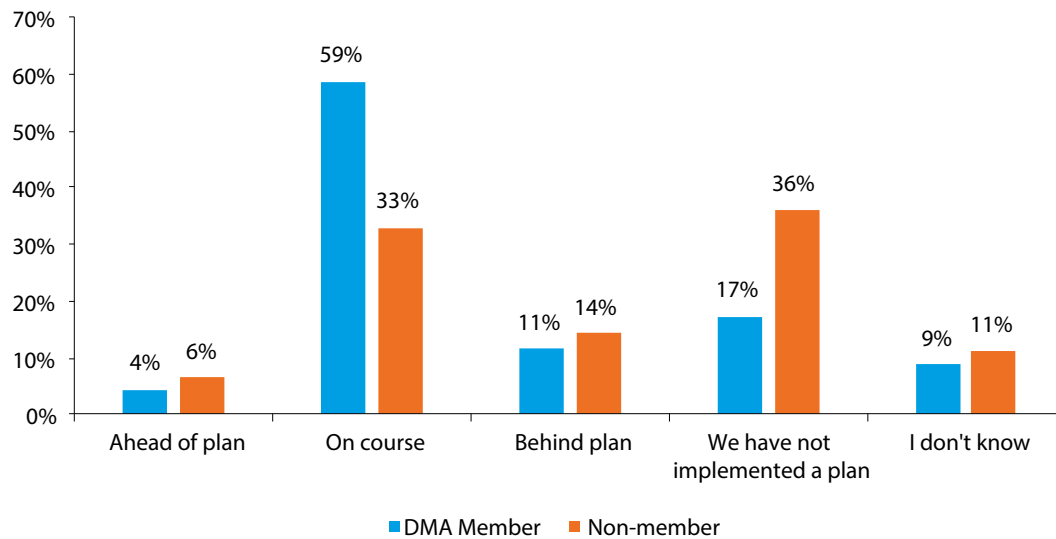


In February, two thirds of respondents (68%) said their business was ‘on course’ or ‘ahead’ of plans to be ready for the GDPR by May 2018. This figure has now dropped to just over half (54%) of the total.

In addition, just under a quarter (24%) have not yet implemented a plan, and this should be of some concern as those found to be in breach of the GDPR in a year’s time could face significant fines.

Finally, DMA Members are significantly more likely to be ready for the GDPR in May 2018, with more than three in five (63%) with plans on course or ahead of schedule for compliance compared to just over one-third (39%) of non-DMA Members.

Conversely, DMA Members are less than half as likely to be without a plan. More than one-third of non-DMA Members (36%) are yet to implement a GDPR plan, compared to 17% of DMA Members.

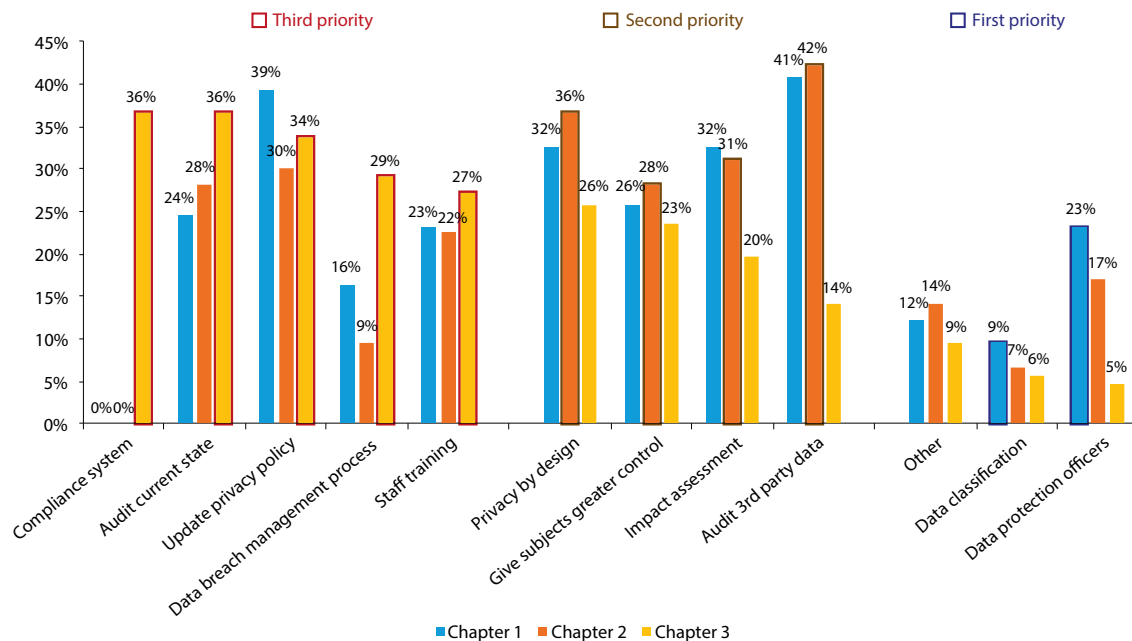


# Priorities for marketers

Tracking priorities for marketers has been difficult up to this point. With so many GDPR-related variables it has been difficult to find patterns.

However, at this stage two distinct groups of priorities have emerged, and the sequencing of those plans may help other marketers get their house in order by May 2018.

**The GDPR will mean a number of changes in the following areas; what are the biggest priorities for you and/or your organisation? Please select up to three choices.**



According to the DMA research, 'implementing privacy by design for your data processing', 'giving data subjects greater control over their data', 'conducting privacy impact assessments for marketing campaigns', and 'auditing third-party data' all declined as concerns compared to part two of this research in February, when all of these were the most significant concerns.

That this group has diminished in importance for marketers suggests that some businesses have addressed them and moved on to tackle new problems.

Of greater importance now are five different concerns: 'implementing a staff training programme', 'putting in place a data breach management process', 'revising your privacy policies', 'conducting an audit of your current state' and 'implementing a compliance system/technology', which have all grown in importance since the last edition of this research.

These new concerns are the latest wave of business issues to address.

Appointing a data protection officer is now of minor concern, for just 5% of respondents, the significance dropping with every edition of this research. The implication is that those businesses who need data protection officers have either already appointed them, or will do imminently, and do this as a first priority. The appointment of a data protection officer, an expert in data protection, would also help to manage other concerns and so accelerate preparation for the GDPR.



When asked who 'owns' the GDPR implementation, 20% said 'everyone in the organisation', followed by senior management team (13%), the c-suite (10%), compliance director (9%), and data manager or compliance manager (each on 8%).

Under the GDPR, each company member will be expected to have some responsibility for compliance. However, to get to that point senior figures must either push through changes or appoint someone to do so. Despite winning the most choices, 'everyone in the organisation' may be a complacent way to drive through changes needed to meet the GDPR.

When the GDPR comes into force in May 2018 then 'everyone in the organisation' will be responsible for compliance, but this is not the same as getting the company ready to reach that point. The spread of responses suggests that different businesses take different approaches for implementing the GDPR, but to get all staff up to speed there has to be a senior figure or figures driving that change.

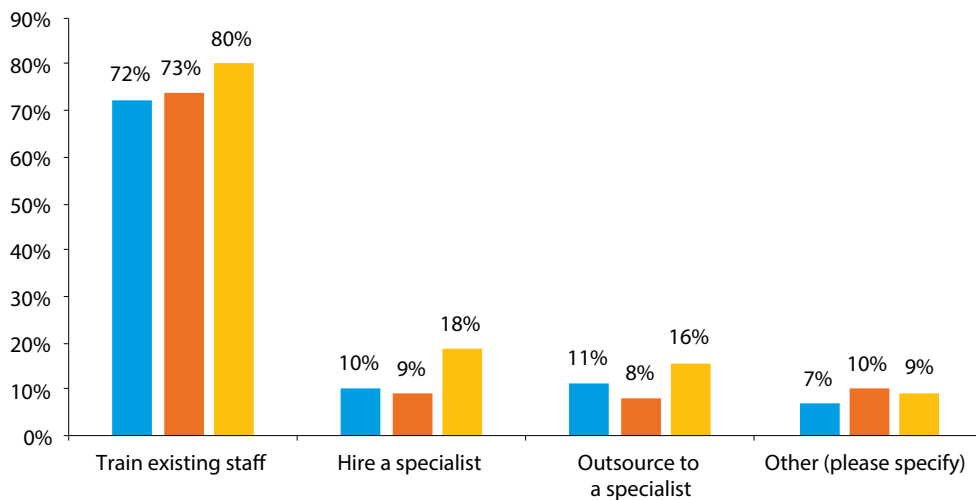
# Impact

Between February 2017 and May 2017 there has been a significant change in the mood and attitude of marketers towards the GDPR.

Marketers have more certainty about what they have to do in order to be compliant by May 2018.

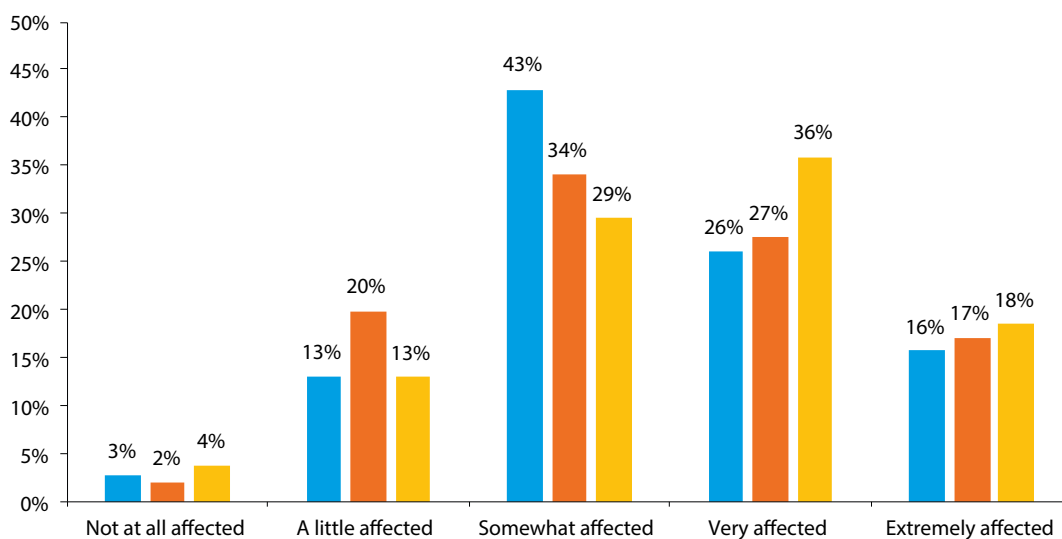
Thanks to information coming from the UK data regulator, the Information Commissioner's Office and EU-wide regulator, the Article 29 Working Party, we now have detail and depth on what the GDPR means for marketers.

## How are you planning to equip your business with the expertise required to deal with the changes contained in the new European data protection regulation?



Those who say they want to train staff, hire new staff or outsource training to specialists have all increased.

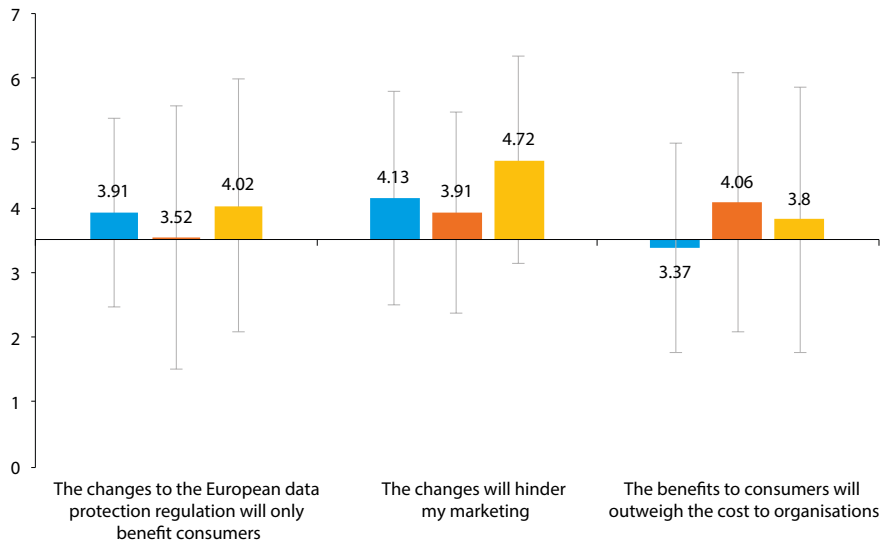
## When the law comes into place, to what extent do you think your organisation will be affected by these changes?



Marketers now perceive an increase in the impact of the GDPR, with more respondents saying they will be 'very' or 'extremely' affected, rising from 44% to 54% between February and May.

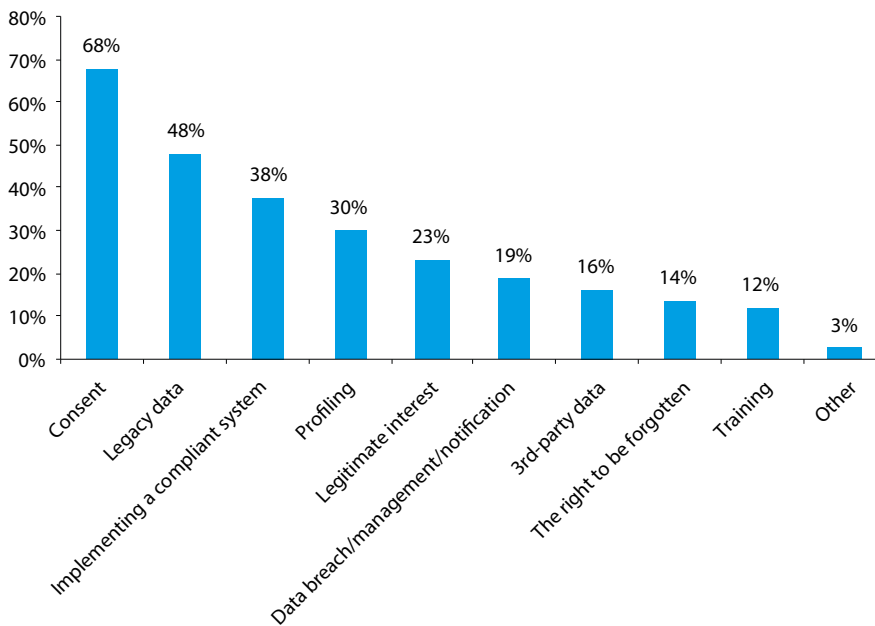
This is again down to greater certainty about what will be required in May 2018.

**How much do you agree with the following statements:**



These changes will make marketing more difficult according to respondents. When asked about the impact of the GDPR, marketers were more likely to say the GDPR would hinder their marketing.

**The GDPR will mean a number of changes in the following areas; what are the biggest concerns for you and/or your organisation? Please select up to 3 choices.**



Specifically, marketers worry about the effects of the GDPR on consent (for 68% of respondents), legacy data (for 48%) and implementing a compliant system (for 38%). Profiling remains a concern for three in ten (30%) and legitimate interest, flagged as a possible alternative to third party consent by the Information Commissioner’s Office, for a quarter (23%).

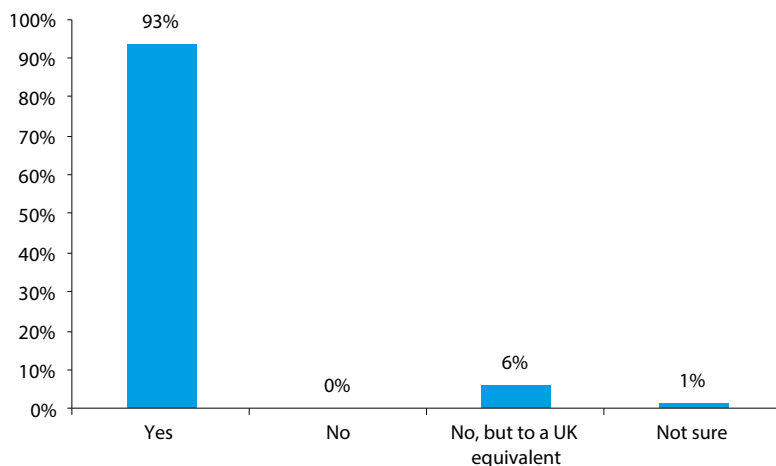
# The GDPR and Brexit

The decision to leave the EU has already had some impact on UK marketers.

It's important here to separate two issues: the introduction of the GDPR, which will occur on 25 May 2018; and the decision to Brexit, the vote taken on 23 June 2016 and the current date for leaving set at 29 March 2019.

There had been some initial confusion about whether the GDPR would remain if the UK left Europe. That matter is now settled – the UK will leave the EU but GDPR will stay, and marketers understand this distinction.

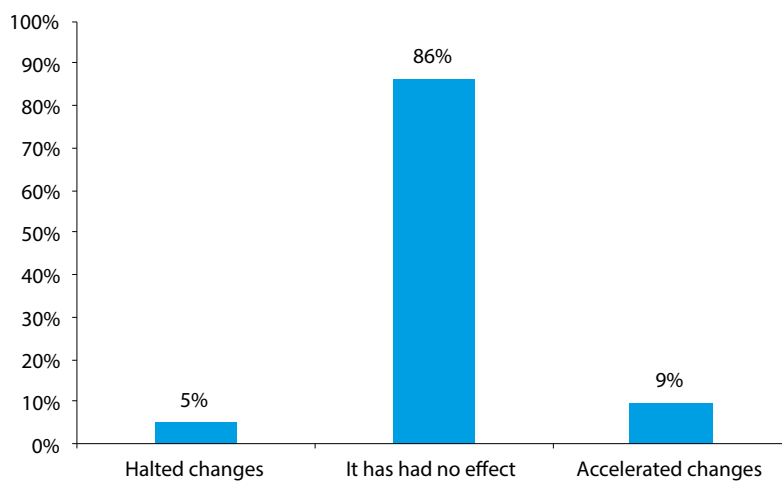
## Considering Brexit, do you think you/your company will still have to adhere to GDPR?



The vast majority of marketers (93%) understand that they will need to stick to the GDPR regardless of Brexit. A further 6% suggested we should adopt UK laws equivalent to the GDPR, which remains a possibility. Together these two responses represent 99% of marketers surveyed who understand the need to comply with the GDPR regardless of Brexit, with just 1% unsure.

No marketers said they would not have to stick to the GDPR at all.

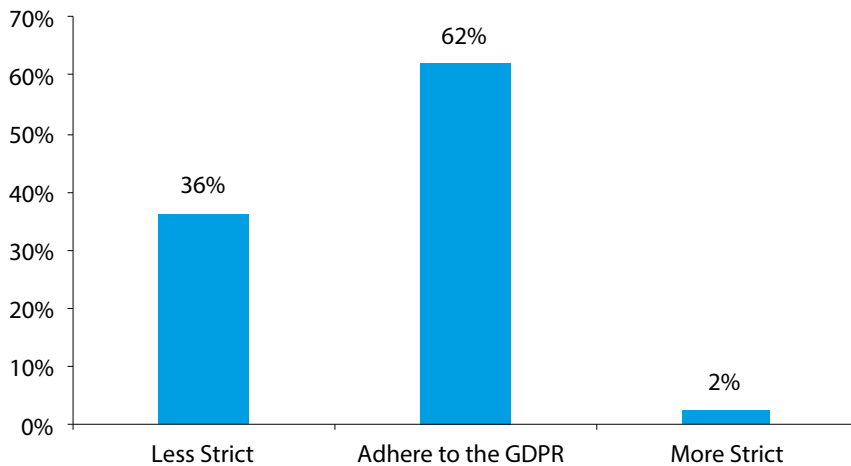
## In what way has Brexit affected your GDPR-related plans?



Brexit has persuaded the majority of marketers (86%) to keep on with their GDPR plans regardless, with a minority (5%) halting some or all of their plans, but a slightly larger minority (9%) actually accelerating their plans.

Marketers are also proving pragmatic, aware of their GDPR responsibilities despite a significant minority believing that alternatives may be better for the UK.

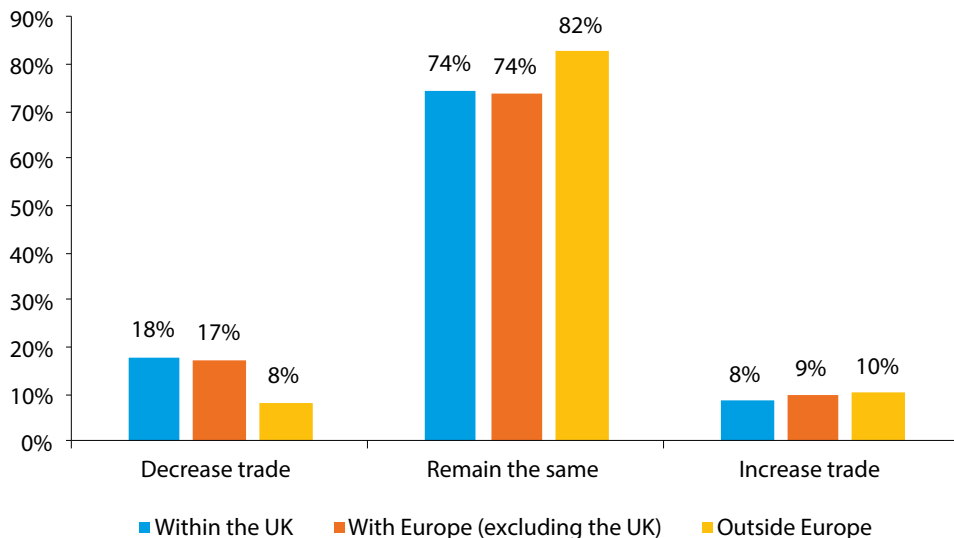
### Considering Brexit, what would be the best data protection policy for the UK?



Three in five marketers (62%) believe sticking to the GDPR is the best course, with more than one-third (36%) favouring either a 'slightly' or 'extremely' less strict version. A small minority (2%) favours a stricter version of the GDPR. Marketers believe that the GDPR may hinder their marketing but also understand the need to stick to it regardless.

Brexit has proved a thornier problem for marketers, however.

### How has the UK's decision to leave the EU ('Brexit') affected your company's business?



Marketers believe that the decision to Brexit has already translated into less trade.

For UK trade, three quarters of respondents believe trade has remained the same, with 18% saying there had been 'significantly' or 'slightly' decreased trade. Conversely, 8% say there had been 'slightly' or 'significantly' increased trade. A net 9% of respondents have therefore seen a decrease in trade since the vote to leave Europe.

For non-UK European trade, three quarters (74%) say trade has remained the same, while 17% say there has been a decrease in trade and a further 9% say there has been an increase in trade. A net 8%, of respondents have seen trade decline since the vote to leave Europe.

Marketers' trade with non-EU overseas countries has been more stable, with 82% saying trade has not changed, 8% saying trade has decreased and 10% saying trade has increased, a 2% net increase.

# Differences in B2B and B2C approaches to the GDPR

As shown in previous editions of this research, B2B marketers lag behind their B2C cousins. This continues to be a concern.

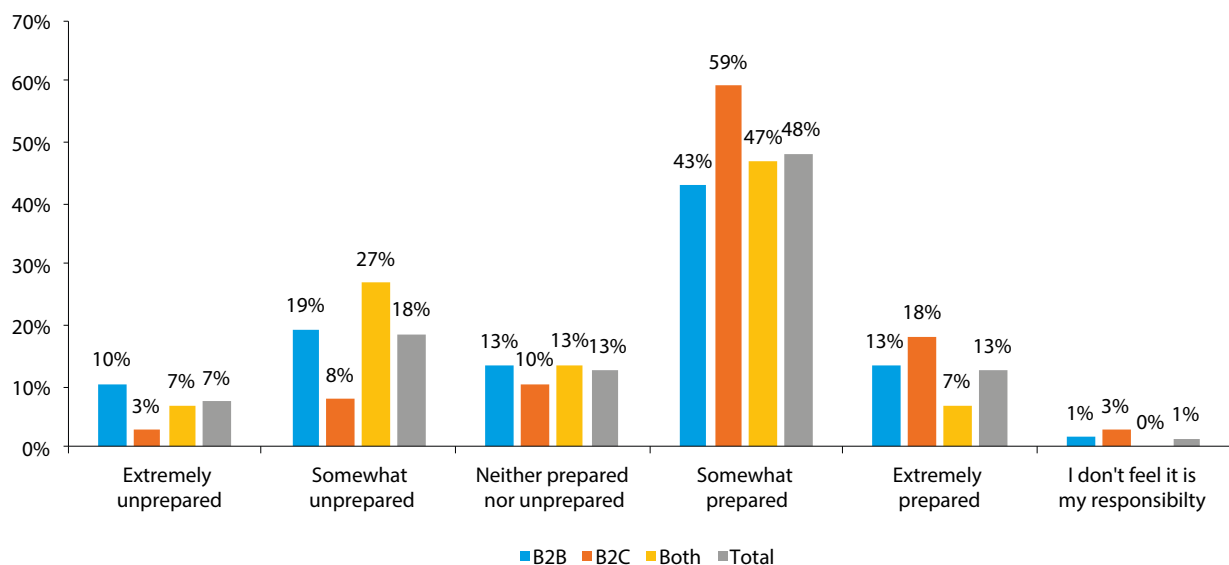
B2C marketers say they are more aware of the GDPR than B2B marketers, the numbers changing little compared to when we conducted this research in February (67% for B2C vs 52% for B2B in May 2017, compared to 68% for B2C vs 53% for B2B in February 2017).

However, for those working in both B2B and B2C marketing, there has been a significant fall-off, dropping from 82% with 'good' awareness in February down to 62% in May 2017.

So while awareness remains steady for those working in B2B or B2C marketing, the fall-off in those working in both B2B and B2C marketing suggests, again, that those working in B2B marketing, where the most significant changes lie, may underestimate the impact.

Marketers of all colours feel less prepared for the GDPR compared to February.

## At this time, how prepared are you, personally, for these changes?



Almost three in five (29%) of B2B marketers feel unprepared for the GDPR, up from 22% in February. For B2C marketers the figure has doubled from 5% to 10% over the same period.

Those working in both B2B and B2C marketing are more likely than either group to feel unprepared, the proportion shooting up from 13% in February to 33% in May 2017.

This increase in how unprepared marketers feel relates to new information about the GDPR and how it may affect business. In particular, potential changes to the ways businesses will have to treat third party data and consent.

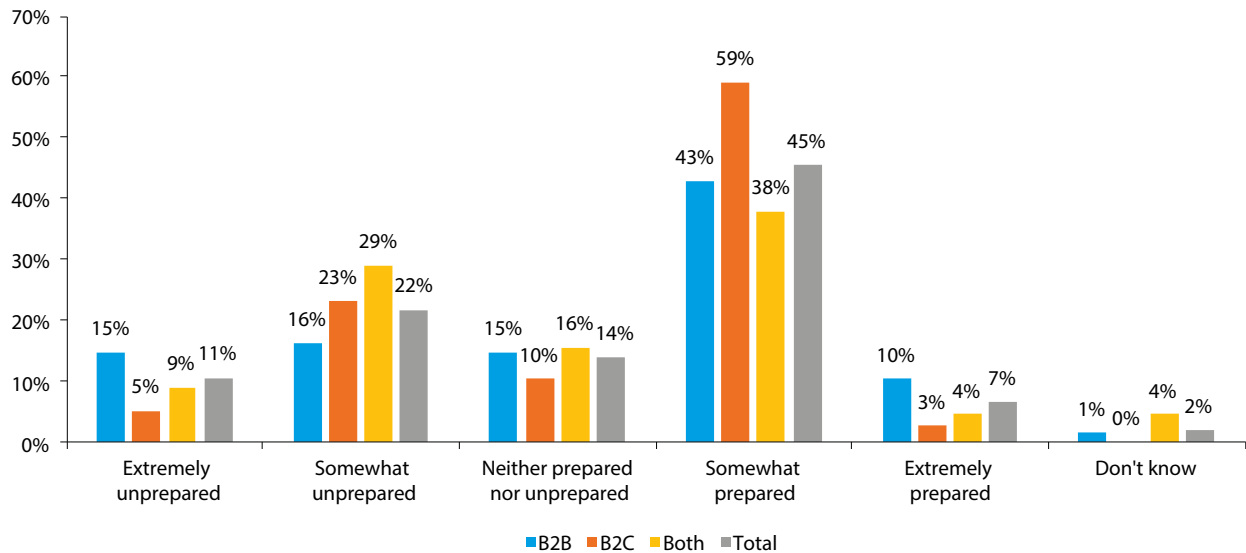
However, B2B marketers are also the group who believe they will be more likely to be 'extremely affected' (see methodology) by the GDPR, showing they, as a group, have grasped the implications.

Clearly this is good news. In the previous two editions of this research B2B marketers had consistently underestimated how much the GDPR would affect them.

B2B marketers are, essentially, playing catch-up.

However, our data suggests that while the message has reached B2B marketers enough to tip the scale on the graph above, the message has not reached all B2B marketers.

### At this time, how prepared is your organisation for these changes?



We know this because for the organisations of B2B marketers, the proportion of those feeling 'prepared' for the GDPR come May 2018 has increased from 44% to 53%. Given the scale of fundamental changes coming to B2B marketers, this confidence is most likely misplaced. Echoing this, B2B marketers are less likely than their peers to be concerned about profiling and consent (see methodology), two factors that B2B marketers will have to give full consideration to for the first time.

For those working in B2C marketing and both B2B and B2C marketing, perceived preparedness for the GDPR dropped from 70% to 62% and from 56% to 42% respectively. Clearly these groups are more homogenous and feel that the challenge is greater than previously expected, and that the legislation is seen as a risk.

Compared to part two of this research in February, marketers generally feel their organisations are more unprepared: B2B marketers feeling unprepared has risen from 28% to 31%; B2C marketers feeling unprepared has risen from 15% to 28% and for those feeling unprepared for the GDPR working in both B2B and B2C marketing rose from 33% to 38%. Furthermore, more than a quarter of B2B marketers said they have 'no plan' for the GDPR, up from 18% in February, compared to 18% of B2C marketers and 24% of those working in both B2B and B2C.

To help you plan for the GDPR, download our checklist at <https://dma.org.uk/article/dma-advice-gdpr-checklist>

# Glossary

This is intended for anyone who isn't familiar with the data protection lingua franca. If you think any other terms or words should be added to this list, get in touch with our external affairs manager, Zach Thornton, via email: [Zach.Thornton@dma.org.uk](mailto:Zach.Thornton@dma.org.uk).

- **Anonymous data** – A process that removes personally identifiable information from a data set. This means that the data subject cannot be identified.
- **Consent** – In the GDPR it means 'any freely given, specific, informed and unambiguous indication' of a person's wishes and is one of the legal grounds organisations use to process personal data.
- **Data breach** – When an organisation loses control of personal data it holds and cannot guarantee its security. A recent example is the TalkTalk hacking scandal in which hackers stole personal data belonging to many thousands of TalkTalk customers.
- **Data controller** – The organisation that is the custodian of personal data and decides how that data will be used.
- **Data classification programme** – A process of organising a data set to determine what personal data an organisation holds and categorising it. Appropriate security measures can then be taken to protect more sensitive data.
- **Data processor** – An organisation that processes data on behalf of the controller. For example, an email system that uses data collected by a high street bank to send its marketing emails would be a data processor.
- **Data protection officer or DPO** – An individual responsible for making sure an organisation is compliant with data protection law. The GDPR will require many organisations to hire a data protection officer.
- **Data subject** – A person whose personal data is held by an organisation.
- **GDPR** – Stands for General Data Protection Regulation. The piece of legislation created by the European Union (EU) that will update and harmonise data protection law across the EU.
- **Personal data, personally identifiable information or PII** – Any data that can identify a person. For example, name, phone number or personal email address. What is personal data is complicated by the fact that some data can be used to identify a person but in other instances could not. For example, the first half of your postcode, which identifies a geographic area.
- **Privacy by default** – Where a new product or service has its privacy settings set at the highest level by default. The customer can then choose to change those settings if they so wish.
- **Privacy by design** – This means thinking about data protection and privacy issues at the start of a campaign, not leaving data protection policy to the legal or compliance team. Marketers should be thinking about the impact of a campaign on privacy and possible steps to mitigate those risks.
- **Privacy impact assessment** – The formal process of checking a marketing campaign to ensure it is compliant with data protection law but also to identify potential risks. Where needed, action should be taken to mitigate potential adverse risks to privacy.
- **Privacy policy** – Explains to people how their personal data will be used by an organisation, who the organisation are and any other extra information. Privacy policies are also known as 'privacy notices' or 'how we use your information/data' but there are others.
- **Profiling** – Defined as any form of automated processing that analyses personal data to make predictions, segmentations or other groupings. For example, Sainsbury's Nectar card collects personal data and tracks buying habits to profile people and send offers on products and services they enjoy.
- **Processing** – How organisations make use of personal data whether by collection, recording, structuring, storage, dissemination, erasure or any other method. Collecting email addresses and sending out marketing communications via email is a form of data processing.
- **Pseudonymous data** – Data that has been encrypted to make it unreadable without a key to unlock the data set. This is a privacy measure advised in the GDPR.
- **Third party** – An organisation or person permitted to process personal data by the data controller or processor. May also refer to a 'third party data supplier', who collects data to sell to third parties for marketing purposes. 'Third party data' is data bought by an organisation off a third party data supplier.

You can [view the GDPR text here](#). Article 4 on page 33 explains the terminology used in the GDPR





# Methodology

DMA Insight: GDPR and You is an initiative undertaken by the DMA's GDPR Taskforce.

The research was conducted between April and May 2017 via an online survey and promoted on the DMA home page and via various other sources. DMA members found a link via a select number of weekly newsletters, social networks and websites.

The data were collated and analysed by the DMA Insight department. The report was written by the DMA Marketing and Insight departments. The final report was produced in collaboration with the DMA's External and Internal working parties and designed by the DMA's in-house design team.

The survey consisted of a maximum of 29 questions, both qualitative and quantitative. These questions were reviewed by the DMA and the working parties to ensure relevance to the current state of the industry.

The survey had a total of 215 respondents. Respondents represented a range of department types, career levels and sectors. Of those answering the relevant question, 45.7% were B2B, 25.6% were B2C, and 28.7% were both B2B and B2C. The survey was filled out by roughly equal numbers of employees from DMA group business members and non-members.

Where groups of respondents have been compared, statistical significance was determined using Fisher's Exact Test. This report was first published on the 25th of May 2017, hosted on the GDPR section of the DMA website.

# About the DMA

A DMA membership will grow your business. Our network of more than 1,000 UK companies is privy to research, free legal advice, political lobbying and industry guidance. Our members connect at regular events that inspire creativity, innovation, responsible marketing and more. Most of them are free.

A DMA membership is a badge of accreditation. We give the industry best-practice guidelines, legal updates and a code that puts the customer at the heart. We represent a data-driven industry that's leading the business sector in creativity and innovation.

One-to-one-to-millions marketing attracts the brightest minds; individuals that will shape the future. By sharing our knowledge, together, we'll make it vibrant.

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