



DATA READY

MITIGATING THE IMPACT OF DATA PROTECTION REGULATION
ON SMALL BUSINESSES

Published: February 2018

 @fsb_policy

fsb.org.uk

fsb⁰⁸
Experts in Business

ACKNOWLEDGEMENTS

This report was authored by Richard Hyde, Policy Advisor. Many thanks to FSB members for their insight and concerns, and to members of FSB's Home Affairs Expert Advisory Panel for their expert input. Thanks to the project team responsible for delivering this report, Jessica Smith, Public Affairs Advisor, Andy Poole, Senior Policy Advisor and David Moore Crouch, Media Advisor for their support and expertise.

ABOUT FSB

The Federation of Small Businesses (FSB) is the UK's leading business organisation. Established over 40 years ago to help our members succeed in business, we are a non-profit making and non-party political organisation that's led by our members, for our members. Our mission is to help smaller businesses achieve their ambitions. As experts in business, we offer our members a wide range of vital business services, including advice, financial expertise, support and a powerful voice in Government. FSB is also the UK's leading business campaigner, focused on delivering change which supports smaller businesses to grow and succeed. Our lobbying arm starts with the work of our team in Westminster, which focuses on UK and English policy issues. Further to this, our expert teams in Glasgow, Cardiff and Belfast work with governments, elected members and decision-makers in Scotland, Wales and Northern Ireland.

CONTENTS

Foreword 5

Executive summary. 6

Use of data in small businesses 9

The impact of data regulation. 11

Awareness of general data protection regulation (GDPR) 13

Complying with GDPR 14

Methodology 19

DATA READY

MITIGATING THE IMPACT OF DATA PROTECTION REGULATION ON SMALL BUSINESSES

18%



of smaller businesses are **unaware** of **GDPR**

34%



of smaller businesses are **aware** of **GDPR**, but have **little understanding** about its requirements

8%



of small businesses have **completed preparations**

37%



of **sole traders** have not **started preparations** for **GDPR**



35%

of **microbusinesses** (1-10 employees) have **not started preparations** for **GDPR**



The **average cost** of **GDPR** compliance is around **£1030** per business

ico.

Information Commissioner's Office

52%

of small businesses will be **approaching** the **Information Commissioners Office** for **advice and guidance**

FOREWORD

The regulation of personal data is important. It builds trust among customers and potential customers in businesses that use personal data. However, we need to strike the right, proportionate balance between building that trust, while minimising additional regulatory costs that fall on smaller businesses. Disproportionate costs inhibit small business growth and productivity, damaging the UK economy.

FSB evidence suggests that, in terms of data protection, the optimal regulatory balance has yet to be achieved for small businesses. Many are struggling with the current regulatory stock of data protection regulation. And the cumulative burden will only increase as the General Data Protection Regulation (GDPR) comes into force.

In the short term, as the UK leaves the EU, Government should maintain GDPR as part of a wider policy of ensuring stability in the regulatory environment for UK smaller businesses. In the longer term, regulatory reform of the UK's data protection regulations may be possible and achieved in such a way that does not hinder personal data flows to and from the EU 27. Much will depend on the nature of our future relationship with the 27 EU states, both post-Brexit and post any implementation period. However, in the short-term, there is a far more pressing imperative.

GDPR is due to come into force on 25th May 2018. FSB evidence highlights the low levels of small business awareness of, and preparation for, these new requirements. Worryingly a significant proportion of small businesses are not aware of the new regulation at all. And even amongst those that are aware of the existence of GDPR, there is a widespread lack of understanding about how this complex law applies to their business. The transitional costs attached to the implementation of GDPR are deeply worrying at a time when recent inflationary pressures, alongside the impact of certain Government public policy interventions, have contributed to making the cost of doing business a number one concern for many of the UK's entrepreneurs.

Government and the Information Commissioner's Office (ICO) still have time to do more to help small businesses prepare for, and comply with, GDPR. FSB has long called for a regulatory environment that better encourages sharing, learning and improvement by businesses and regulators. This could include the implementation of policies, allowing smaller firms to voluntarily report non-compliance and receive intensive support rather than sanctions. Some institutional changes also need to be made. That is why FSB is calling on the ICO to have a small business lay representative on their management board. We have set out a comprehensive suite of recommendations to support the implementation and enforcement of GDPR and data regulation more generally. Now is the time for action.



Martin McTague
FSB Policy Director

EXECUTIVE SUMMARY

Data plays a central role in the business models of the majority of UK small businesses. Data has become a key commodity for the modern economy, and the services sector in particular.

The regulation of personal data is important and builds trust among customers and potential customers. However, we need to strike the right, proportionate balance between building that trust, while minimising regulatory costs that fall on smaller businesses. The costs inhibit small business growth and productivity, damaging the UK economy.

FSB evidence suggests that, in terms of data protection regulation, the optimal regulatory balance has yet to be achieved for small businesses. Many are struggling with current data protection regulations. And the cumulative burden will only increase as the General Data Protection Regulation (GDPR) comes into force.

As GDPR approaches, FSB evidence highlights the low levels of small business awareness and preparedness. Worryingly, a significant proportion of small businesses are not aware of the new regulation at all. And even amongst those that are, there is a widespread lack of understanding about how this complex law applies to their business. The transitional costs attached to the implementation of GDPR are deeply worrying.

As the UK leaves the EU, Government should maintain GDPR as part of a wider policy of ensuring stability in the regulatory environment for UK smaller businesses. It is important that small businesses are provided with regulatory certainty and understand their regulatory responsibilities, both before and after Brexit. In the longer-term, Government should conduct a wider assessment of the existing stock of small business regulation. The review should look at opportunities to make data regulation less complex, more flexible and succinct while not hindering data flows to and from the EU 27. However clearly the scope for any reform will depend on the nature of the future relationship between the UK and the EU 27 which is currently being determined.

KEY FINDINGS:

- Just under one in five (18%) smaller businesses are unaware of GDPR
- One third (34%) of smaller businesses are aware of GDPR, but have little understanding about its requirements
- Of those small businesses that have taken steps to comply with GDPR, only eight per cent report having completed their preparations
- 37 per cent of sole traders have not started preparations for GDPR
- 35 per cent of microbusinesses (1-10 employees) have not started preparations for GDPR
- The average cost of GDPR compliance is around £1030 per business

RECOMMENDATIONS

Short-term measures

As the UK leaves the EU, Government should maintain GDPR as part of a wider policy of ensuring stability in the regulatory environment for UK smaller businesses. As part of this policy, the UK should seek to retain, wherever possible, the existing data exchange requirements that the EU currently mandates to third countries. This should remain the case until or unless alternative arrangements are put in place with other countries.

With the commencement of GDPR imminent, in the short term Government must:

- **Take a ‘partnership approach’ to implementation and enforcement.** Government must help to create a culture among all businesses of ‘looking after data’, embedded internally in their daily business practices through creating a regulatory environment focussed on identifying and sharing best practice and learning from experience. To achieve this:
 - **Government should provide the ICO with the necessary funding to meet the demand from smaller firms looking for advice about GDPR.** FSB has been calling for an awareness raising campaign aimed at smaller businesses. The recent announcement by DCMS that they will provide funding for such a campaign is an important step forward.¹ However, the campaign must be effectively designed to reach a small business audience, which is notoriously difficult to engage. The insights of key stakeholders about how best to reach them should be utilised by the ICO. Further, the additional funding must not be limited to the campaign, but should be part of a more sustained boost to funding to enable the ICO to provide adequate support to the growing numbers of smaller firms who look to it for advice on data regulation compliance on an on-going basis.
 - **The ICO should provide high-quality basic guidance and support to smaller businesses.** The ICO needs to develop further its tailored small business advice.² Many small firms look to the ICO for essential guidance on compliance. The ICO’s recently launched small business helpline is a step in the right direction.³ However, the ICO will need scale up to meet the growing challenge, providing a comprehensive set of guidance, delivered in imaginative ways, to help small businesses achieve compliance.⁴
 - **The ICO should take a proportionate approach to enforcement, enabling firms to improve their data protection practices by creating an environment which emphasises prevention and learning.** Regulatory measures which will help engender such a regulatory culture include:
 - **Introducing a ‘safe harbour’ policy.** Smaller firms should be empowered to voluntarily report non-compliance, with the incentive that they’ll receive intensive support rather than sanctions. ‘Safe harbour’ will encourage those small firms that are not compliant to come forward and get the advice they need. A presumption of ‘safe harbour’ should be instituted for those smaller firms reporting a data breach, as required by GDPR. Only a persistent failure to comply in the future, after the requisite support has been provided, should result in action against a small firm.
 - **Giving smaller enterprises the opportunity to correct technical breaches, particularly where the resultant data risk is considered low.** Enforcement action should not be considered unless there is a failure to correct the breach after a reasonable period of time.
 - **Saving penalties and prosecutions for only the most egregious cases of negligence towards personal data.**

¹ HL Deb February 2018, vol 788, col 1793 accessible at <https://hansard.parliament.uk/Lords/2018-02-05/debates/7F96A817-31DF-41B3-9AF6-2009116EA4EF/DataProtectionAndPrivacy#contribution-A0234A5F-1CC1-4F61-84A5-C93F5787B005>

² More details about the ICO’s advice line can be accessed here: <https://ico.org.uk/global/contact-us/advice-service-for-small-organisations/>

³ More details about the ICO’s advice line can be accessed here: <https://ico.org.uk/global/contact-us/advice-service-for-small-organisations/>

⁴ Methods employed by the Competition and Markets Authority (CMA), the Health and Safety Executive (HSE) and CTSI’s Business Companion offer examples of imaginative attempts to reach out to smaller businesses with key messages about regulatory compliance.

- **Empowering challenges to ICO decisions.** Government should establish a specialist data regulation tribunal, with only a nominal fee, to ensure smaller businesses are not deterred from pursuing appeals against ICO decisions.

- **Government should cap (and reduce where possible) ICO fees for smaller firms.**⁵ Under the 2018 changes proposed by DCMS, a small design or marketing company, for example, could see their fee increase from around £35 currently to £100. This would add nearly a fifth to the direct financial cost that many smaller businesses already have to bear every year for dealing with personal data. The ICO should be largely funded through taxation, with only nominal fees for smaller firms.

- **The ICO should improve their governance through a formal voice for small business at senior levels of the organisation.** It is good practice for regulators to have a lay majority on their boards. The ICO should have a specific small business (lay) representative on its management board, representing more than 99% of the UK's total business community. This will help the ICO better understand, and tailor its policies and activities towards, small businesses.

Longer-term measures

As the UK leaves the EU, Government should maintain GDPR as part of a wider policy of ensuring stability in the regulatory environment for UK smaller businesses. It is important that small businesses are provided with regulatory certainty and understand their regulatory responsibilities, both before and immediately after Brexit. In the longer-term, Government should conduct a wider assessment of the existing stock of small business regulation. Smaller businesses have identified a number of problems with data regulation. It is too complex, inflexible and voluminous.⁶ Therefore, while not hindering data flows to or from the EU 27, the review should identify ways to make data regulation:

- Less complex (through simplified regulatory requirements, more tailored drafting and design specifically for smaller businesses)
- More flexible (with greater discretion for businesses in how to meet regulatory requirements)
- More succinct (making greater use of partial exemptions for some requirements)

The recommendations of the review should be implemented by Government. However, clearly the scope for any reform will depend on the nature of the future relationship between the UK and the EU 27 which is currently being determined.

⁵ Arnold, P. ICO fee and registration changes next year. (2017). Accessible at: <https://iconewsblog.org.uk/2017/10/05/ico-fee-and-registration-changes-next-year/>

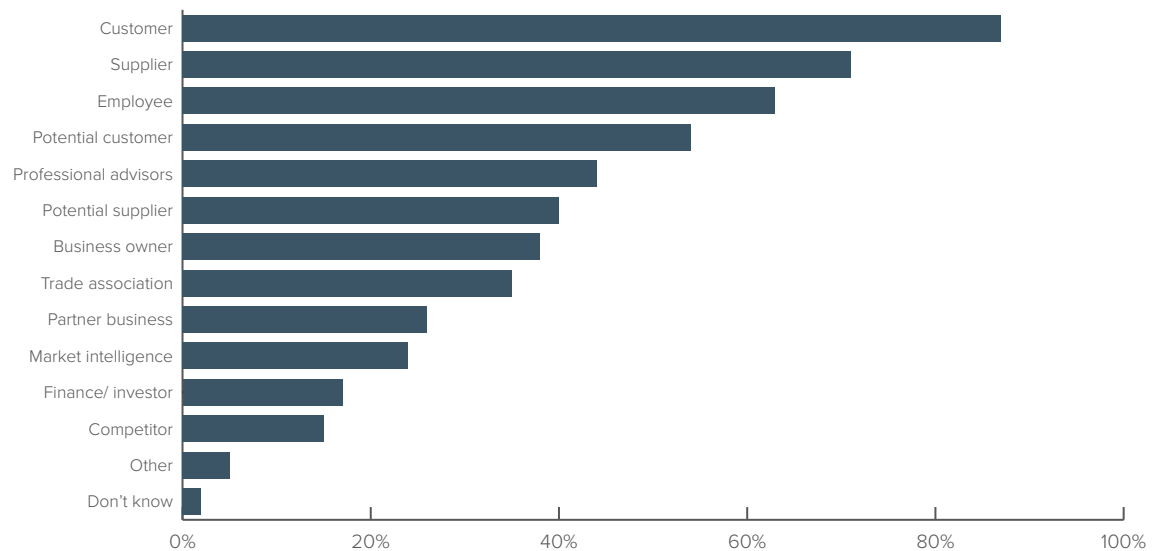
⁶ FSB. Regulation Returned. (2017).

USE OF DATA IN SMALL BUSINESSES

Data (and personal data in particular) often play a central role in the business models of the vast majority of UK small businesses. Data has become a key commodity for the modern economy, and the services sector (including digital) in particular. The collection, storage and use of data is currently regulated by the Data Protection Act 1998, which implements in the UK the EU's Data Protection Directive 1995.

Smaller firms handle a wide range of different types of data. Much of this is 'personal data' and is therefore covered by existing data protection laws and the forthcoming GDPR (Figure 1).⁷

Figure 1: Type of data smaller firms use
Source: FSB data regulation survey 2018



Small businesses deal with a wide variety of data, which serves a number of important business functions (Figure 2).

Figure 2: Small businesses reasons for dealing with data
Source: FSB data regulation survey 2018

Reason	
Payment(s) from customers	74%
Pay suppliers	68%
Employee records and PAYE	63%
On-going customer/ supplier interaction	58%
Market the business, products or services	54%
Follow-up on initial interactions/ previous sales	44%
Legal requirements (exc. employee records/PAYE)	34%
Customer/supplier feedback	33%
Due diligence	33%
Complaints/ refunds	32%
Better understand customers	32%
Understand business competitors	14%
Other	7%
Don't know	1%

⁷ It is impossible to identify from a survey what exact proportion of the information in each data category (that smaller businesses deal with) qualifies as 'personal data'. At any particular moment in time, it is only the participants in the generation, collection and use of data that will know that level of detail. Nevertheless it will inevitably be a significant proportion of the data in some of the categories given the wide definition of 'personal data'. While in others it will be a lower proportion e.g. those areas where a lot of data is not linked to an individual because it's truly anonymous or is about an institution/ organisation.

Payments related to customers and suppliers stand out as the most frequently reported reasons why smaller businesses deal with data (74% and 68%, respectively). These are followed by a cluster of reasons that are relevant to more than half of smaller firms, related to the employment of staff (63%), ongoing engagement with customers and suppliers (58%), and marketing (54%). A second cluster of reasons, relevant to around a third of smaller firms, relate to the use of customer data to ensure a business is successful (e.g. using intelligence on potential customers to make sales, or obtaining feedback).

The importance of data to small business competitiveness and productivity

The evidence clearly shows that data is essential because it facilitates the conduct of basic business operations, such as taking and making payments. Other types of data are central to enhancing the competitiveness of smaller businesses by, for example, helping the ‘market orientation’ of business activity. Market orientation is key to business performance.⁸ It requires ‘intelligence generation’, ‘intelligence dissemination’ and ‘responsiveness’.⁹ These elements necessitate the collection, analysis, manipulation and sharing of many kinds of data. Data is an indispensable complement to other drivers of business performance, such as ‘technological innovation’ and ‘relational capital’.¹⁰

⁸ Kohli, Jaworski and Kumar (1993), Rodriguez et al (2004), Gonzalez-Benito (2005).

⁹ Kohli and Jaworski. (1990).

¹⁰ ‘Relational capital’ describes the relationships between a business and their competitors and suppliers. Source: Gonzalez-Banales, D L and Andrade, H P B. Exploring Business Competitiveness in High Technology Sectors: An Empirical Analysis of the Mexican Software Industry in Journal of Information Systems and Technology Management. Vol 8. No 2. (2011).

THE IMPACT OF DATA REGULATION

The positive role of data regulation

A degree of data regulation is, therefore, essential for smaller businesses. Previous research by FSB found that it can help generate trust among customers and potential customers.¹¹ It reassures them that personal information won't be abused or treated recklessly, thus reducing some of the risks that accrue to the generation or supply of personal data to a business. Such reassurance is likely to help maintain, and even increase, levels of demand for products and services. However, regulation has costs as well as benefits. We must find the right balance between them.

Individual and cumulative costs

Regulation which hinders the collection and use of data, or makes its storage more difficult, raises costs for businesses. Compared to larger businesses, smaller firms have fewer resources to bear such costs.¹² Further, the cost of data regulation on smaller firms needs to be understood in the wider context of the cumulative burden of regulation more broadly.¹³ Previous FSB research suggests that the average cumulative cost of regulation to a small business is around £33,000 a year.¹⁴ Specific regulations, such as those related to personal data, add to this cumulative burden.

The top three adverse impacts on smaller firms, specifically due to the current data regulation framework, were found to be:

- lower profits (60%)
- inhibited workforce expansion (31%)
- lost business (29%)

Data regulation creates two quantifiable costs which impact on small business competitiveness (Figure 3).

Figure 3: Small business costs of current data regulation

Source: FSB data regulation survey 2018

Time cost	Financial cost
Compliance with the current data regulations takes a small business, on average, 7 hours per month. ¹⁴ In monetary terms, the average annual cost to a small business of those hours spent complying with data protection law is around £1,075 per year. ¹⁵	The average direct financial costs incurred by smaller businesses (as a result of the current data protection law) are around £508 per year. ¹⁶
Aggregate cost	Aggregate cost
£4.9 billion per year ¹⁷	£2.3 billion per year ¹⁸

¹¹ FSB. Regulation Returned. (2017).

¹² FSB. Regulation Returned. (2017).

¹³ Cumulative burden was the aspect of regulation that smaller businesses identified most frequently as being the biggest barrier to business performance. Source: FSB. Regulation Returned. (2017).

¹⁴ FSB. Regulation Returned. (2017).

¹⁵ Respondents to FSB's data protection survey were asked to estimate how many hours a month they spent on making sure their business activity was compliant with existing data regulation requirements. Responses averaged at: 7 hours per month.

¹⁶ This calculation is based upon the assumption that the average hourly wage in a small business is £12.80. The reasons for the use of this hourly figure are set out in: FSB. Regulation Returned. (2017).

¹⁷ Direct financial costs includes: fees to the ICO, the costs of training, expenditures on specific equipment/ software to aid data regulation compliance, expenditures on changes to internal practices, paying external advisors for specific advice and support, paying a third party to do data collection/ storage/ analysis for you to relieve your business of some of the compliance costs. Respondents to FSB's data protection survey estimated how much they spent on complying with data protection requirements over the preceding 12 months. The responses revealed an average expenditure on the kinds of measures listed above of £508.

¹⁸ The average time cost to a smaller businesses of data protection compliance in 2017 is £1,075. Multiplied by the number of smaller businesses in the UK (5.7 million) suggest that the total annual time cost is around £6.1 billion. However, taking account of the fact that around 24 per cent of businesses that are aware of GDPR are half way or more through their preparations a conservative calculation removing this proportion of businesses from the 'time costs' population to minimise 'double counting' of costs, suggests that that the aggregate time cost of current data regulation is in the area of: £4.9bn a year.

¹⁹ The average direct financial cost to a smaller businesses of data protection compliance in 2017 is £508. Multiplied by the number of smaller businesses in the UK (5.7 million) suggest that the cost is around £2.9 billion. However, taking account of the fact that around 24 per cent of businesses that are aware of GDPR are half way or more through their preparations a conservative calculation removing this proportion of businesses from the 'direct financial cost' population to minimise 'double counting' of costs suggests that that the aggregate direct financial cost to the small business community in the UK of the current data regulation laws is around: £2.3bn a year.

The combined annual time and direct financial cost of data regulation to the UK small business community is around £7.2 billion a year. The average cost per smaller business is approximately £1,263 a year.²⁰ For context, the median profit of small and medium-sized enterprises in the UK in 2016 is estimated to have been around £8,000.²¹ Therefore, data regulation costs are the equivalent of 16 per cent of the median annual profit of smaller businesses.

There is a third, but difficult to quantify, opportunity cost related to regulation. Small businesses incur this cost when they are prevented from taking potentially profitable opportunities because of the diversion of their resources into compliance. FSB evidence shows how preparations for GDPR are already creating significant opportunity costs among a large number of smaller businesses. Implementation of GDPR is leading to around one in twenty respondents changing or not taking forward innovations, while a similar proportion say GDPR has resulted in them no longer proceeding with entering a new market (see figure 9 for sectoral breakdown).

The aggregate time, financial costs and opportunity costs associated with data regulation combine to create indirect or dynamic cost. These reduce the resources available to businesses and alter their incentives.

²⁰ £7.2 billion (the sum of time and direct financial costs) divided among the UK's 5.7 million smaller businesses. All businesses have to comply with GDPR. Consequently, it is reasonable to calculate the average figure using the total number of small and medium-sized businesses in the UK economy.

²¹ Statista. Average profit made by small and medium-sized enterprises (SME) in the United Kingdom (UK) from the 4th quarter 2014 to 4th quarter 2016, by enterprise size. Accessed February 2018.

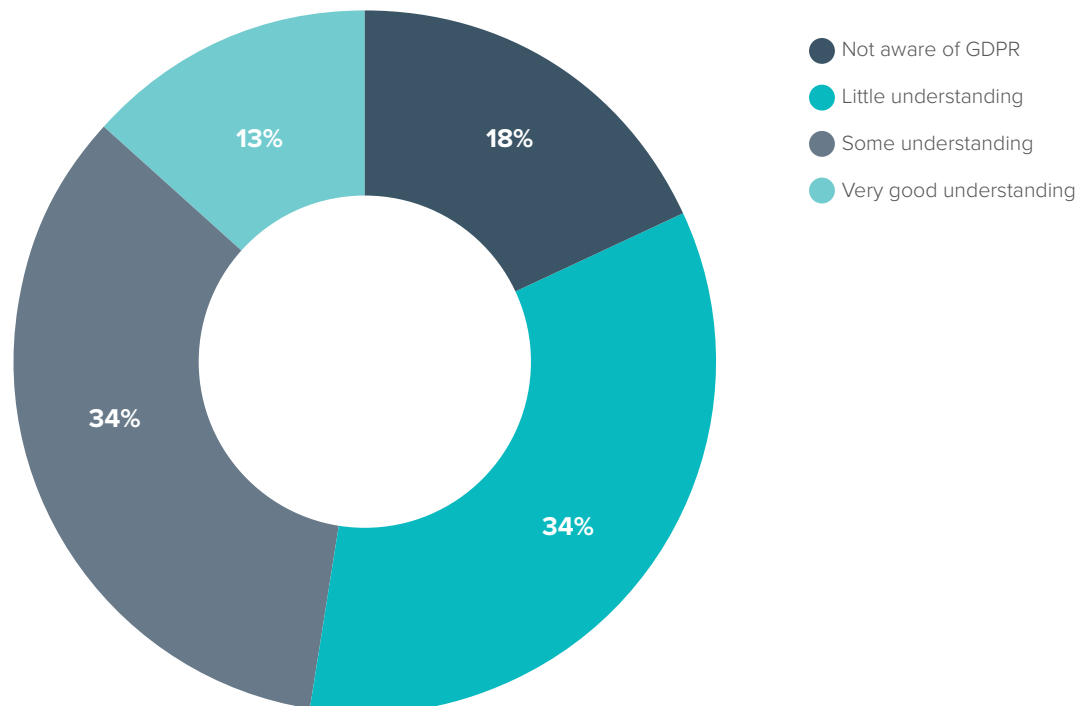
AWARENESS OF GENERAL DATA PROTECTION REGULATION (GDPR)

Awareness and understanding among smaller firms

The UK's data regulation framework is about to go through a very significant change following the commencement of new EU regulation. GDPR will come into force in May 2018. Its impact will vary because the UK's smaller business population is heterogeneous. This new law will significantly increase regulatory demands on small businesses. Therefore, it is essential that small firms are aware of and understand these potential impacts. However FSB research indicates that awareness and understanding vary significantly (Figure 4). Notably, fewer than one in six smaller businesses have a good understanding of how GDPR is likely to affect their operations.

Figure 4: Awareness and understanding of GDPR among smaller firms

Source: FSB data regulation survey 2018



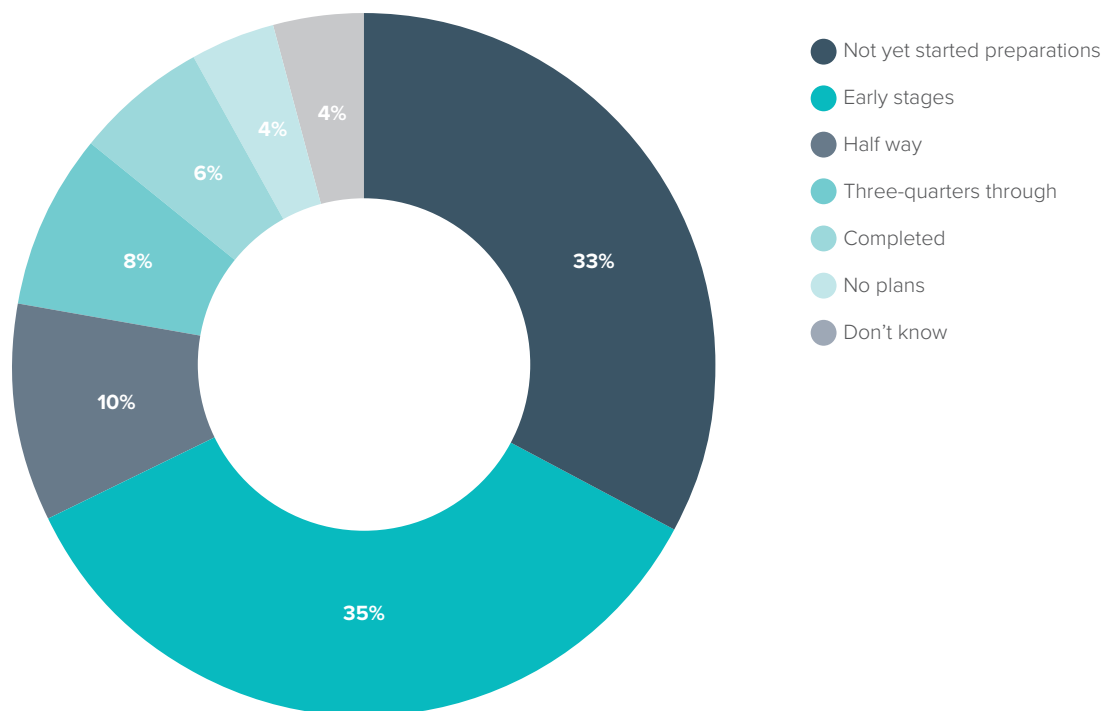
Just under 1 in 5 smaller firms are unaware of GDPR. This equates to around 1 million smaller businesses in the UK who are not aware of the forthcoming data regulation changes. A further third (approximately 1.9 million smaller firms) are aware of it but have 'little understanding' about their requirements. There are significant penalties for non-compliance, so many small businesses face significant financial risks.

COMPLYING WITH GDPR

Of those small businesses that have taken steps to comply with GDPR, very few are at an advanced stage of preparation. More than two-thirds (approximately 3.2 million) have either not yet started to prepare or are only in the early stages (Figure 5).

Figure 5: Extent of GDP preparations by small businesses

Source: FSB data regulation survey 2018



The smallest firms, i.e. sole traders and microbusinesses, are much less likely to have started their preparations for GDPR than larger firms. FSB survey evidence found that:

- 37 per cent of sole traders have not yet begun their preparations for GDPR
- 35 per cent of businesses with between 1 and 10 employees haven't yet begun
- 18 per cent of businesses, in the 21 to 50 employee size category, have not yet started their preparations

FSB research shows varying level of preparedness for GDPR across a range of (selected) sectors (Figure 6).

Figure 6: Distribution of GDPR preparation by (selected) small business sector

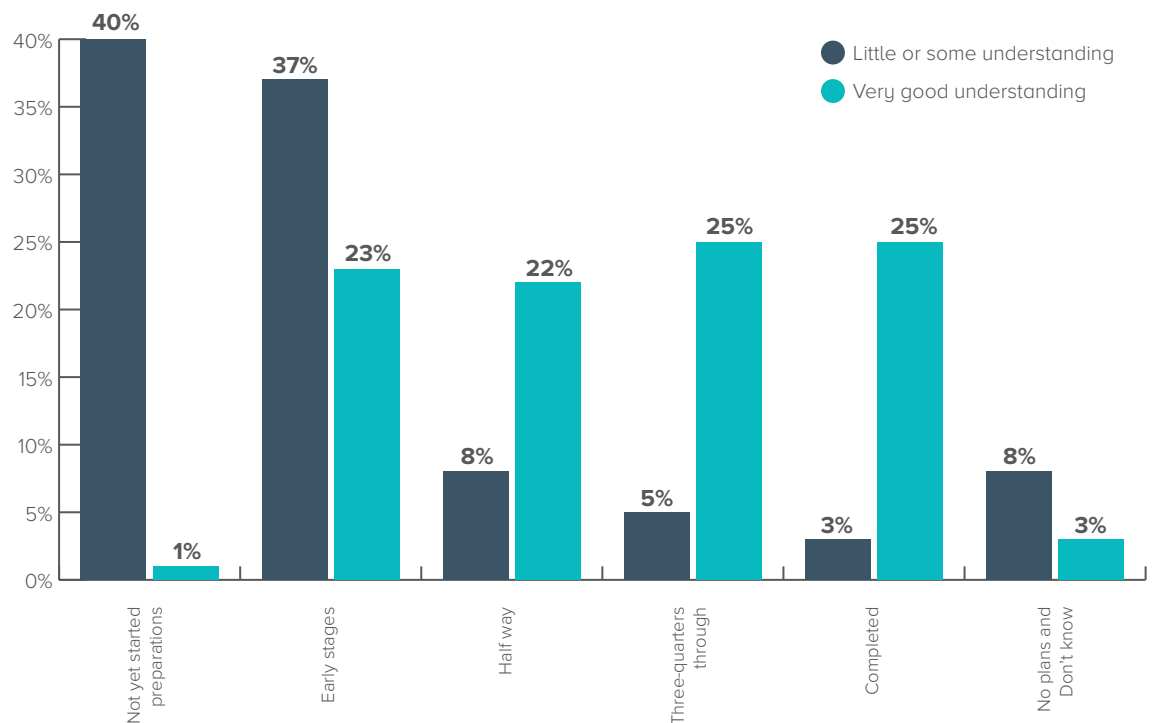
Source: FSB data regulation survey 2018

Sector	Construction	Manufacturing	Wholesale and retail	Accommodation and food	ICT	Professional, scientific and technical	Financial services	Arts and entertainment
Not yet started preparations	37%	28%	41%	53%	15%	27%	16%	52%
Early stages	39%	43%	36%	18%	39%	37%	29%	33%
Half way	0%	8%	9%	3%	15%	13%	11%	0%
Three-quarters through	4%	7%	5%	0%	14%	11%	15%	0%
Completed	10%	6%	3%	9%	8%	8%	27%	15%
No plans and Don't know	10%	9%	7%	18%	9%	4%	4%	0%

Figure 7 shows that the extent of GDPR preparation is strongly associated with the level of understanding. Levels of preparedness vary greatly, even among smaller firms with a 'very good understanding' of the implications of GDPR.

Figure 7: extent of small business preparation and level of understanding

Source: FSB data regulation survey 2018



Complying with GDPR: measures

Of those small businesses that are undertaking, or plan to undertake, preparations, many are adopting a range of measures to conform to GDPR requirements (Figure 8).

Figure 8: Measures being taken and planned by smaller businesses aware of GDPR

Source: FSB data regulation survey 2018

Compliance measure	
Advice/ guidance from the ICO	52%
Changing internal business practices	44%
Increase ICT security	37%
Training	33%
Allocate responsibility to someone in the business	32%
Audit data	30%
Reducing use of data	14%
Changing contracts	13%
Alter marketing strategies	12%
Buying-in new equipment	11%
External consultancy	10%
Shift data storage to a third-party	10%
Take out insurance	8%
Changing/ cancelling contracts with third-party digital services provider	6%
Deterred from innovating (i.e. develop/ adapt new or existing products/ services)	5%
Not enter a new market	4%
Appoint external monitor	3%
Other	6%
Don't know	15%

Small businesses are taking a very wide range of actions. Over half of smaller firms that are aware of GDPR are looking, or are planning to look, to the ICO for support, equating to around 2.2 million smaller firms.²² Given the considerable discretion that regulators have over enforcing GDPR, clear guidance from the regulator is critical. Regulatory discretion must be exercised judiciously.

There are a cluster of other activities being taken by a significant plurality of smaller firms in order to comply with GDPR. These include changes to internal business practices, increases to security on ICT, training, giving data protection responsibilities to an individual in the business, and data audits.

15 per cent of small businesses that are aware of GDPR do not know what measures they need to take to comply. Government must address this as a matter of urgency.

²² The base for this calculation excludes those who were 'not aware of GDPR' i.e. the 18% of the small business population and the 8 per cent who were aware but had no plans yet to comply or didn't know.

The types of compliance measures being planned, already underway or implemented, vary considerably by sector (Figure 9).

Figure 9: Selected measures being taken by businesses aware of GDPR that have plans to prepare/ are preparing by sector

Source: FSB data regulation survey 2018

Sector	Construction	Manufacturing	Wholesale and retail	Accommodation and food	ICT	Professional, scientific and technical	Financial services	Arts and entertainment
Advice/ guidance from the ICO	20%	44%	43%	27%	58%	64%	66%	36%
Changing internal business practices	25%	43%	37%	25%	48%	56%	64%	33%
Increase ICT security	17%	35%	34%	29%	38%	41%	54%	22%
Training	27%	23%	31%	25%	37%	41%	54%	13%
Allocate responsibility to someone in the business	30%	30%	24%	11%	42%	38%	33%	5%
Audit data	23%	22%	21%	22%	44%	37%	24%	34%
Deterred from innovating (i.e. develop/ adapt new or existing products/ services)	4%	2%	6%	6%	5%	6%	18%	0%
Not enter a new market	0%	3%	4%	3%	12%	2%	7%	0%
Don't know	25%	9%	23%	17%	10%	13%	0%	26%
Average sector expenditure on compliance	£976	£1,122	£984	£330	£1,430	£1,206	£1,656	£801

Reliance on the ICO for guidance is particularly high among businesses in the ICT, Professional, Scientific and Technical (PST) and financial services sectors. In contrast, the construction, food and accommodation industries are far less likely to seek ICO guidance.

Substantially larger proportions of the ICT (48%), PST (56%) and Financial Services (64%) sectors have made, or plan to make, changes to their internal business practices in order to comply with GDPR, compared to the cross-sector average (44%). However a large proportion of businesses in the construction, retail and wholesale and creative (i.e. arts and entertainment) sectors appear not to have compliance measures planned or underway. This is likely to be a reflection of the two-thirds

(68%) of businesses who have only a ‘little’ or ‘some’ understanding of how GDPR would impact their business operations. Better understanding by small businesses about GDPR impacts will inevitably provide more confidence about the measures needed to make themselves compliant.

There is considerable sectoral variation in the amounts being spent, or planned to be spent, by smaller firms. There is a notable difference between the levels of expenditure by businesses in the ICT and financial services (and to a lesser extent PST) sectors compared to smaller firms in, for example, the food and accommodation and the creative (i.e. Arts and Entertainment) industries. This can be partly explained by those businesses in the ICT, PST and Financial Services sectors being more likely to be dealing with greater quantities of ‘personal data’, which consequently poses more of a risk.

Complying with GDPR: costs

Given the long list of compliance measures being planned or taken, it is not difficult to see why the average cost to a small business of GDPR compliance is estimated to be around £1,030.²³ Across the UK, the full ‘transition compliance cost’ for the small business population is likely to be in the region of £5.9 billion.

This ‘transition compliance cost’ is in addition to the on-going annual costs of the GDPR for smaller businesses. Current data regulation costs UK smaller firms around £7.2 billion a year. GDPR is more onerous than the current law and is therefore likely to be costlier. Some examples of its more onerous impact include the likely rise in the price of increasingly important services to smaller firms, such as cloud-based applications, due to the higher operating costs that GDPR will generate.²⁴ Therefore smaller firms utilising such services are likely to suffer a further rise in their own cost of doing business.

Forthcoming data regulations

The EU is currently legislating widely to create the so called ‘*Digital Single Market*’. This market includes regulations governing platforms, data flows, Geoblocking, the cross-border payment of VAT on electronic services, and a variety of other areas. The European Commission has identified the completion of the Digital Single Market (DSM) as one of its 10 political priorities.

The EU is currently considering a further addition to its data regulation framework in the form of the ePrivacy Regulation (ePR). The ePR “*particularises and complements*” the GDPR as it relates to communications data. This description is somewhat misleading, however, as the ePR is a significant piece of legislation that will affect how small businesses use data, particularly in areas such as marketing.

The EU’s initial stated aim was to adopt ePR and for it to apply across the EU from 25 May 2018. However, negotiators in the European Parliament and Council of the EU are likely to now miss this deadline. FSB has repeatedly stressed that it is unwise to adopt a timeframe that sees ePR introduced any less than one year – and ideally two years - after GDPR comes into force.

The evidence contained in this report underlines the fact that ePR risks sowing confusion amongst small businesses already struggling to put in place the new systems and work practices needed to comply with GDPR. The EU should not add to this burden in haste.

²³ The average amount reported by FSB members who set-out how much they have, or expect, to pay to be fully compliant with GDPR. Source: FSB. Data regulation survey. (2017).

²⁴ FSB survey data shows that 78 per cent of smaller businesses use third-party provided services for their business. Many of these can and sometimes will be provided from outside the UK. For example: 32 per cent of smaller firms use cloud services, 29 per cent webmail, 24 per cent outsourced payroll/ HR services, 16 per cent outsourced web analytics and social media monitoring, 8 per cent use outsourced marketing and third-party order processing, among others. Many of these could be provided from outside the UK. Source: FSB. Data regulation survey. (2017).

METHODOLOGY

An online survey of FSB 'Big Voice' survey panel members was carried out between December 2017 and January 2018. It asked them about their dealings with data and the impacts of data regulation on their business.

FSB previously surveyed its whole membership in early 2017 on the impacts of regulation. The quantitative research was supported by several focus groups and interviews of FSB members across England and Scotland.

© Federation of Small Businesses

fsb.org.uk

 [federationofsmallbusinesses](https://www.facebook.com/federationofsmallbusinesses)

 [@fsb_policy](https://twitter.com/fsb_policy)

If you require this document in an alternative format please email:

accessability@fsb.org.uk

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior permission of FSB. While every effort has been made to ensure the accuracy of the facts and data contained in this publication, no responsibility can be accepted by FSB for errors or omissions or their consequences. Articles that appear in the report are written in general terms only. They are not intended to be a comprehensive statement of the issues raised and should not be relied upon for any specific purposes. Readers should seek appropriate professional advice regarding the application to their specific circumstances of the issues raised in any article.

This report can be downloaded from FSB website at www.fsb.org.uk

fsb⁰⁸
Experts in Business