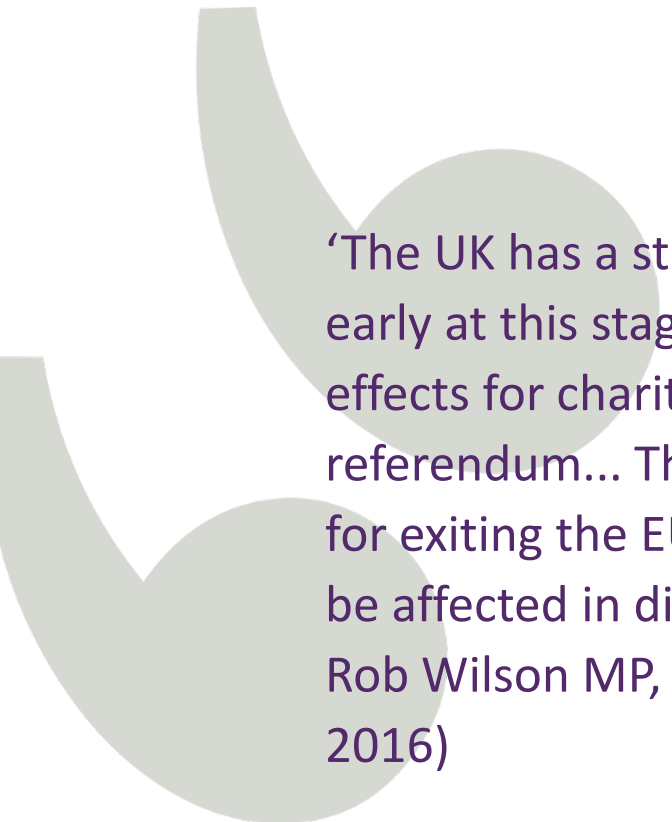


**BREXIT AND THE  
VOLUNTARY SECTOR**  
CHALLENGES AND  
OPPORTUNITIES





‘The UK has a strong and diverse charitable sector. It is too early at this stage to make a full assessment of the potential effects for charities resulting from the outcome of the EU referendum... These will depend on the arrangements agreed for exiting the EU, and different types of charity are likely to be affected in different ways.’

Rob Wilson MP, Minister for Civil Society (HC Deb, 21 July 2016)

# THE POLITICAL ENVIRONMENT

# BREXIT MEANS BREXIT

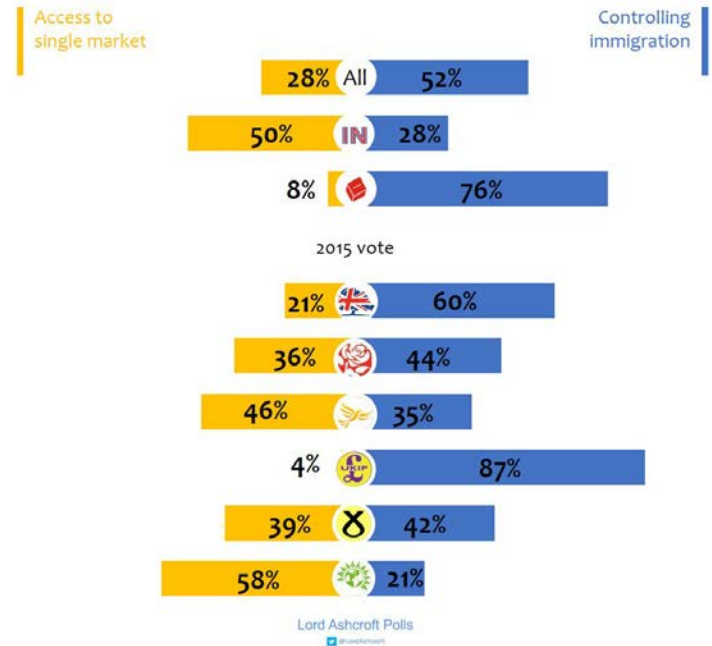
## THERESA MAY'S APPROACH

- Theresa May has repeatedly rejected calls for a second referendum, and stated that 'Brexit means Brexit'. She has now announced a bill repealing the European Communities Act and enshrining existing EU law in UK law.
- Article 50 will be triggered by the end of March 2017, but some reports have suggested that Whitehall is preparing a timetable that would allow this to take place in January.
- The prime minister's announcement has increased speculation that the likely outcome of negotiations is closer to a so-called 'hard' Brexit.
- MPs are asserting their right to parliamentary scrutiny, with the government acknowledging during a debate that parliament would have a role. However it reserved the right to hold back details that would compromise the UK's negotiating position.

# HARD OR SOFT BREXIT?

- Much discussion so far has centred around whether Brexit will be 'soft' (continued preferential access to single market, staying in the customs union, continued budget contributions etc) or 'hard' (clean break with reliance on WTO trade rules).
- Soft Brexit is likely to mean less economic and regulatory disruption for charities, while hard Brexit would give the government more freedom to pursue an agenda outside the EU.
- Soft Brexit is hard to achieve politically, as it would mean adhering to rules and structures that formed a major part of the case for leaving, and would be difficult to do a deal on free movement.

Should the UK Government prioritise access to the single market or controlling immigration?



Lord Ashcroft Polls  
@lordashcrofts

# THE NEGOTIATION PROCESS

# THE LAW RELATING TO BREXIT

## ARTICLE 50

Article 50 of the Treaty on the European Union sets out the process for a member state to formally give notice of its intention to leave the EU.

Once article 50 notice is given, a two-year time limit starts to run and:

- the UK can negotiate an exit agreement with the EU, which must be approved by a simple majority of those voting in the European parliament and by a 'qualified majority' of the council of the EU; or
- an extension to the two-year time limit may be agreed unanimously by the council; or
- if no exit agreement or extension is agreed, then the UK's membership of the EU will automatically end.

# DEPARTMENT FOR EXITING THE EU

- At the beginning of September the new Department for Exiting the EU (DExEU) had hired 180 staff in London (expected to rise to 400), and incorporated the 130 UK Representation to the EU (UKRep) staff in Brussels.
- The department will lead on the UK's preparations for leaving the EU, co-ordinating the policy work required across government to support negotiations, engage with different stakeholders and support the negotiations themselves.
- Leave campaigner David Davis is the Secretary of State for Exiting the EU.

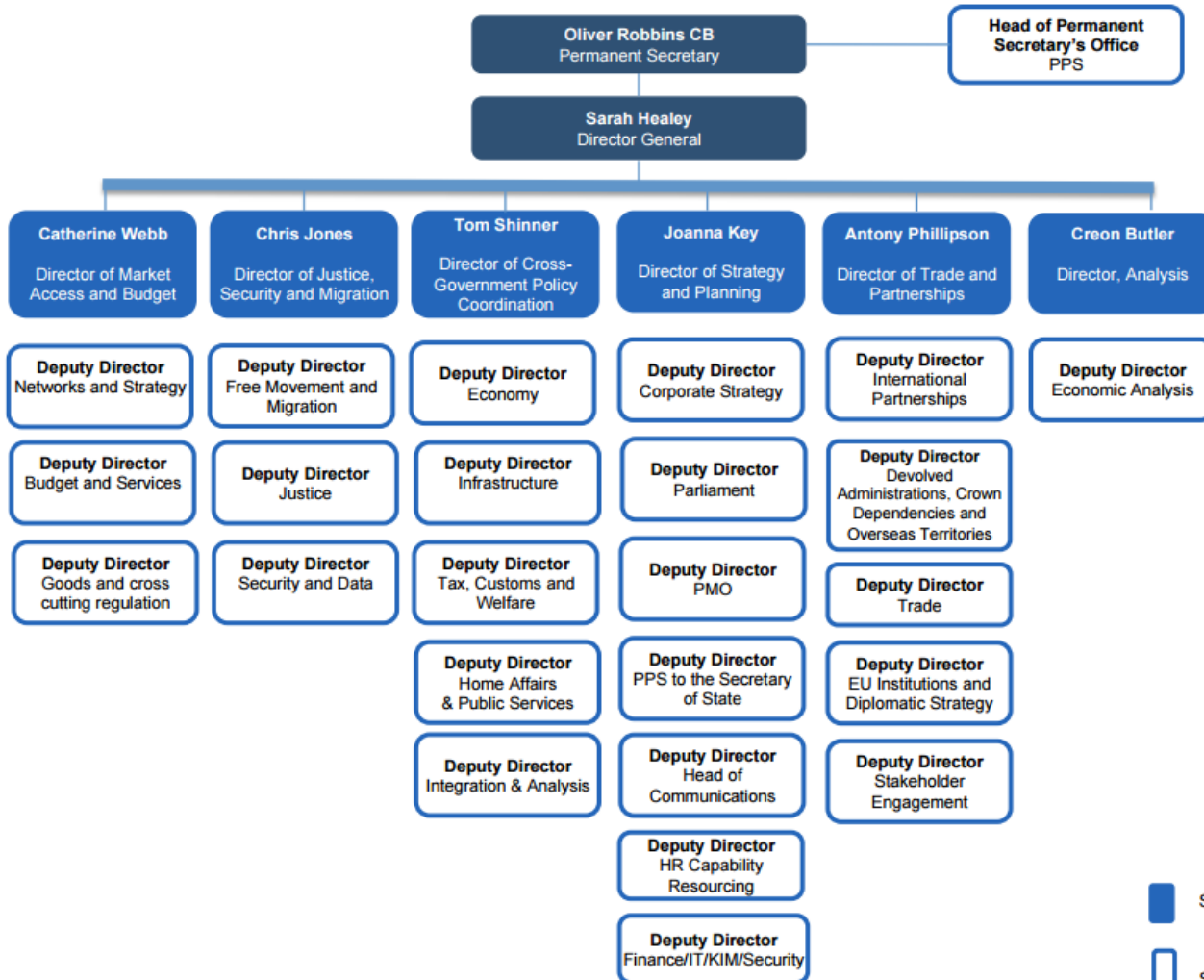


By Government of UK -  
<https://www.gov.uk/government/people/david-davis>, OGL 3,  
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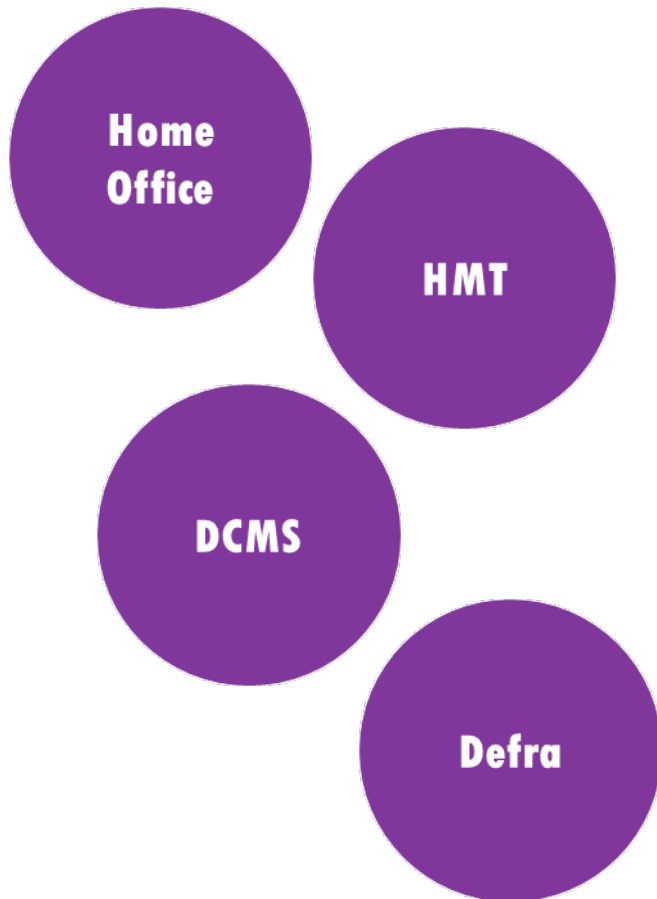


# DEPARTMENT FOR EXITING THE EU

## Department for Exiting the EU: Senior Management Team



# OTHER DEPARTMENTS



**Home Office:** leading on immigration

**Treasury:** leading on funding and financial services

**DCMS:** leading on voluntary sector issues

**Defra:** leading on environmental issues

# THE 'THREE BREXITEERS'

- David Davis's department is leading co-ordination of Brexit, but fellow Leave campaigners Boris Johnson and Liam Fox will also have a key role through the Foreign Office and newly set up Department for International Trade.
- The Institute for Government say this 'triple departmental structure risks creating fragmentation and incoherence' and that the prime minister needs to move quickly to avoid turf wars.



By Foreign and Commonwealth Office - <https://www.flickr.com/photos/foreignoffice/28026353560/>, CC BY 2.0, <https://commons.wikimedia.org/w/index.php?curid=50154332>



By Chatham House - Dr Liam Fox MP, Shadow Defence Secretary, CC BY 2.0, <https://commons.wikimedia.org/w/index.php?curid=26224119>

# THE OTHER SIDE OF THE NEGOTIATIONS


- Several key roles from the EU side have been appointed.
- Belgian Didier Seeuws is heading up a European council task force on the UK's exit.
- French former EU commissioner Michel Barnier will act as the commission's chief negotiator.
- Former Belgian prime minister and current MEP Guy Verhofstadt will lead for the European parliament.
- Suggestions are that a firm line will be taken within the EU, with the president of the European council, Donald Tusk, claiming that 'the only real alternative to a hard Brexit is no Brexit'.



By Martin Kraft, CC BY-SA 3.0 de,  
<https://commons.wikimedia.org/w/index.php?curid=31063997>

# BREXIT BY 2019?

- The nature of negotiations means the UK will be in discussions over a number of years.
- Charles Grant of the Centre for European Reform has identified six separate deals that will need to be done on legal separation, an FTA with the EU, an interim trade deal, WTO membership, new FTAs to replace 53 we access through EU membership and co-operation on foreign, defence and security policy.
- The timetable set out for article 50 suggests the UK will leave the EU in 2019, but full Brexit negotiations are likely to take five to ten years, with ongoing impact on legislative and regulatory changes.



'I want to be clear to our European friends and allies: we do not see Brexit as ending our relationship with Europe. It's about starting a new one.'

David Davis, Secretary of State for Exiting the European Union  
(ministerial statement, 5 September 2016)

# THE ROLE OF PARLIAMENT

- Likely to have enhanced oversight of the negotiations on withdrawal and future relationship
- Already carrying out a number of parliamentary inquiries (eg EU Select Committee ‘Scrutinising Brexit: the role of parliament’, Foreign Affairs Committee ‘Implications of leaving the EU for the UK’s role in the world’)
- Responsible for repealing the European Communities Act 1972
- A new committee on exiting the EU will be set up to scrutinise the expenditure, process and policy of the DExEU.
- A new international trade committee will also be set up to scrutinise the work of the Department for International Trade.

# HOW CAN YOU ENGAGE?

- **Build your evidence base:** invest in understanding the impact on your beneficiaries.
- **Collaborate** with other organisations with similar issues to establish a strong consensus.
- **Engage widely:** not only with your most relevant departments and select committees, but also with Treasury and DExEU where appropriate.
- **Speak to your European partners** where you have links: they can help influence the position of other EU member states, which will be important at the time of negotiation.



# REGULATORY ISSUES

# WHAT WILL HAPPEN TO UK LAWS THAT ARE DERIVED FROM EU LAW?

EU laws that form part of UK domestic legislation fall in the categories of either regulations or directives:

- **EU regulations** are directly applicable in the legal systems of all EU countries: they do not need implementation in the UK in order to be in force. So, before the UK formally exits the EU, detailed analysis of EU regulations will be needed if they are to be saved from lapsing. If they are to be retained, they will need to be adapted to reflect the fact that the UK is no longer a member of the EU.
- **EU directives** must be implemented into the legal systems of member states. Legislation that has been incorporated into the domestic legal system will continue to be in force following the UK's departure from the EU, unless the government decides to legislate to change it.

The devolved legislatures of Scotland, Wales and Northern Ireland will also need to deal separately with EU legislation that has been transposed into their laws.

# GREAT BRITISH REPEAL BILL

- The bill will overturn the 1972 European Communities Act that established the supremacy of EU law over Britain's own legislation.
- The prime minister will include the bill in the next Queen's Speech, but it will not take effect until Britain actually leaves the EU.
- On the day of Brexit, EU laws will be enshrined in British law but the British government can then change, amend or get rid of unwanted laws.
- Under the proposed bill, MPs are set to go through the laws one by one and decide which ones they want to unpick or repeal over coming decades.
- The Great Repeal Bill will also end the jurisdiction of the European court of justice in the UK on that day Brexit happens.

# CROSS-CUTTING REGULATORY ISSUES

There are many variables affecting charities and how their regulation may be affected by Brexit:

- Even within the UK, they already have different regulators and different laws governing them.
- They take different constitutional forms, all subject to different legal regimes.
- They have widely varying aims and sectoral specialisations.
- Their activities may involve grant-making, service delivery, advocacy and/or research.

However, there are a number of cross-cutting issues that are likely to be relevant to the majority of charities:

- employment law and free movement of people
- data protection
- Value Added Tax (VAT)
- procurement rules

# EMPLOYMENT LAW AND FREE MOVEMENT OF PEOPLE

Many charities and social enterprises employ European and Economic Area (EEA) nationals. It is not yet known what the status of these individuals will be. All depends on the nature of the new relationship that is negotiated with the EU post-Brexit.

Concerns have especially been raised by:

- Health and social care organisations. Many health and social care professionals currently working in the UK have come from other EU countries. This includes 55,000 of the NHS's 1.3 million workforce and 80,000 of the 1.3 million workers in the adult social care sector.
- Universities. Both the number of EU students who choose to study at UK universities, and the number of EU academics who choose to work at UK universities are likely to decrease.

# DATA PROTECTION

Both the Data Protection Act (1998) and the Privacy & Electronic Communications Regulations (2003) implement EU directives, so their future application could be in question. Matters are complicated by the fact that the Data Protection Directive (and so the DPA) is due to be replaced by the new EU General Data Protection Regulation (GDPR), taking effect in May 2018.

With article 50 not likely to be triggered before the end of 2016, and so the disapplication of EU legislation to the UK unlikely to be fully effective until the beginning of 2019 at the very earliest, the GDPR is likely to have direct application to charities processing personal data in the UK for at least a limited period. In the meantime, the DPA and PECR remain fully in place.

# VALUE ADDED TAX

VAT is an EU tax, charged on goods and services within the EU and deriving principally from a 2006 EU directive. National VAT rates must be within a certain range, with each member state contributing a small proportion of its VAT-take to the EU in the form of a levy.

The charity sector is not exempt from VAT, and the burden of irrecoverable VAT incurred on goods and services purchased to support non-business activities is a long-standing issue.

The EU VAT rules will continue to apply to the UK until after our actual exit from the EU.

What happens subsequently will be determined by our negotiated trading position.

# PROCUREMENT RULES

The UK procurement legislation arises in the majority from EU directives, which have been implemented into UK law through UK regulations. As a result, a British exit from the EU will have no immediate impact on the legislative position in the UK and all the same provisions would continue to apply.

It is possible that the rules will be made simpler, retaining competitive procedures, but without the same level of detail that has been transposed as a result of the 2014 directives. For example, some of the rules on contract modifications, and on the requirements regarding evaluation may well be relaxed.

However, the Public Contract Regulations 2015, which implement EU procurement directives, already include measures, such as the 'light touch regime', designed to make it easier for small and medium-sized enterprises (SMEs) to compete when tendering for public contracts.



# SECTOR-SPECIFIC REGULATORY ISSUES

A number of areas in which charities operate are heavily influenced by EU legislation, and are therefore more likely to be affected:

- **Environment.** Fear of a potential weakening of environmental protection and conservation measures that are currently embedded within EU legislation (eg the Habitat Directives and Environmental Impact Assessments).
- **Refugee and asylum rights.** Concerns that the UK will regress from the standards it has previously applied as a result of EU directives it has opted into (in particular Qualification Directive, Reception Conditions Directive, Procedures Directive, Dublin Regulation).
- **Women's rights and domestic abuse.** Key concern of protecting the rights of victims of crime and survivors of domestic abuse when they travel and move within Europe.

# FUNDING ISSUES

# EUROPEAN STRUCTURAL AND INVESTMENT FUNDS

EU Structural Funds are comprised of five funds:

- the European Social Fund (ESF)
- the European Regional Development Fund (ERDF)
- the Cohesion Fund
- the European Agricultural Fund for Rural Development
- the European Maritime and Fisheries Fund (EMFF)

The current total budget of EU Structural Funds is €454bn.

The majority of EU structural funding that the UK receives is from the ERDF and the ESF.

A total of €10.9bn (£8.4bn) was awarded to the UK for the period 2014-20.

# OTHER IMPORTANT EU FUNDING

According to Treasury, EU funding for a range of projects amounted to more than £4.5bn in 2014-15, with businesses and universities winning a further £1.5bn through competitive bids.

**Horizon 2020** – This is a research and innovation programme amounting to nearly €80bn funding available over seven years (2014-20). The funding is particularly important for universities and medical research charities.

**Daphne programme** – Launched in 1997 as a one-year project to fund NGOs that support victims of violence and combat violence against women, children and young people, this programme continues in the period 2014-20 as part of the Rights, Equality and Citizenship programme (the budget of which is €439m). Under the Daphne programme, British charities, universities and other bodies have received £38m since 2007 to improve the rights of children and women, and to fight domestic violence.

# WHAT HAPPENS TO EUROPEAN FUNDING?

Treasury has set out the following assurances over European funding:

- All structural and investment fund projects signed before the Autumn Statement will be fully funded, even when these projects continue beyond the UK's departure from the EU.
- Funding for specific structural and investment fund projects that might be signed after the Autumn Statement, but while we remain a member of the EU, is guaranteed provided that: the projects are good value for money, and are in line with domestic strategic priorities.
- Where UK organisations bid directly to the European commission on a competitive basis for EU funding projects while we are still a member of the EU, for example universities participating in Horizon 2020, the Treasury will underwrite the payments of such awards, even when specific projects continue beyond the UK's departure from the EU.

# ESF - FUTURE UNCERTAINTY

The future of ESF funding beyond 2018 is unclear:

- The UK's ESF funding allocation was €3.5bn, which government sources quote as being worth approximately £2.53bn based on December 2015 exchange rate calculations.
- However the distribution of ESF was planned to roll out in two stages, with a 'mid-point update' or review in 2017/18, to retarget any funding as necessary according to current priorities.
- This means the second tranche of ESF funding has not been committed, and it is not yet clear how much the UK would receive following negotiations to leave the EU, or whether the government will replace the funding.

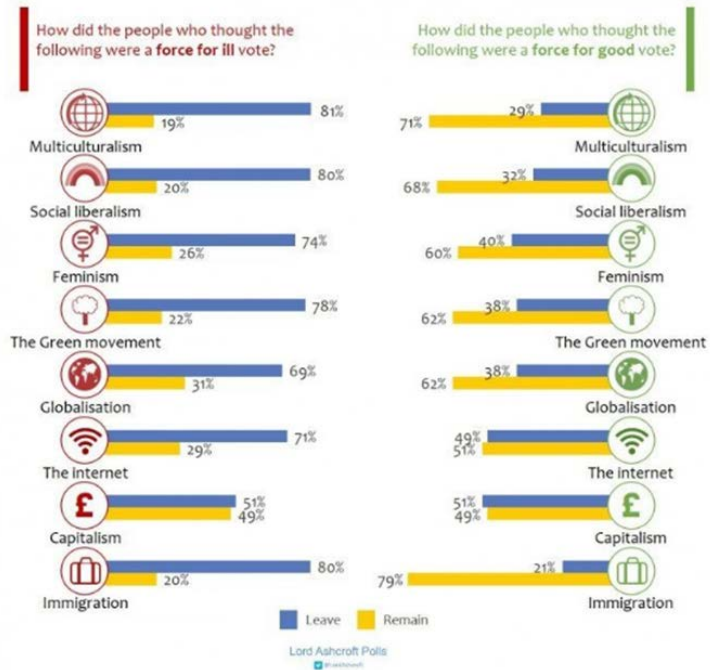
# SOCIAL ISSUES

# WHAT THE VOTE TELLS US

By large majorities, voters who saw multiculturalism, feminism, the Green movement, globalisation and immigration as forces for good voted to remain in the EU; those who saw them as a force for ill voted by even larger majorities to leave.

Over three-quarters (76%) of those who had voted Leave said the government should prioritise immigration control.

Do you think of each of the following as being a force for good, a force for ill, or a mixed-blessing?





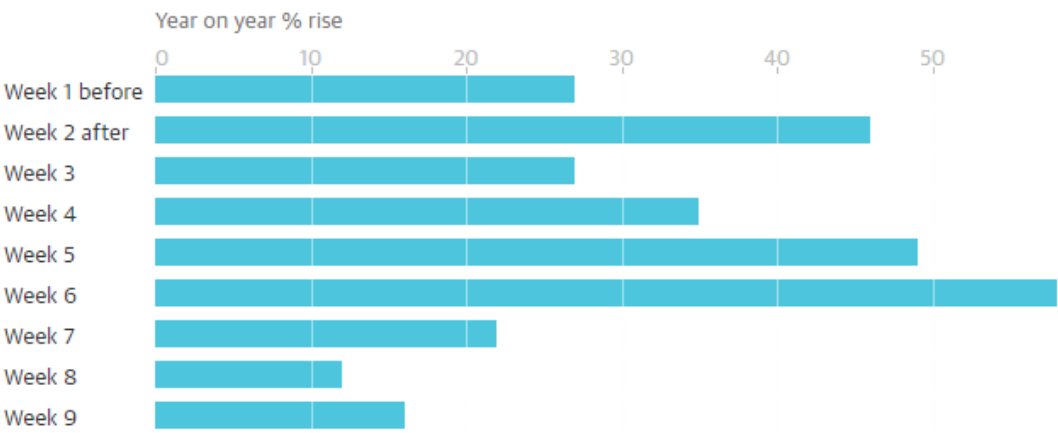
# SOCIAL TENSIONS

Wave of hate crime and racial abuse reported following the EU referendum.

Risk that the sector is seen as part of the 'London metropolitan elite' by those it is meant to represent.

### Hate crimes before and after Brexit

Percentage rise in recorded hate crimes, June to August 2015 and 2016. England, Wales and Northern Ireland



Guardian graphic | Source: National Police Chiefs' Council

# QUESTIONS FOR CHARITIES

Regardless of how the Brexit process develops, here are some suggested questions charities may want to ask themselves:

- Do you have funding provided directly from the EU? Or connected to work being carried out in the EU?
- Do you work in partnership with European-based organisations?
- Do you carry out projects in Europe?
- Are you monitoring your investments?
- Do you employ non-UK EU nationals?

# WHAT OTHER CHARITIES ARE DOING

A number of charities have produced reports on the impact that Brexit could have on their beneficiaries. Although it is impossible to list them all, here are some worth a read:

- Papworth Trust report **‘Brexit – what next for disabled people?’**
- Age UK briefing on **policy priorities for older people** following the EU referendum
- **Women’s Aid** briefing on the impact of leaving the European Union
- Friends of the Earth briefing on the **EU referendum and the environment**
- King’s Fund paper on **‘Five big issues for health and social care after the Brexit vote’**
- Creative Industries Federation **‘Brexit report on the impact of leaving the EU on the UK’s arts, creative industries and cultural education – and what should be done’**

The Fawcett Society has launched the **#FaceHerFuture** campaign, aimed at ensuring women’s rights are protected post-Brexit.

# FURTHER INFO/CONTACT DETAILS

## WHAT ARE YOUR CONCERNS?

Please let us know by emailing [tell@ncvo.org.uk](mailto:tell@ncvo.org.uk)

Or tweet us at @NCVO