

GENERAL DATA PROTECTION REGULATION

A SURVEY OF THE READINESS OF IRISH BUSINESS
TOWARDS GDPR IMPLEMENTATION



MCCANN FITZGERALD



About Mazars

Mazars is an integrated and independent professional service firm with more than 17,000 professionals and 1000 partners across 77 countries. Mazars specialises in assurance, tax and advisory services. In Ireland we have 22 partners and more than 300 staff in our offices in Dublin and Galway. Our core purpose is to deliver exceptional value to our clients through technical excellence and quality of service.

About McCann FitzGerald

With almost 550 people, including over 350 lawyers and professional staff, McCann FitzGerald is one of Ireland's premier law firms. We are consistently recognised as being the market leader in many practice areas and our pre-eminence is endorsed by clients and market commentators alike.

Our principal office is located in Dublin and we have overseas offices in London, New York and Brussels. We provide a full range of legal services, primarily to commercial, industrial and financial services companies. Our clients include international corporations, major domestic businesses and emerging Irish companies. We also have many clients in the State and semi-State sector.

About the Research

W5 carried out a quantitative online survey of senior figures with responsibility for the compliance and data protection functions in Irish business during August 2016. The representative sample comprised a cross section of businesses by size (measured by number of employees) and business sector and industry.

Total sample size : N=69 Fieldwork dates: 3rd -25th August 2016. We are very grateful to all the survey participants for their valuable time and insights.



INTRODUCTION

In less than two years' time (May 2018) European data protection law will be reformed and updated by the entry into full force of the General Data Protection Regulation (GDPR) and the associated new Data Protection Directive for the police and criminal justice sector.

This will have significant and wide-ranging impacts, including fines of up to **4% of global turnover or €20 million** (whichever is greater) in the case of a breach.

This survey carried out jointly by Mazars and McCann FitzGerald explores the readiness of Irish business towards GDPR as well as gauging the estimated difficulty of complying to the new regulations.

In summary, many businesses have not yet addressed some of the key requirements of the GDPR. Specifically, of those surveyed:

- **82%** think that meeting the compliance requirements of the GDPR will be challenging to extremely challenging;
- Only **16%** have already mobilised a project to meet the compliance requirements;
- **83%** think that complying with requirements regarding international transfers will be challenging to extremely challenging;

- **55%** expect implementing the more explicit 'right to be forgotten' will be very or extremely challenging;
- **30%** of organisations do not have a Data Protection Officer ("DPO");
- Of those organisations that have a DPO **29%** feel that the role isn't sufficiently senior and independent to meet the GDPR requirements;
- **43%** envisage that maintaining an inventory of personal data will be very or extremely challenging;
- **44%** expect meeting the breach notification of 72 hours to be very or extremely challenging;
- One positive trend is that **78%** of organisations surveyed will have executive or CEO level sponsorship of compliance programmes to meet the requirements.

Our message is simple. If they haven't already started, organisations should begin now to review their internal procedures and controls in light of the impending changes under the GDPR, and consider what amendments to such procedures will be required, and what other measures should be taken, to ensure that they are GDPR ready.

The time to take action is now.



Liam McKenna
Partner
Consulting Services
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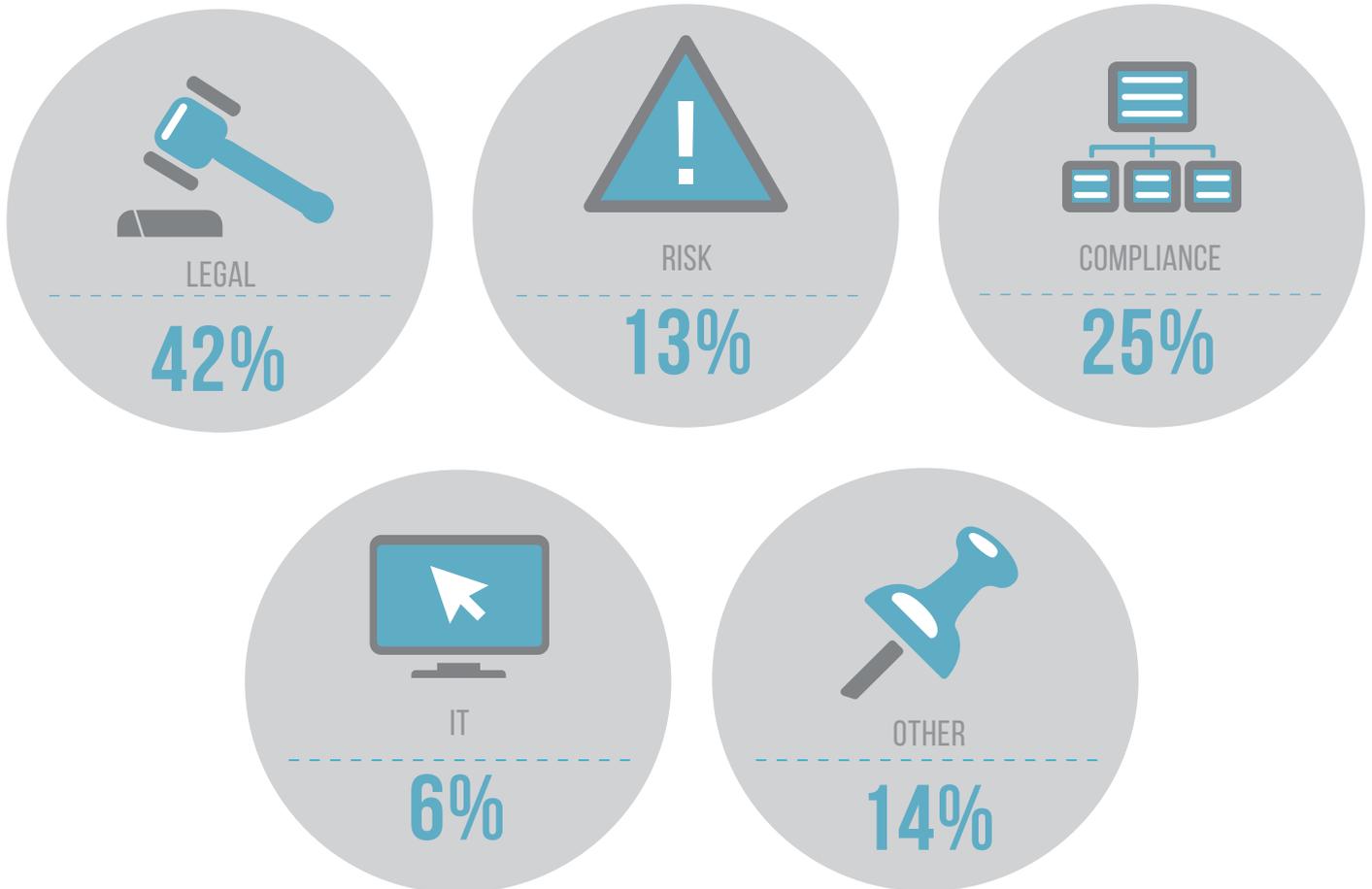


Paul Lavery
Partner
Head of Technology & Innovation
McCann FitzGerald



RESPONDENTS

FUNCTION OF RESPONDENT



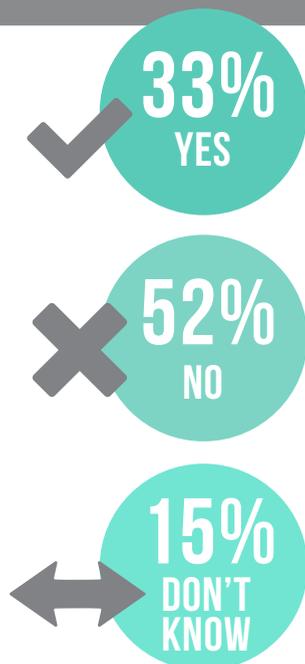


KEY FINDINGS

1. NOTICES & CONSENTS:

The GDPR will require that Data Controllers are able to demonstrate that they have obtained appropriate consent from data subjects to the processing of personal data, where they are relying on consent to legitimise the processing.

DO YOU ENVISAGE THAT YOUR ORGANISATION'S CURRENT DATA PROTECTION/ PRIVACY NOTICES AND METHODS OF CONSENT WILL REQUIRE SIGNIFICANT CHANGES TO BE COMPLIANT WITH THE GDPR?



HOW CHALLENGING WILL IDENTIFYING AND IMPLEMENTING THE NECESSARY CHANGES BE FOR YOUR ORGANISATION?



of those identifying necessary changes expect it to be extremely challenging

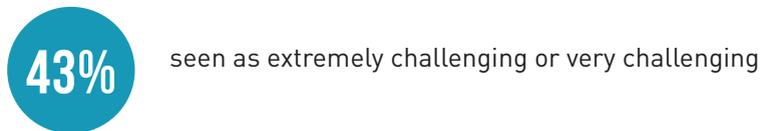


KEY FINDINGS

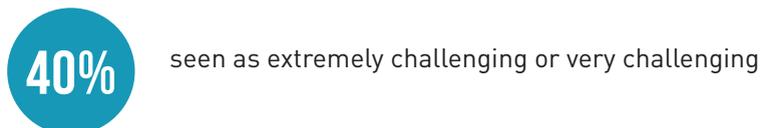
2. COMPLIANCE CHALLENGES:

Data Controllers will need to demonstrate compliance with the GDPR by maintaining an inventory of personal data including its uses and where it is shared.

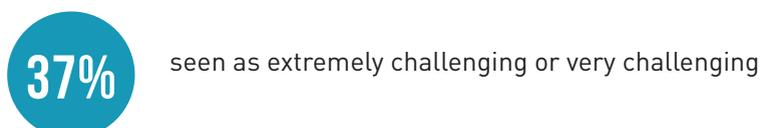
MAINTAINING AN INVENTORY OF PERSONAL DATA



ASSESSING AND DOCUMENTING PRIVACY RISKS



CONSIDERING AND IMPLEMENTING DATA PROTECTION CONTROLS FROM EARLY STAGES IN PROJECTS



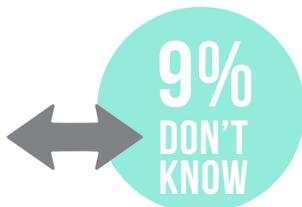
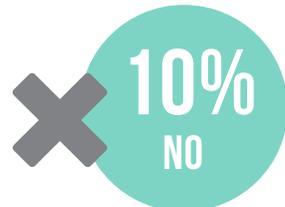
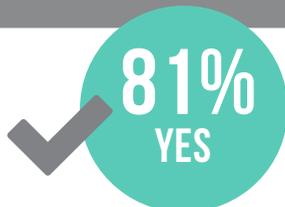


KEY FINDINGS

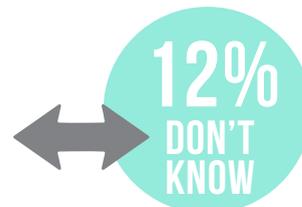
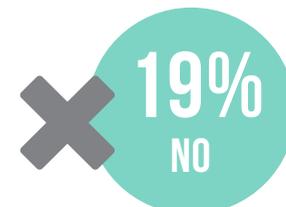
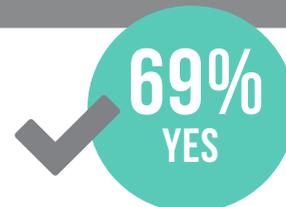
3. BREACH NOTIFICATION:

In the event of a personal data breach, the GDPR requires Data Controllers to notify the local data protection supervisory authority within 72 hours of becoming aware of the breach. Additionally, where there is likely to be a high risk of the rights and freedoms of individuals being impacted, Data Controllers will be required to notify the data subject of the breach.

DO YOU CURRENTLY HAVE A POLICY TO NOTIFY YOUR LOCAL DATA PROTECTION SUPERVISORY AUTHORITY IN THE EVENT OF A PERSONAL DATA SECURITY BREACH?



DO YOU CURRENTLY HAVE A POLICY TO NOTIFY THE DATA SUBJECTS IN THE EVENT OF A PERSONAL DATA SECURITY BREACH?



HOW CHALLENGING DO YOU EXPECT MEETING THE BREACH NOTIFICATION OBLIGATION OF 72 HOURS TO BE?

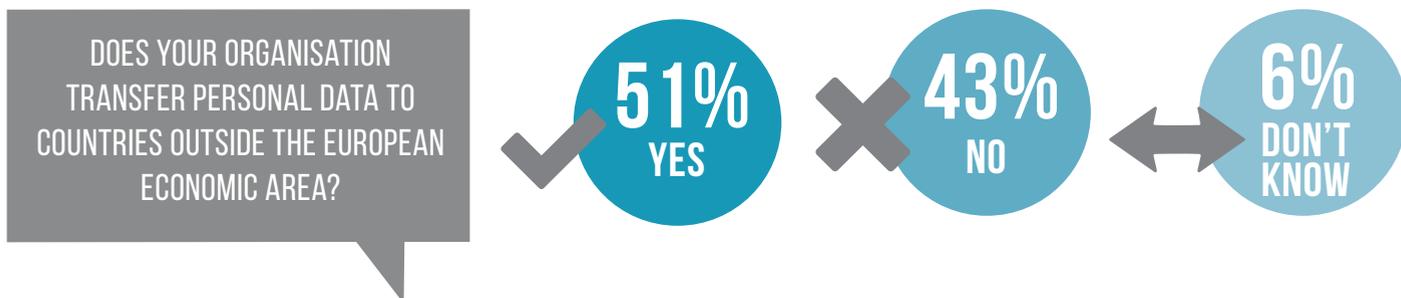


seen as extremely challenging or very challenging

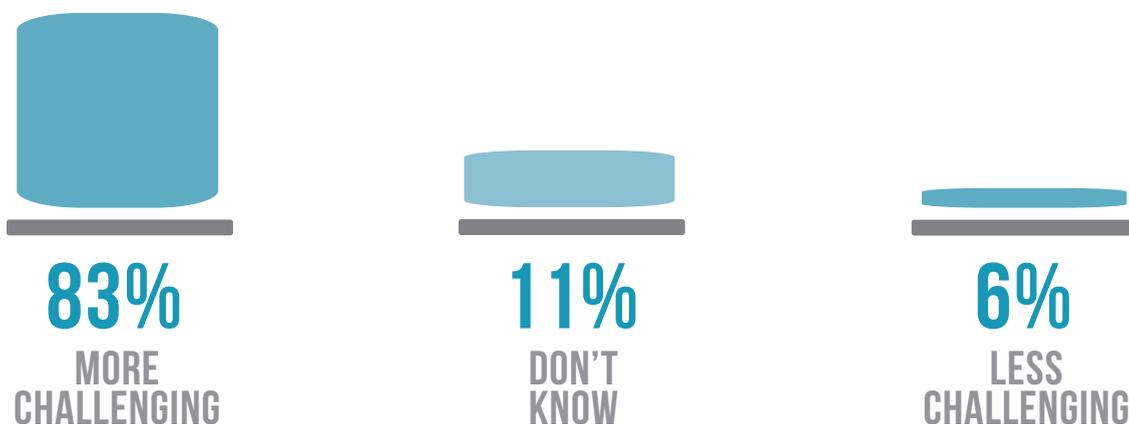


KEY FINDINGS

4. INTERNATIONAL TRANSFERS:



DO YOU THINK COMPLYING WITH REQUIREMENTS REGARDING INTERNATIONAL TRANSFERS WILL BE LESS OR MORE CHALLENGING WHEN THE GDPR COMES FULLY INTO FORCE?





KEY FINDINGS

4. INTERNATIONAL TRANSFERS CONT:

Under the GDPR (as is currently the case), a transfer of personal data to a third country or an international organisation outside the EEA will be permitted only if the European Commission has decided that the country or international organisation in question ensures an adequate level of protection or if the controller or processor has provided appropriate safeguards.

DOES YOUR ORGANISATION CURRENTLY USE BINDING CORPORATE RULES AS A MEANS TO TRANSFER PERSONAL DATA WITHIN A CORPORATE GROUP STRUCTURE OUTSIDE OF THE EEA?



DOES YOUR ORGANISATION CURRENTLY USE THE STANDARD CONTRACTUAL CLAUSES APPROVED BY THE EUROPEAN COMMISSION AS A MEANS TO TRANSFER PERSONAL DATA OUTSIDE THE EEA?



DOES YOUR ORGANISATION CURRENTLY RELY ON DATA SUBJECT CONSENT AS A MEANS TO TRANSFER PERSONAL DATA OUTSIDE THE EEA?



DOES YOUR ORGANISATION INTEND TO RELY ON THE EU/US PRIVACY SHIELD AS A MEANS TO TRANSFER PERSONAL DATA TO THE UNITED STATES OF AMERICA?





KEY FINDINGS

5. THE ROLE OF DATA PROTECTION OFFICER:



Under the GDPR there will be an obligation on certain categories of data controllers and data processors to appoint a Data Protection Officer (DPO) in order to monitor compliance with the GDPR. DPOs must have expert knowledge in data protection law and practices, and must be independent and report directly to the highest management level within the organisation.

30%

of organisations do not have a DPO

29%

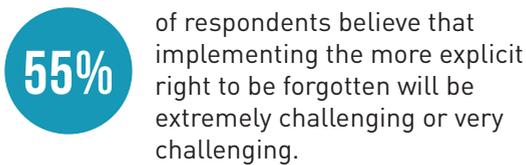
where a DPO exists 29% do not believe their DPO is sufficiently senior to meet the requirements of the GDPR



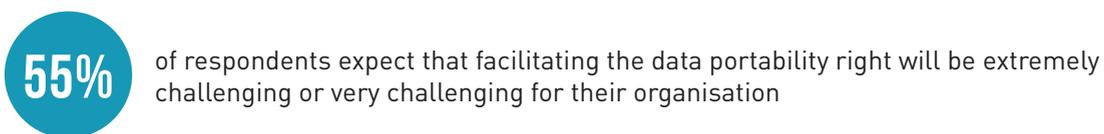
KEY FINDINGS

6. DATA SUBJECTS RIGHT TO BE FORGOTTEN AND DATA PORTABILITY:

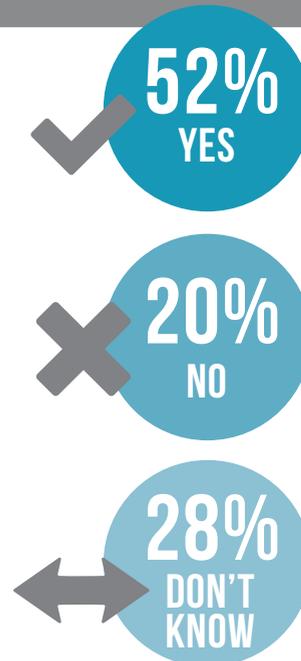
The GDPR provides for a more explicit 'right to be forgotten' than currently exists under European data protection law.



The GDPR provides for a new right for data subjects to receive personal data they provided to the data controller in a structured, commonly used and machine-readable format and to transmit it to another data controller in certain circumstances.



DO YOU EXPECT THE DATA PORTABILITY RIGHT TO BE APPLICABLE TO YOUR ORGANISATION'S ACTIVITIES AS A DATA CONTROLLER?





KEY FINDINGS

7. OUTSOURCED DATA PROCESSORS:

91%



of respondents engage third party data processors for data processing activities (i.e. storage, processing, transmission etc.)

46%



of respondents indicated that their third party data processors are located both within the EEA and outside the EEA.

84%



of respondents indicated that they are very or fairly confident that their data processors are knowledgeable of, capable and committed to implementing their data protection obligations



KEY FINDINGS

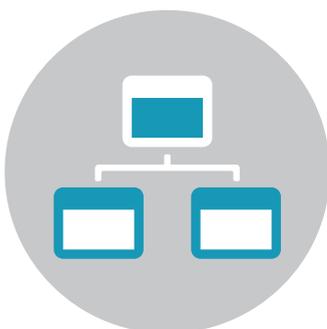
8. APPROACH TO COMPLIANCE DEADLINE:



While **82%** of organisations think that meeting the challenges of GDPR will be challenging to extremely challenging, only **16%** of organisations have actually mobilised a project to meet those compliance requirements.



39% of organisations think that maintaining an adequate and complete inventory of personal data will be the most challenging aspect of GDPR.



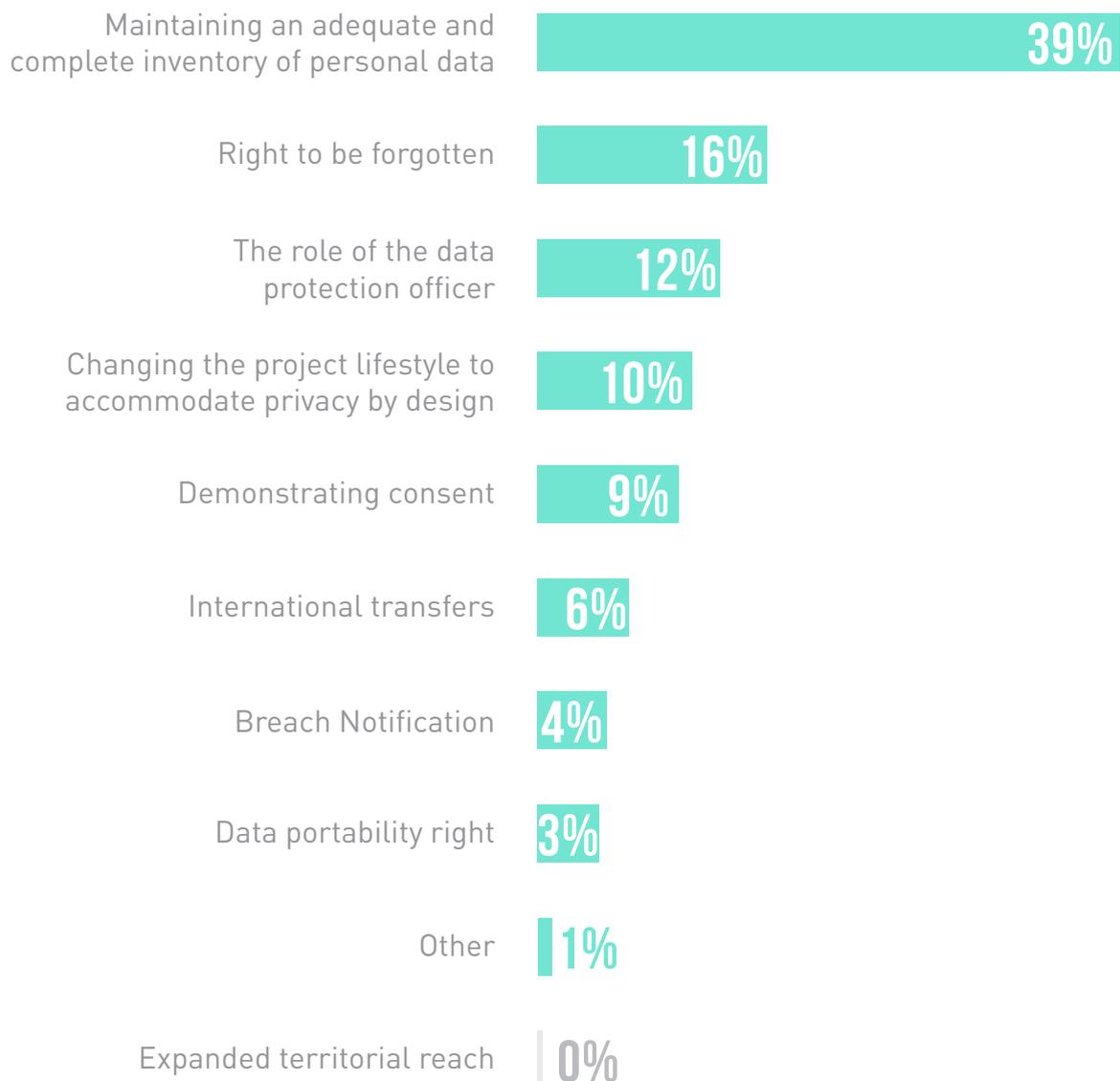
It was good to see that **78%** of organisations will have executive or CEO level sponsorship of compliance programme.



KEY FINDINGS

9. EXPECTED CHALLENGES:

Which one aspect of the GDPR listed below do you expect to pose the greatest challenge for your organisation?





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