



# Equality, diversity and inclusion for charities



@VWVPlus

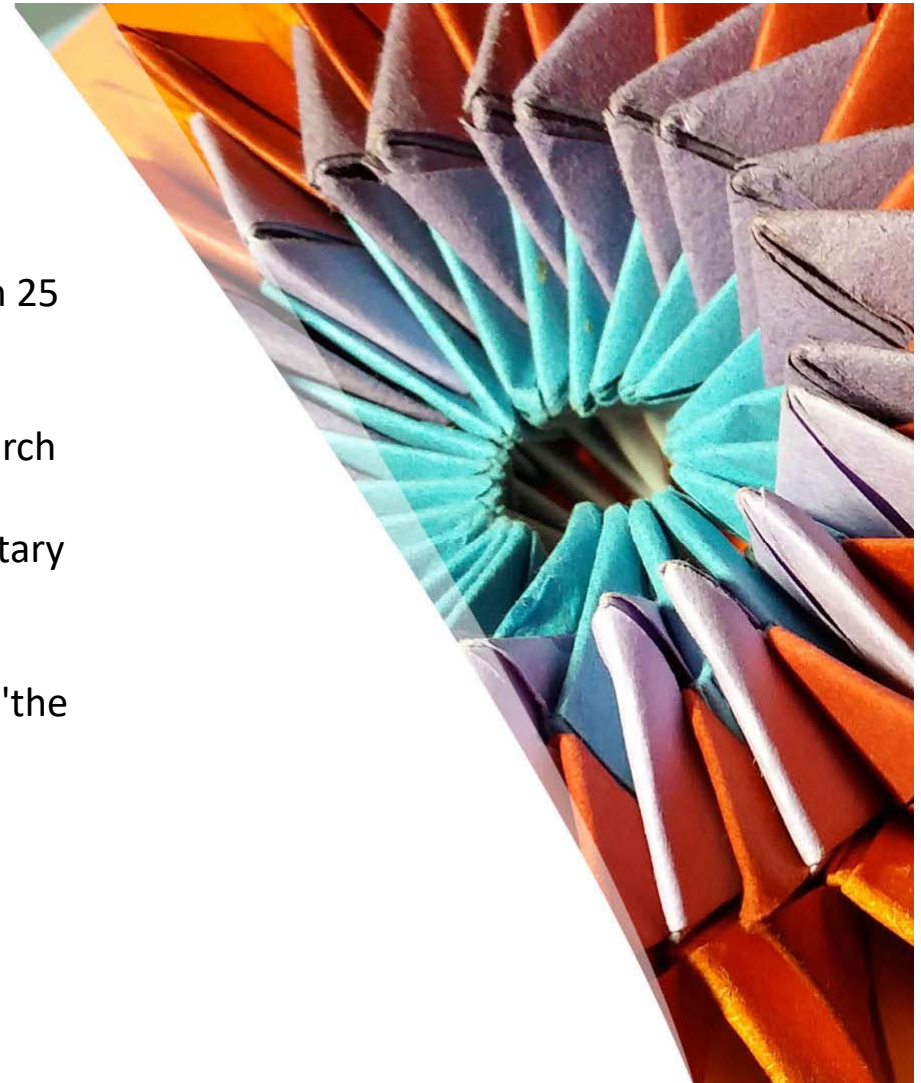


## Overview

- Why is EDI on the agenda?
- What do we mean by EDI?
- The legal framework
- What charities should be doing
  - Staff
  - Operations and the people you support
  - Governance
- Responding to allegations of breach
- Questions

## The EDI agenda

- Higher profile since the death of George Floyd on 25 May 2020
- Government Commission for Race and Ethnic Disparities 17 July 2020 - report published 31 March 2021
- In 1993, Third Sector magazine: only 2% of voluntary organisations in England and Wales had a black trustee
- In Building on Trust, 1995, Sargant and Kirkland: 'the stereotype of trustees being white, middle-class, middle-aged and male is largely true





## Inspiration

“As a Quaker Trust, our commitment to integrity ... prompts us to reflect on our own situation and actions, even when this is difficult. Because of this, we felt a moral responsibility to critically examine our own history...We are taking immediate action to strengthen our contribution to racial justice, in our grant-making, investments, governance and staff diversity. We are also committed to...develop[ing] a longer-term plan for restorative justice.”





## A note of caution

# Charities like the National Trust are told to avoid wokery and culture wars – by their own UK chief

- Baroness Stowell intervened after 25 MPs called to withdraw trust's status
- The Common Sense Group called for Prime Minister Boris Johnson to intervene
- National Trust published review of the colonial links of some of its properties

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By [GLEN OWEN](#) POLITICAL EDITOR FOR THE MAIL ON SUNDAY

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## Sewell Reports : Runnymede Responds

20th April 2021

### Our statement following the alleged letter of complaint to the Charity Commission

From 1968 and Rivers of Blood, to 2021 and the report by the Commission on Race and Ethnic Disparities (Sewell Report), the Runnymede Trust has worked tirelessly to represent the lives of those millions of Britons who constitute this country's Black and ethnic minority communities.

For over half a century we have operated in partnership with governments and political parties supporting and, where necessary, criticising without fear or favour to help bring about true racial

<https://www.runnymedetrust.org>

1 Working Class

Shared Futures

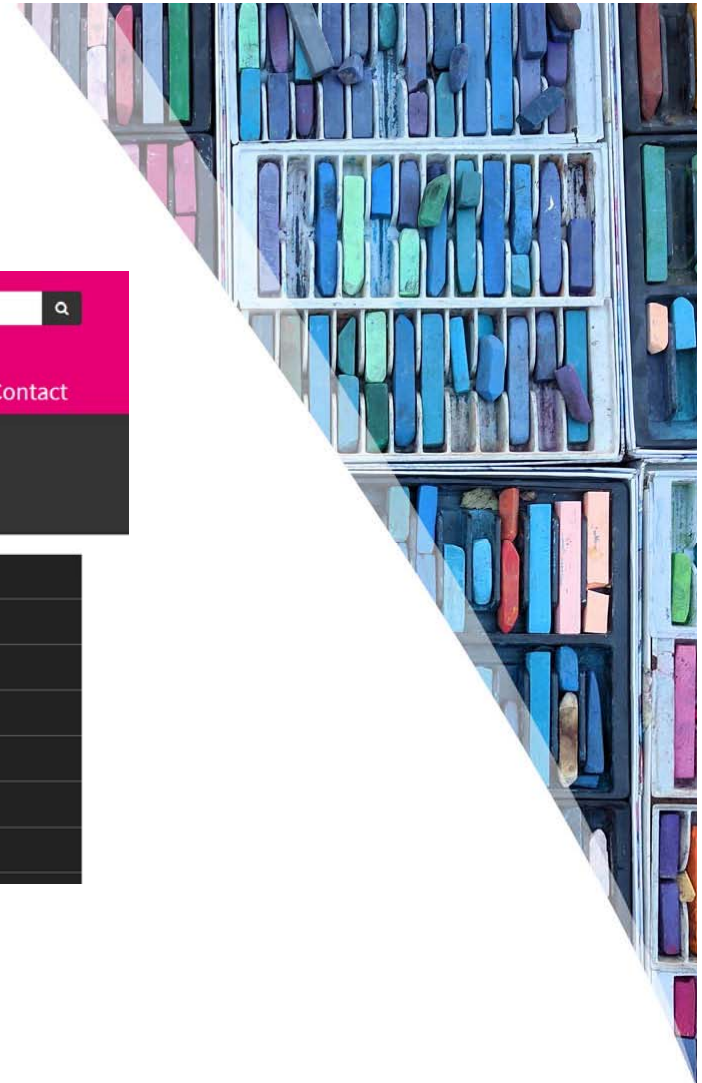
Brexit

Freelands Foundation Partnership

Participation and politics

Employment and Economy

Education



# What do we mean by equality?

- Equality means equal opportunities and fairness for all





## Diversity

- Refers to the range of people in your cohort (for example, people with different ages, religions, ethnicities, disabilities and gender) and valuing those differences, recognising the benefit of having a range of perspectives

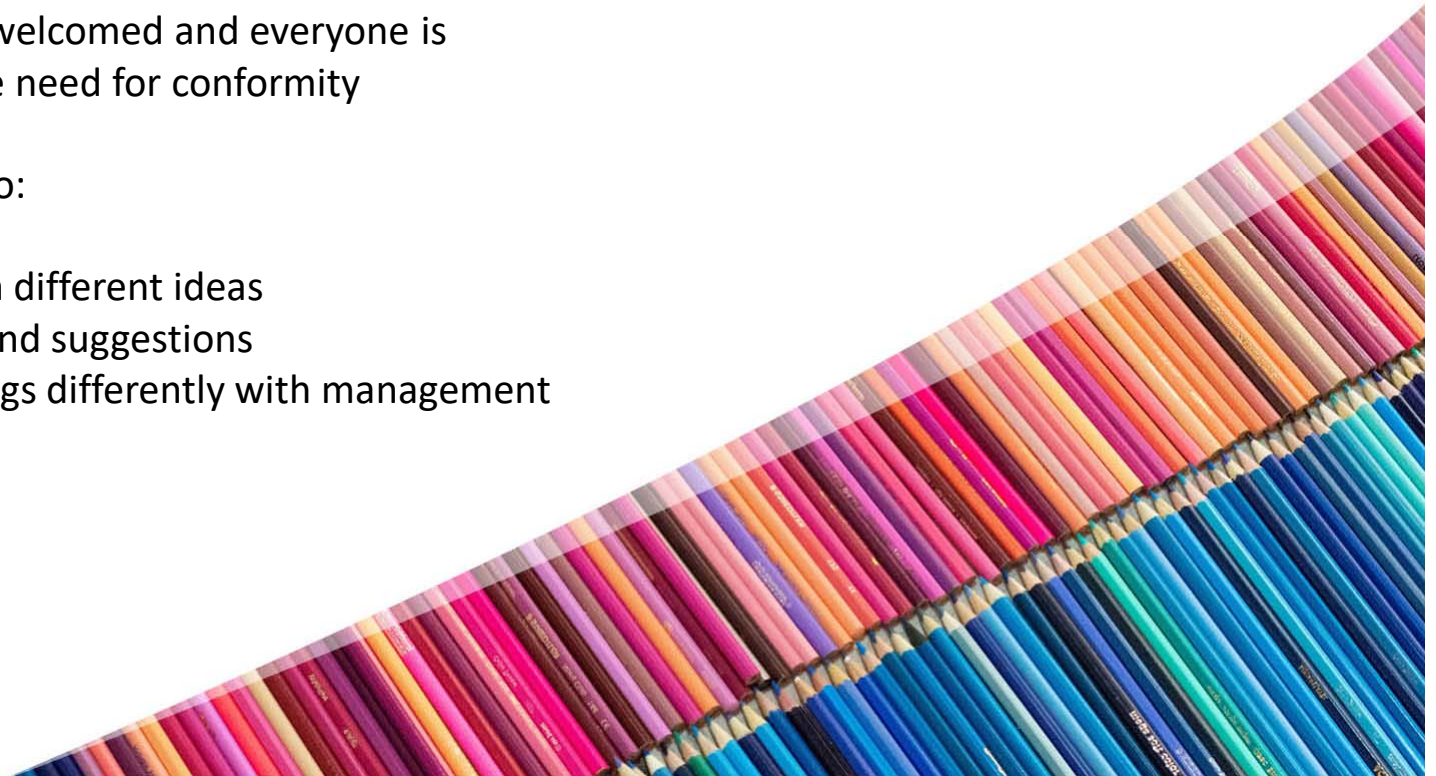


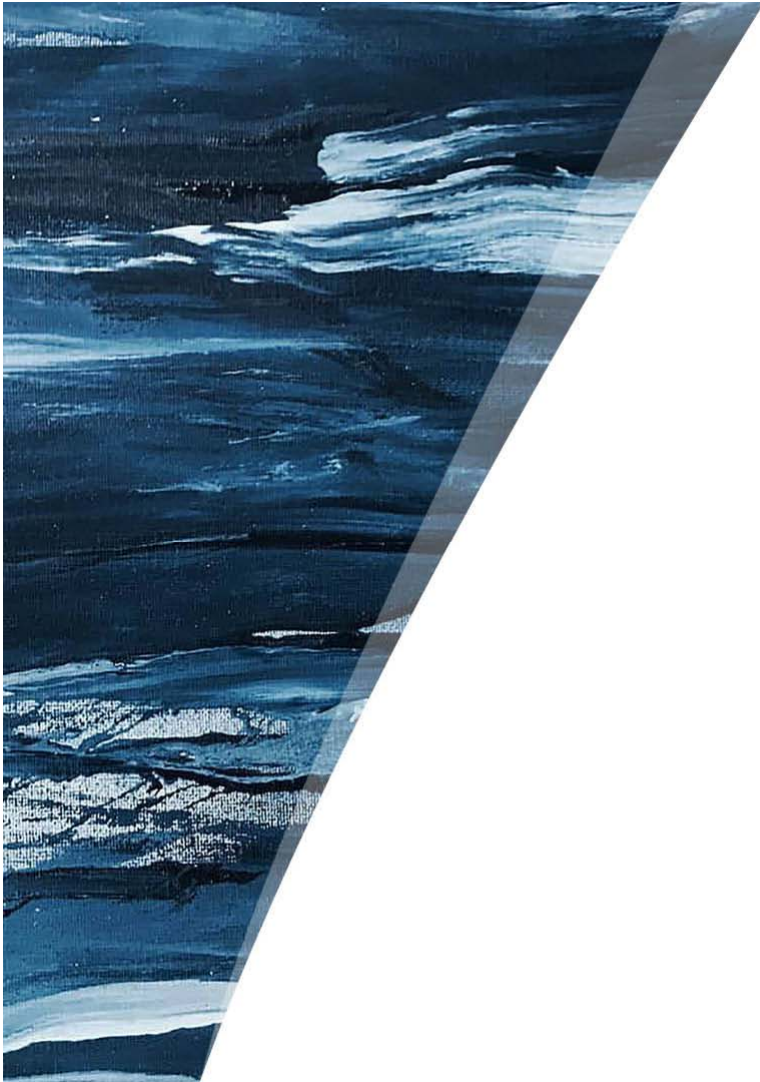
# Inclusion

- Where diversity is welcomed and everyone is valued, without the need for conformity

It encourages people to:

- Come up with different ideas
- Raise issues and suggestions
- Try doing things differently with management approval



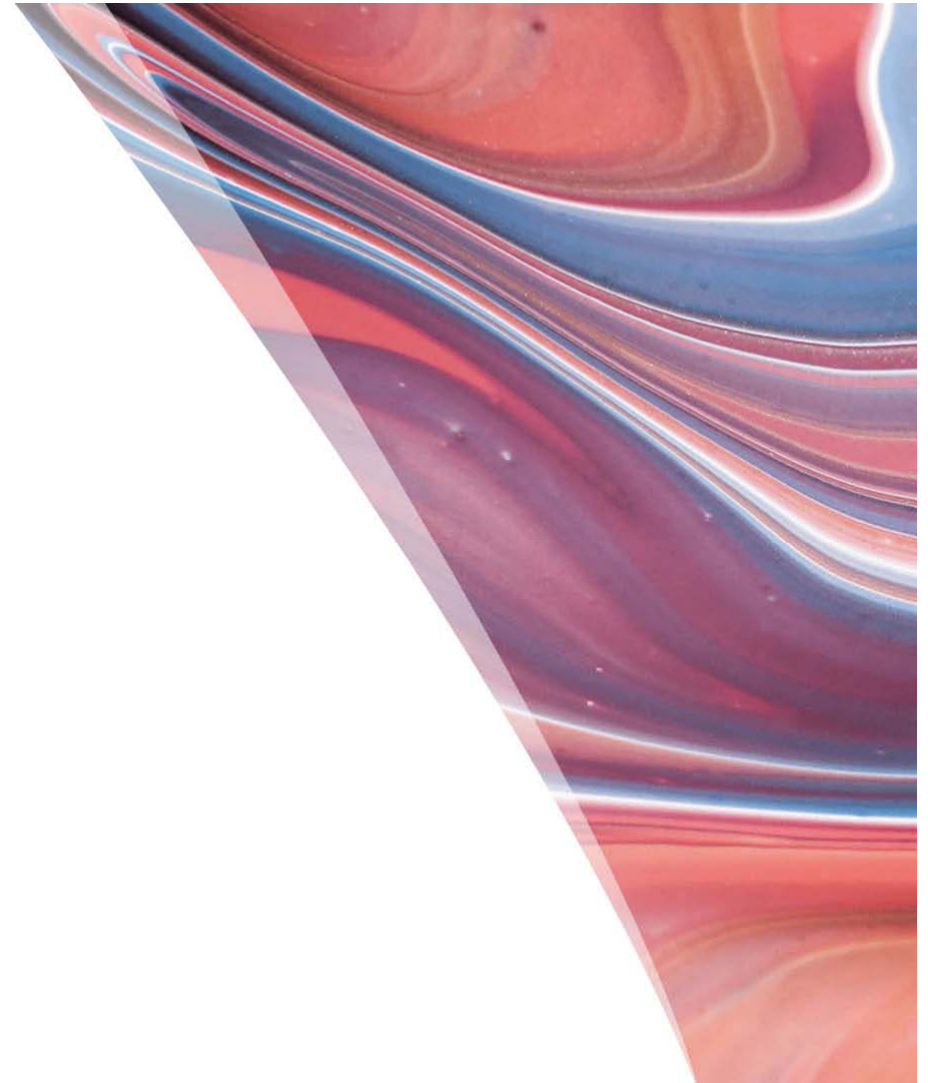


## The legal framework

- The Equality Act 2010
- Charity Commission guidance
- Contractual duties/duty of care in negligence

# Equality Act - 2010

- In force since 1 October 2010
- Prohibits direct and indirect discrimination, victimisation and harassment
- Sets out nine “protected characteristics”
- Part 5 Equality Act - employment
- Part 3 Equality Act - services



## Protected characteristics

- Age
- Disability
- Gender re-assignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

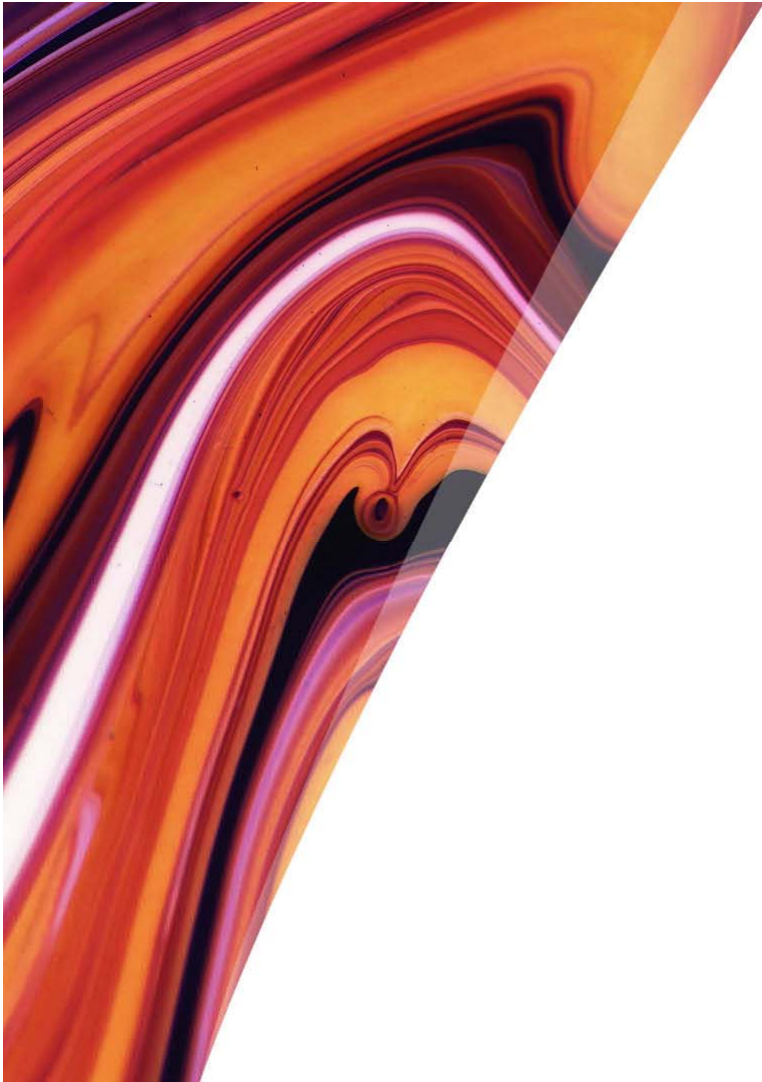


# Prohibited conduct

Discrimination:

- Direct discrimination
- Indirect discrimination
- Discrimination arising from disability
- Failure to make reasonable adjustments





## Prohibited conduct cont.

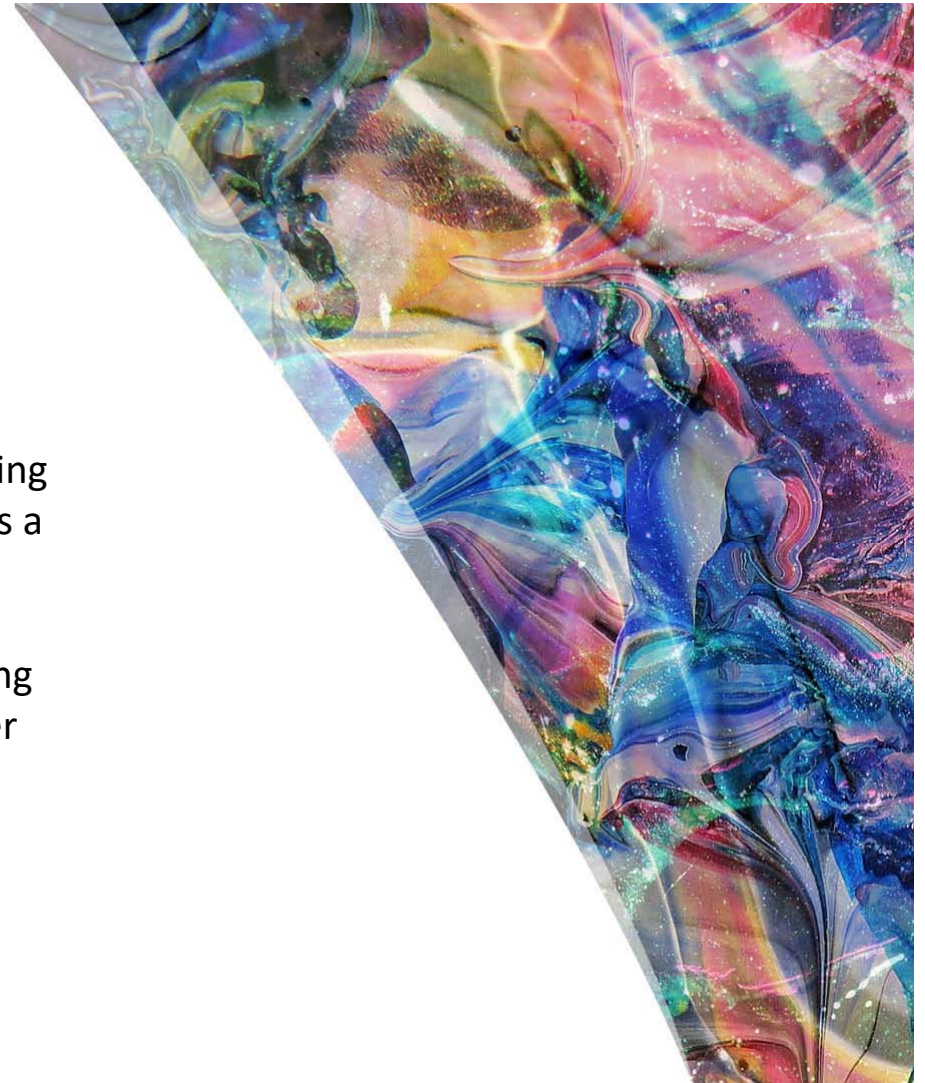
Harassment:

- Harassment in relation to a protected characteristic
- Sexual harassment

## Prohibited conduct cont.

### Victimisation:

- Where a person does/may do/is suspected of doing a protected act and is subjected to a detriment as a result
- Protected acts include bringing proceedings, giving evidence, making an allegation or doing any other thing for the purposes of the Equality Act



# Exceptions to discrimination law

There are certain general circumstances under the Equality Act where discrimination may be lawful:

- Genuine occupational requirement
- Employment services occupational requirement
- Organised religion
- Armed forces
- General positive action (proportionate means)
- Charity exemption
- Other exceptions (e.g. national security)



# Positive action

- General positive action measures permitted to improve equality for people who share a protected characteristic
- In these circumstances, an employer can take proportionate measures to enable or encourage equality
- Positive action in recruitment and promotion - provided the person with the relevant characteristic is "as qualified as" others under consideration
- Positive action is not the same as positive discrimination, which is generally unlawful



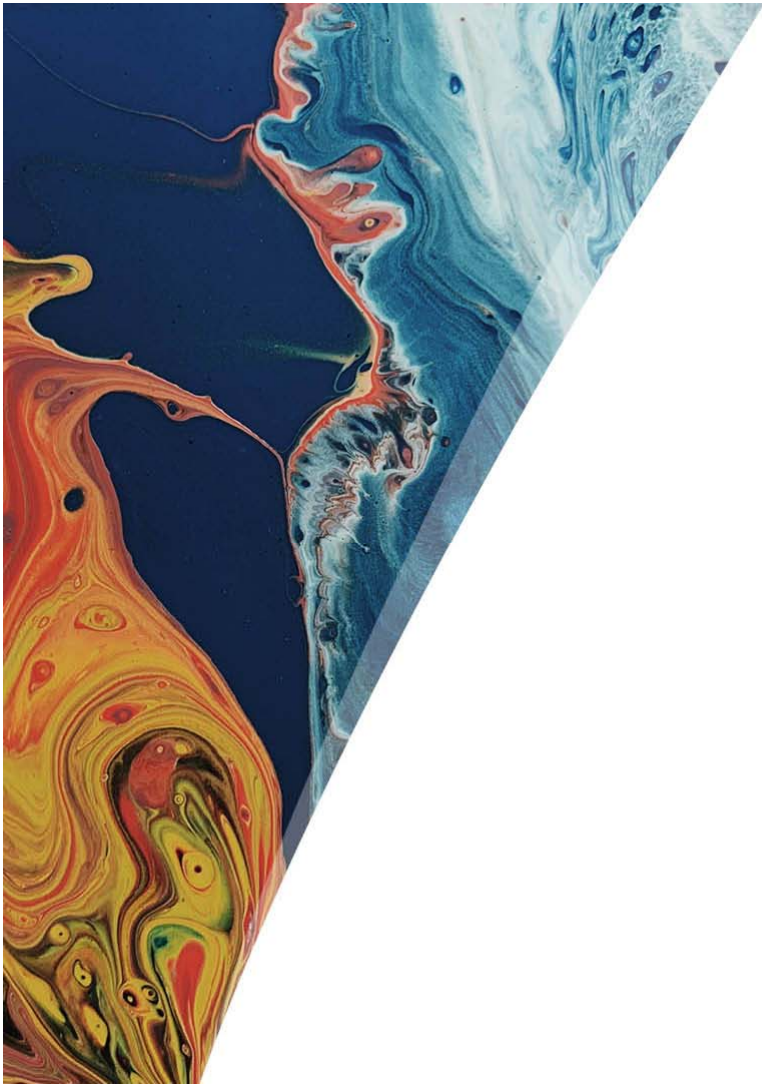


## Objective justification

- Where an employer can prove a good business reason for its decisions relating to a protected characteristic; and the discrimination is 'proportionate, appropriate and necessary' i.e. the business need is more important than any discriminatory impact on affected employees

## Employment decisions which can be impacted by EDI

- Recruitment
- Training and promotion
- Equal pay
- Religious beliefs and practice
- Dress code
- Flexible working
- Unacceptable behaviour
- The dismissal of staff



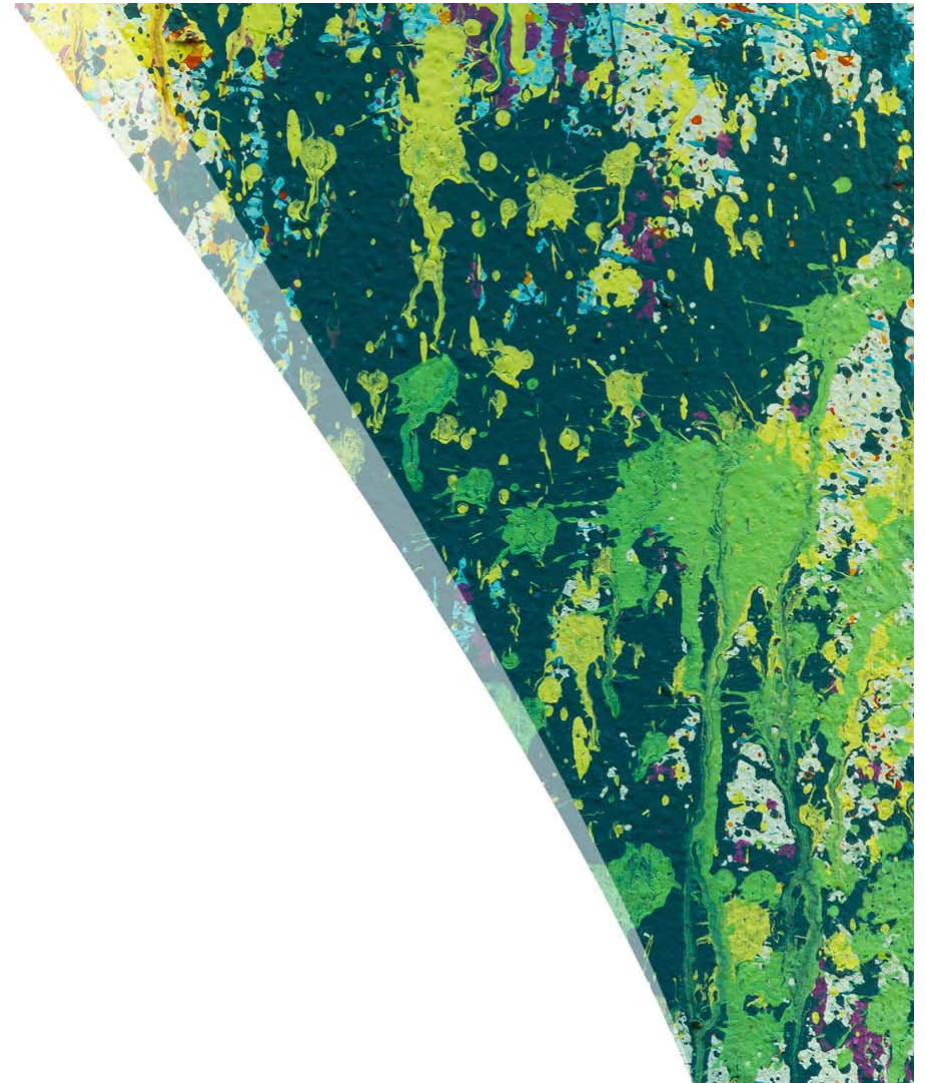
## Practical steps - staff

- Equal Opportunities and Dignity at Work policies
- Assess impact on other policies and procedures
- Work place champions
- Effectively address issues
- Training
- Monitor statistics?



## Operational issues

- Increased regulatory interest in EDI
- Increased focus on it by clients/service users
- More complaints/claims





## Regulatory interest

- Charity Commission/principal regulator
- EHRC: Core guidance: Voluntary charity and community organisations

## Practical steps - the people you support

- Review relevant policies and procedures
- Ensure their application
- Reach and accessibility
- Provide support
- Take action when appropriate
- Cultural issues
  - Statement of intent
  - Statistics/metrics
  - Consultation/surveys
  - Stakeholder training and resources
  - Leadership and delegation



# Dealing with allegations

## Risk management

Consider need for:

- Professional support (e.g. legal and PR advice)
- Notification to insurers
- Reporting - e.g. serious incident reporting to the Charity Commission
- PR - establish co-ordinated approach to communications.
- Confidentiality and information-sharing on a "need to know" basis



## Dealing with allegations cont.

Investigation and response - consider:

- Support for affected individuals
- Which policies apply and who should lead your response
- Communications with complainant and interested parties - e.g. EHCR and representative bodies
- Scope and nature of any investigation, including:
  - Viability
  - Specific policy requirements (e.g. complaints policy stages, timetable and personnel)
  - Investigator - internal external?
  - TOR - scope - this issue or wider consideration of policy or procedure, values and culture?



## Dealing with allegations cont.

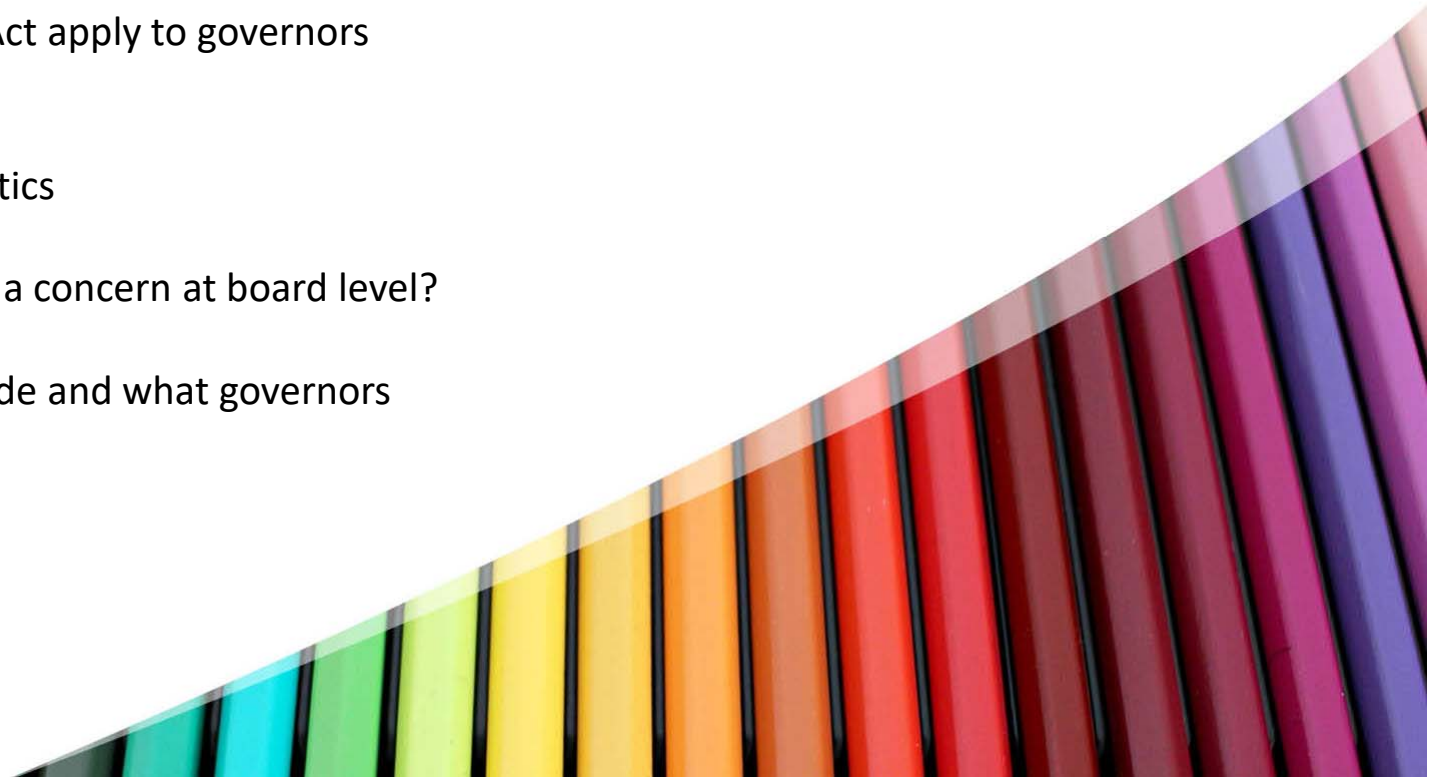
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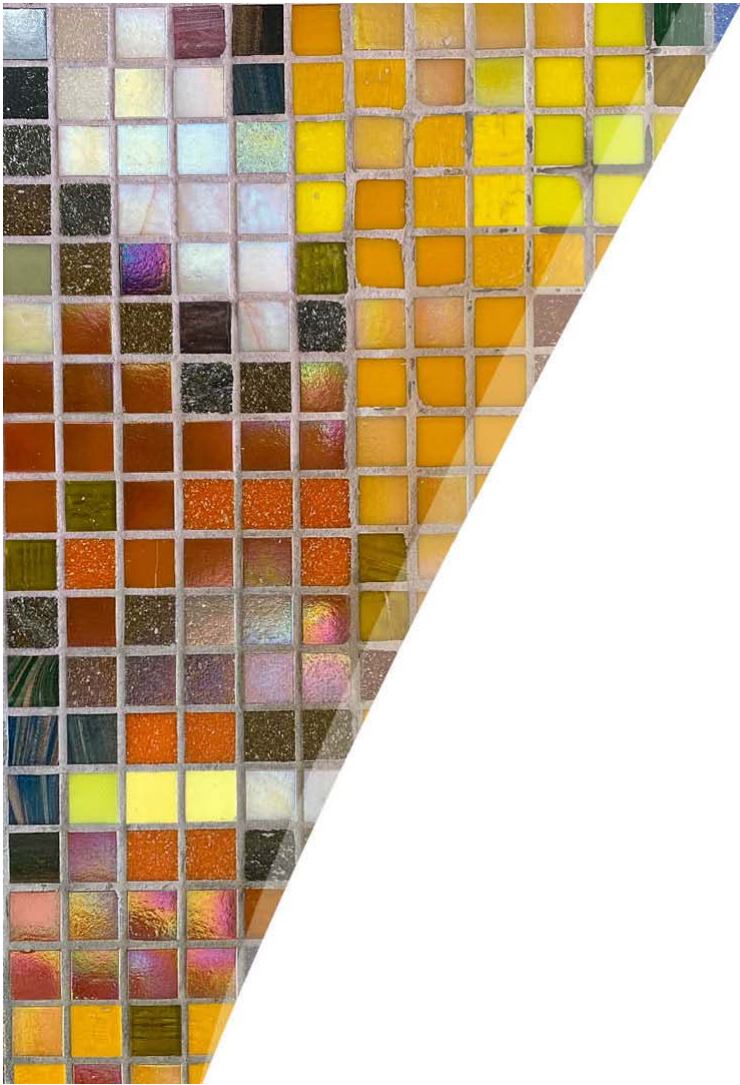
- Report - anonymised? shared?
- Recommendations/remedial action (policy review, training disciplinary action)
- Ongoing monitoring/review/oversight of any identified issues and/or trends (e.g. through trustee sub-committees)



# EDI and governance

- Does the Equality Act apply to governors personally?
- Some helpful statistics
- Why should EDI be a concern at board level?
- The governance code and what governors should do





## Does the Equality Act apply to trustees?

- Probably...
- The Act
- Equality and Human Rights Commission
- Duties in respect of safeguarding



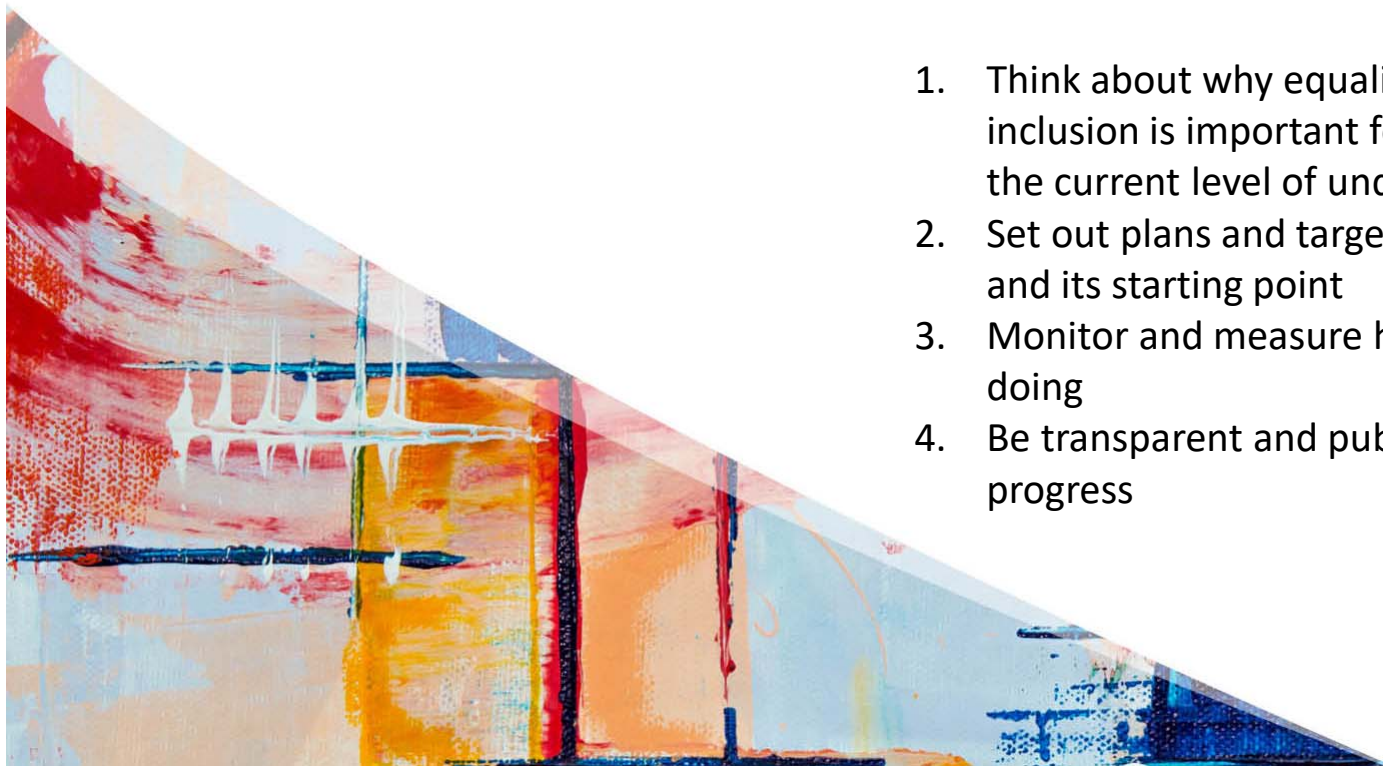
# The Charity Governance Code

- Sets out 7 principles of good governance
- Last update in December 2020
- 2 of the 7 principles refined:
  - **Principle 3** - Integrity
  - **Principle 6** - Equality, inclusivity and diversity
- Integrity: a broader focus, incorporating NCVO ethical principles
- Aim to ensure the board has a clear, agreed and effective approach to supporting EDI
- No specific targets or quotas in code
- EDI helps the board to make better decisions

## EDI - four stages

The code recommends four stages of practice:

1. Think about why equality, diversity and inclusion is important for the charity and assess the current level of understanding
2. Set out plans and targets tailored to the charity and its starting point
3. Monitor and measure how well the charity is doing
4. Be transparent and publish the charity's progress

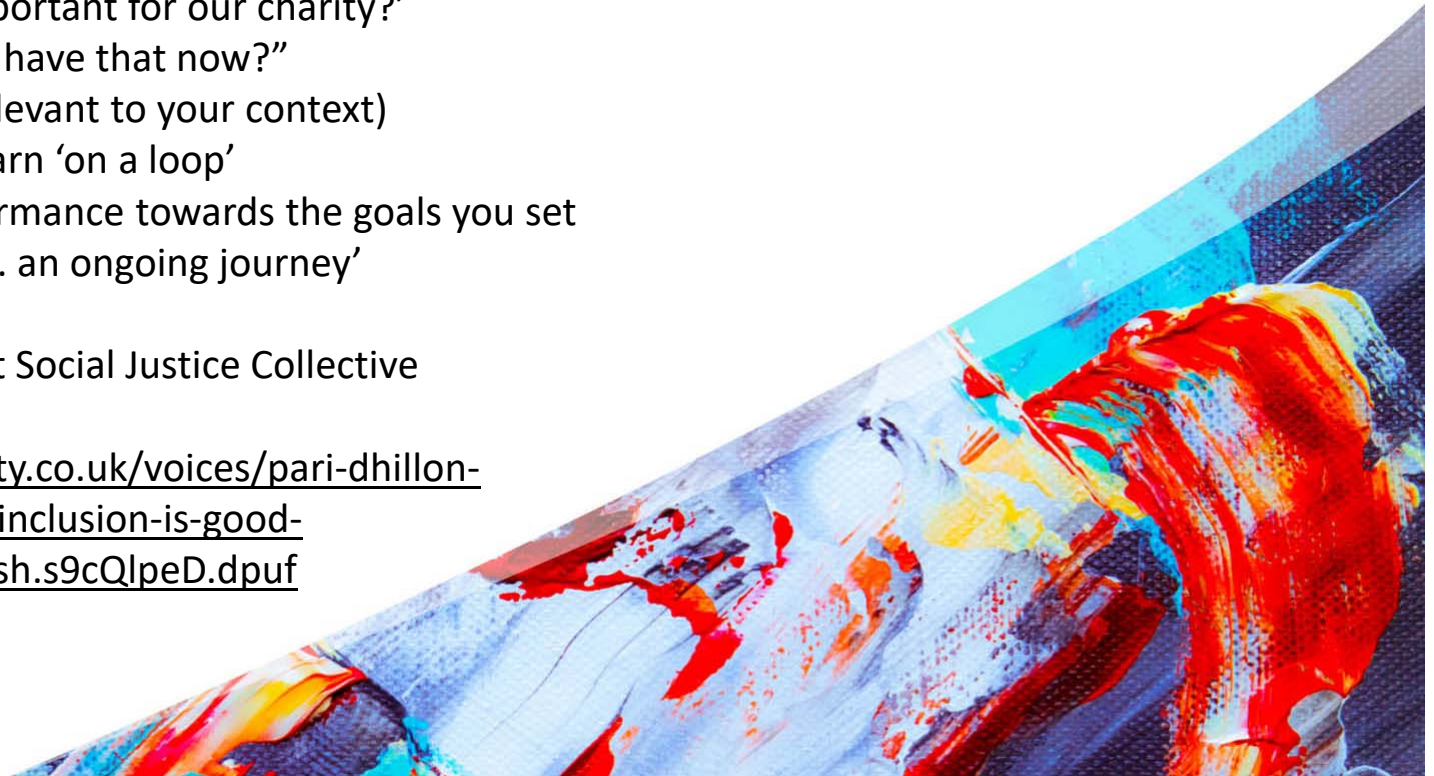


## Pari Dhillon: “It’s a journey”

1. It’s a journey: don’t rush to ‘fix a problem’
2. Ask ‘why is EDI important for our charity?’
3. Ask ‘why don’t we have that now?’
4. Set some goals (relevant to your context)
5. Act, review and learn ‘on a loop’
6. Publish your performance towards the goals you set
7. ‘This is a journey ... an ongoing journey’

Pari Dhillon, director at Social Justice Collective

<https://www.civilsociety.co.uk/voices/pari-dhillon-equality-diversity-and-inclusion-is-good-governance.html#sthash.s9cQlpeD.dpuf>



## Statistics

- 2016 survey - 62% of the top charities by income have an all white board (only 4 charity boards with all members of BAME background)
- 2017 Charity Commission - 92% of trustees are white, older and of above average income and education
- ACEVO - the level of ethnic minority representation on the largest boards is 6.6% (compared with 14% of the population in England and Wales)
- Inclusive Boards (2018) - the level of ethnic minority representation on the largest charity boards (6.6%) is lower than in FTSE 100 companies (8.2%)





## Why is EDI important?

- Moral and ethical
- Better representation equals better awareness and increases legitimacy and impact
- The best leaders come from the biggest pool of candidates
- A representative board makes better decisions and improves the quality of governance



## Why is EDI important? cont.

- Charities are further behind than the private sector
- 2017 McKinsey study
- All kinds of diversity are likely to bring some level of competitive advantage for companies that can attract and retain diverse talent

## What should charities do?

- EDI a priority at board level and throughout the charity
- Review how embedded EDI is at the charity and in its practices (as well as policies and procedures)
- Have effective oversight and hold SMT to account



## What should charities do? cont.

- Review the composition of the board and their understanding of EDI issues
- Prioritise EDI in trustee recruitment - be proactive
- Consider a code of conduct (or update existing code)
- Everyone who comes into contact with the charity should be able to raise concerns and be confident that they will be heard and responded to
- Keep all aspects under review and take action where necessary



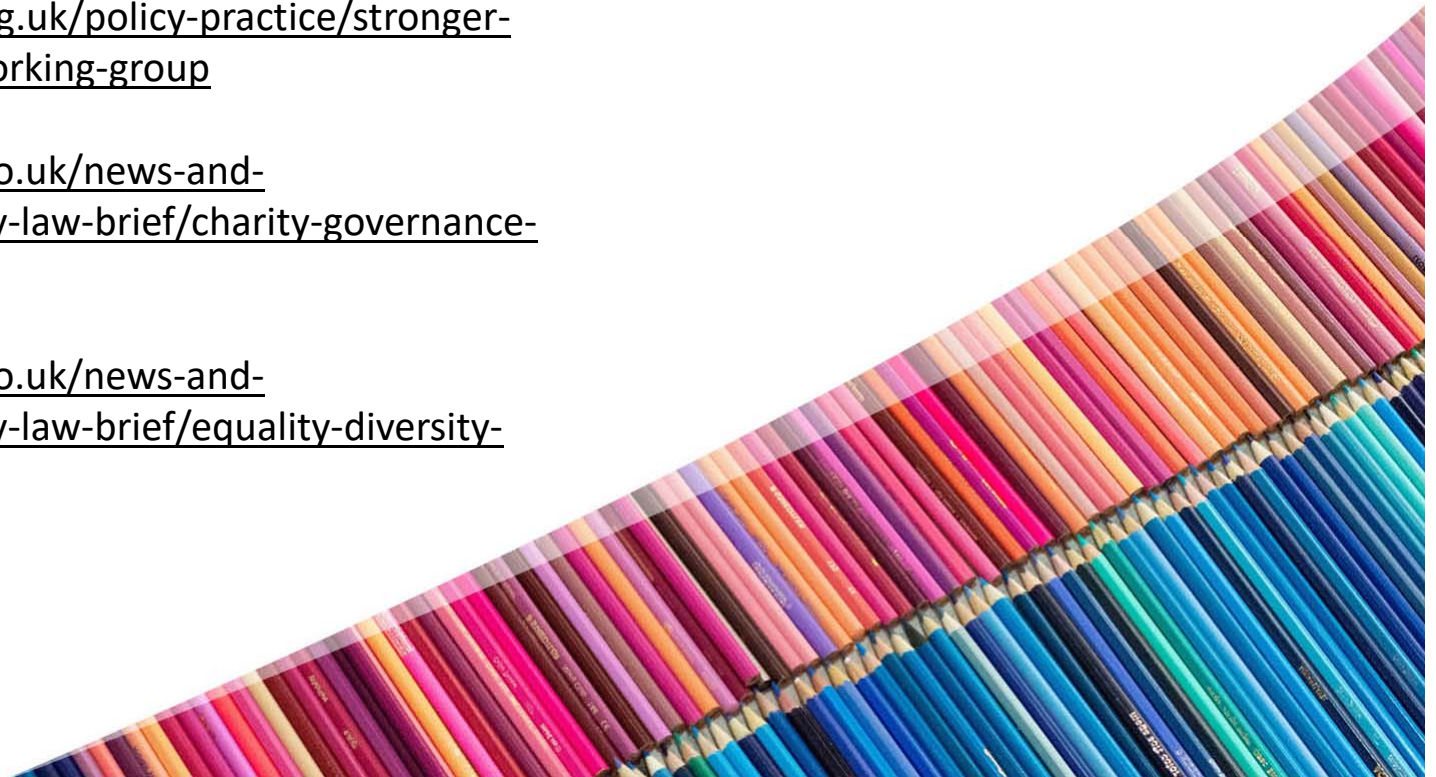


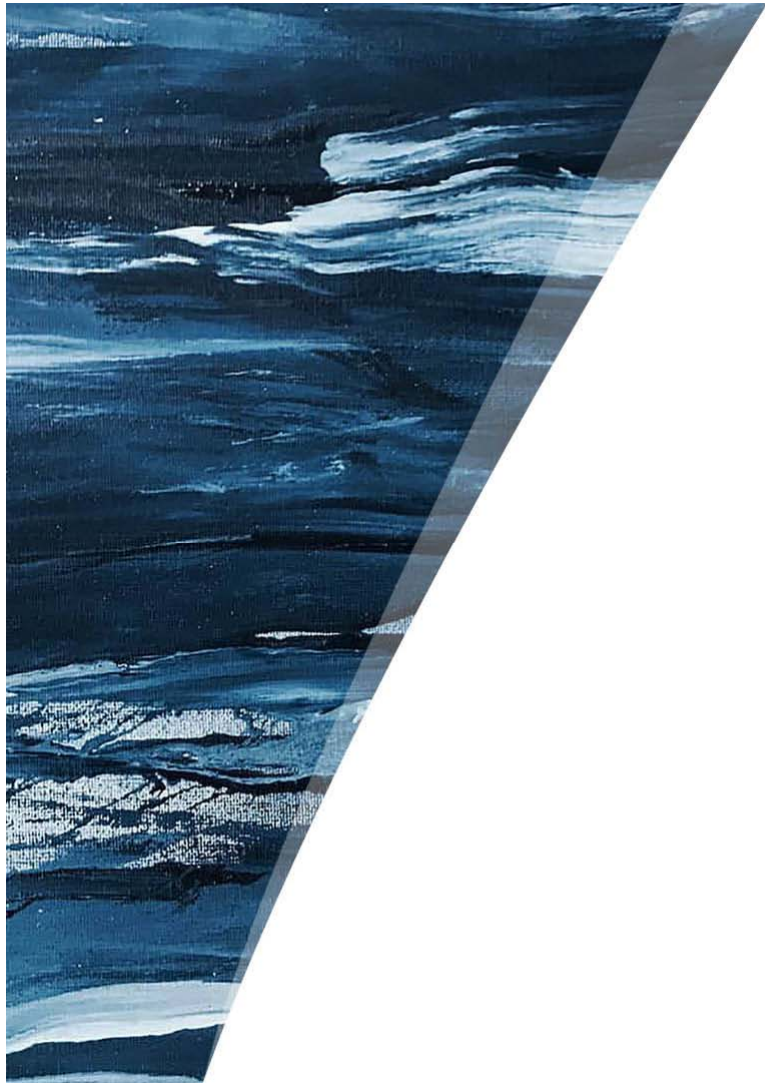
## A route-map - stronger foundations



## Resources

- <https://www.acf.org.uk/policy-practice/stronger-foundations/dei-working-group>
- <https://www.vwv.co.uk/news-and-events/blog/charity-law-brief/charity-governance-code-2020>
- <https://www.vwv.co.uk/news-and-events/blog/charity-law-brief/equality-diversity-inclusion-charities>





Any questions?



# Get in touch

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