

Faith-based Organisations: 2024 and 2025 update



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Welcome



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In this update

Welcome to our annual faith-based update.

In this packed edition, we cover a range of issues that commonly present challenges for faith-based organisations: complying with data privacy law while dealing with pastoral situations, being clear about the status of volunteers under employment law, and changes to the immigration rules that make it more difficult to bring overseas colleagues into the UK. On a more positive note, we also look at how the latest tranche of changes brought in by the Charities Act 2022 may help faith-based charities. With Justin Welby having just resigned as Archbishop of Canterbury, taking personal and institutional responsibility for how the Church of England handled prolific abuser, John Smyth QC, the Church faces immense scrutiny on how it improves its handling of safeguarding matters. We profile Bates Wells' advice supporting Professor Alexis Jay's report on the Future of Church Safeguarding.

At Bates Wells, we seek to build a culture where people of all faiths and none can thrive and feel comfortable sharing and learning from others how faith can affect our daily lives and sense of identity. Over the last year we've been delighted to welcome the Rt Revd Lynne Cullens, Bishop of Barking, and Baroness Sayeeda Warsi to speak at internal diversity and inclusion events. I interviewed Lynne

about her calling to become a bishop, her work championing social inclusion and Christian ministry on estates and with low-income communities, and what keeps her hopeful for the future of the Church of England. It was a fascinating conversation that gave many of us a new awareness of how our view of the world is conditioned by social class. Sayeeda Warsi joined our Iftar event to share insights from her high-profile political career, her work challenging Islamophobia and her experiences hosting the podcast 'A Muslim and a Jew Go There' with David Baddiel. Everyone who attended each event was inspired to hear these ground-breaking women share their experiences with generosity and candour.



Recently colleagues hosted a delicious lunch to mark Diwali, with speakers sharing stories of the origin and significance of Diwali, as well as insights into how it is celebrated by Hindu, Jain and Sikh communities. One of our personal reflections this year focuses on the experiences of two of our Hindu colleagues, while Muslim colleagues have shared their

perspectives on the recent far-right race riots. We conclude with a round up of cases affecting faith-based organisations and the expression of faith in workplace and educational contexts.

We hope you enjoy this update and find it informative.

Get in touch

As ever, we'd love to hear from you if you have topics or issues you would like us to cover in an upcoming seminar or masterclass. Your feedback and suggestions are greatly welcomed and valued. If you have any thoughts or ideas, please feel free to email Stephanie.



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Faith-based team

Our faith-based organisations team draws on expertise from across the firm to advise you on the wide range of legal and regulatory matters you encounter.

We advise charities and places of worship linked to many faiths. They include several different Christian denominations, as well as Hindu, Muslim, Jewish and Buddhist communities, along with interfaith and umbrella organisations.

Many of our team have personal links with the faith communities we advise. We provide sensitive and practical advice that helps you to uphold your faith values while staying compliant with the law.

Find out more about our team and read previous updates on [our website](#).

Church of England safeguarding review



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“The report concluded that safeguarding falls below the standards expected and set in secular organisations”

On 21 February 2024, Professor Alexis Jay CBE published her **report on the Future of Church Safeguarding in the Church of England**. The report made recommendations on how the Church of England’s safeguarding of children and vulnerable adults, and the scrutiny of this activity, could be made fully independent of the Church. It was commissioned by the then Archbishop of Canterbury and the Archbishop of York.

Professor Jay concluded that safeguarding in the Church falls below the standards expected and set in secular organisations, with weaknesses including an inconsistent approach to guidance and supervision, poor data collection, inequity in funding and the lack of a uniform complaints system.

Bates Wells, together with a KC with expertise in ecclesiastical law, provided legal advice to Professor Jay on the changes recommended to make safeguarding independent of the Church and how best to implement them. Bates Wells’ legal advice report was published alongside Professor Jay’s report. The Bates Wells team was led by Philip Kirkpatrick and Jean Tsang, working with colleagues Matthew Smith, Rupert Earle and Lucy McLynn.

Report recommendations

Following an exercise listening to key stakeholders around the country (including clergy, victims and survivors and diocesan safeguarding advisors), Professor Jay recommended that a complete change of safeguarding culture was necessary throughout the Church and that this could only be achieved by the creation of two fully independent bodies for the delivery and oversight of the safeguarding operations of the Church, whose advice and decisions should be final and not merely advisory. Both bodies (Organisation A and Organisation B) would be registered charities and receive funding from the Church to carry out their functions.

To achieve this, Professor Jay's recommendation was for the General Synod to pass a Measure¹, with parliamentary approval and royal assent, to:

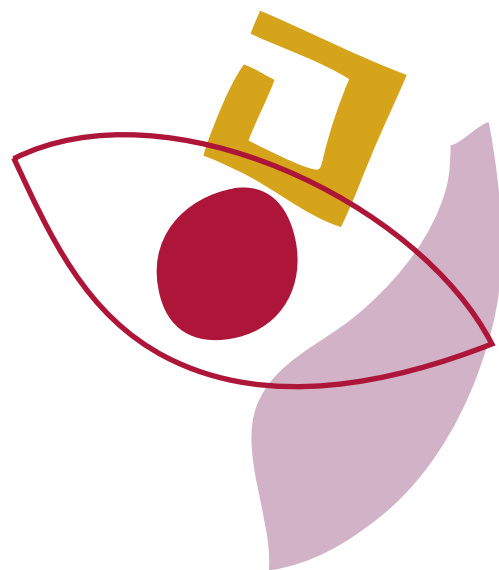
1. Provide for the safeguarding operations of the Church to be conducted by Organisation A under the supervision of Organisation B and that they be carried out entirely independently of the Church; and

1. A Church of England 'measure' is a law with the same force and effect as an Act of Parliament, but which relates to the administration and organisation of the Church.

2. Create two overarching statutory safeguarding duties, which would apply to every emanation of the Church (whether personal or institutional, ordained or lay, remunerated or voluntary).

The statutory duties would, in summary, comprise:

- a. A duty to refer any complaint, concern or enquiry regarding safeguarding to the new independent body at the first available opportunity; and
- b. A duty to implement all directions and recommendations made by either Organisation A or Organisation B (as appropriate) within the timescale specified.



Where are we now?

The Church of England is still considering Professor Jay's recommendations and how best the Church can improve its response to survivors and to people bringing concerns and allegations about safeguarding. As part of this process, the Church is currently gathering insights from people inside and outside the Church who can offer wisdom and advice based on their professional and personal experience.

The Makin Review, the Independent Lessons Learning Review into the Church of England's handling of abuse carried out by John Smyth QC, was published on 7 November 2024 and led to Justin Welby's resignation. *The Makin Review* includes a recommendation that aligns with Professor Jay's recommendations: Keith Makin also suggests safeguarding should be under the oversight of an independent body, free from direct influence from Church leaders, to provide external oversight of safeguarding practice. We can expect safeguarding to be taking a high priority and remain a focus of scrutiny for the Church of England.

**Have a query about safeguarding?
We can help you look after your people,
beneficiaries and local community.**

If your organisation works with children or vulnerable adults, it naturally strives to protect these people. Regulators and the public are rightly paying even more attention to policies, processes and codes of conduct. And they're doing more to make sure those standards never slip.

If you're dealing with a current issue or historic complaints, we'll work quickly, sensitively, practically and, above all, discreetly to deal with the matter. We'll develop policies and processes to help you protect people and enable you to more easily manage these matters should they happen again.

Find out more and get in touch with our team [here](#).

Personal perspective

Muslim reflections on the 2024 far-right riots and their aftermath



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Aisha Choudhry and Augustus Della-Porta reflect on the 2024 summer riots and how they impacted on them, their colleagues and community.

“Charities,
particularly faith-
based charities,
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to play in building
bridges between
communities”

In late July and early August 2024 riots erupted across 27 towns and cities in the UK. Mosques were attacked, accommodation centres for refugees vandalised, a ‘target list’ of immigration firms was drawn up and individuals became targets simply because of their work, faith, or background.

Yet amid the fear and tension, there were also moments of resilience, solidarity, and faith. These reflections explore not only the challenges but also the opportunities to rebuild and heal.

The personal impact

For Aisha, a child of Pakistani migrants, the events were deeply personal, stirring memories of her father’s experiences decades ago. “My father came to the UK in 1967, under the Commonwealth Voucher Scheme. He was 18 years old, and one of his earliest memories is hearing Enoch Powell’s ‘Rivers of Blood’ speech and the anti-migrant sentiment that followed,” she says. “This summer brought back those stories – the sense of being seen as an outsider. That feeling was shared by friends, family and colleagues.”

For Augustus the events were a stark reminder of the privilege he carries and the role it gives him. “I’ve never faced racism myself, but through my wife (who is of Pakistani heritage), I’ve seen how deeply it cuts,” Augustus says. “The micro-aggressions she deals with daily, the assumptions people make – they all compound. The riots made me think more about how I can use my position to challenge those biases and support others. Many members of our firm were affected – not just our Muslim colleagues, but many others who are from a minority ethnic background. Some of our clients too were affected. At Bates Wells, we checked in with colleagues, created a support network and felt huge solidarity from our colleagues.”

“I was deeply affected by the riots, as were fellow immigration lawyers,” says Aisha. “As a trustee of the Immigration Law Practitioners’ Association (ILPA), I felt a duty to take action and, alongside others, provide pastoral and practical care to members targeted by the rioters. I co-chaired an emergency solidarity meeting held online with ILPA members, which was attended by over 100 immigration solicitors around the UK, all in a state of shock.”

The strength of faith

Faith communities were among those hardest hit by the riots, but faith also became a source of resilience.

“Faith provides light in dark times,” Aisha reflects. “When I saw mosques being attacked on the TV, it was heartening to see communities come together in the form of vigils and demonstrations. It also highlighted the importance of dialogue, and that we must all actively engage within our communities – to show that, although we are very different, there is a lot more that unites us.”

Where do we go from here?

For Augustus, the way forward starts with dialogue. “People involved in these riots weren’t born hateful – they’ve been neglected, alienated, and left to feel like they don’t matter. If we don’t address those root causes, this will happen again. The public discourse needs to change, and we need engagement that is honest and meaningful, creating space for people to have open, often difficult conversations

about race, identity and belonging, and to build relationships between different communities.”

Aisha agrees but also emphasises the importance of supporting those who are targeted. “It’s not enough to react after an attack,” she says. “We need systems in place that protect people from harassment and create spaces where everyone feels safe – whether that’s at work, in public, or in their places of worship.”

Augustus believes charities, particularly faith-based charities, have a unique role to play in this process, helping to build bridges between communities, where everyone feels they belong – one conversation, one act of solidarity at a time.

“We see examples of this already – such as the imam who crossed the police line to speak to the people attending the far-right rally in Liverpool, and Muslim charities that regularly swing into action to help local communities at times of crisis. As well as practical support, they can foster interfaith collaboration, challenge harmful narratives, and draw on their values to remind us of what’s possible when communities come together.”

Looking ahead with hope

The riots revealed the cracks in our society, but they also revealed the strength that comes from unity.

“We can’t pretend this didn’t happen,” Aisha says. “But the solidarity we saw – the communities who came together – that’s what gives me hope and shows that change is possible.”

For Augustus, it’s the small acts that matter most. “It’s not about grand gestures,” he says. “It’s about the everyday choices we all make – how we speak to each other, how we challenge injustice, how we show up for those who need us. That’s how we build a society where everyone feels they belong. Faith-based organisations, rooted in compassion and service, have always been at the heart of efforts to heal and rebuild. The question now is how we use that strength to create a future where no one has to live in fear – and where everyone has a place to call home.”

Volunteers – can they acquire worker or employee status and why does it matter?



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“You should avoid volunteers working in the same roles as employees where possible”

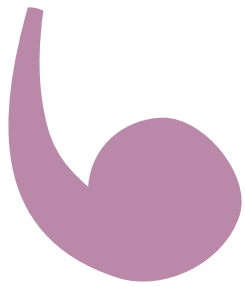
Many faith-based organisations rely heavily on volunteers to deliver their mission. The relationship between an organisation and its volunteers should be one of hopes and expectations only, with minimal legal responsibilities on the former (such as obligations around the health and safety of, and negligence by, its volunteers).

Sometimes, however, the relationship slides into being one of employee or worker status, as in the recent case of *Groom v Maritime and Coastguard Agency* (2024 EAT 71). The payment of a specified sum of ‘expenses’ to compensate for disruption to volunteers’ lives, along with the high level of responsibility placed on these volunteers, led to a conclusion that they were in fact workers. This can have a range of legal implications: around discrimination, obligations to pay National Minimum Wage, and (in the case of employees) protection from unfair dismissal.

We set out below some of the common pitfalls in volunteer arrangements.

1. Placing obligations on volunteers

Whether it is requiring a volunteer to be at a particular place at a specific time or making them solely responsible for children or vulnerable adults, an organisation has no right to impose obligations on volunteers. The greater the implications of a volunteer



not carrying out the task, the more it is likely to appear to be an employment type of duty. Be careful about requiring a volunteer to fundraise to a certain level to join in a volunteering opportunity, unless it is demonstrably only covering the cost of the activity.

2. Putting volunteers under employment policies

Often this is done with good intentions – to treat volunteers fairly and like other staff. There may be policies that are particularly important to faith-based organisations, such as affirmation of a Statement of Faith or following a Code of Conduct. It may be appropriate to include volunteers within these policies, but you need to ensure that, for volunteers, there is no cross-reference to employee policies, such as the disciplinary policy, or to employment concepts such as suspension or dismissal. Volunteers can, of course, be asked to cease volunteering.

3. Volunteers working in the same roles as employees

This is common in faith-based organisations, where there may well be committed volunteers who are prepared to give a lot of time. However, you should avoid this where possible as it often leads to a lack of differentiation in how employees and volunteers are managed in practice, and can provide evidence pointing towards employment status for a volunteer who wishes to assert this. If it is unavoidable for volunteers to have to work alongside employees in equivalent roles, you should make every effort to document and enact the differences between the two (for instance always making it clear that volunteer attendance is optional where it is mandatory for paid staff, and not including volunteers within performance evaluations/appraisals).



4. Paying volunteers stipends, fixed expenses or honoraria

It is understandable to wish to reward volunteers. But legally this is very problematic. For National Minimum Wage purposes, a voluntary worker is only outside the scope of the legislation if they receive no payment whatsoever except expenses. Expenses need to be only a reimbursement of actual expenses, or a reasonable pre-estimate of expenses actually incurred in carrying out the voluntary activity. Paying a fixed amount of travel expenses to a volunteer who walks to their volunteering activity, or paying them whether or not they attend, would be likely to make the volunteer eligible for minimum wage. Making any kind of predictable payment to a volunteer (whatever it is called) risks them being eligible for minimum wage, as well as other employee or worker rights, because a payment in exchange for labour is a fundamental indicator of worker status.

5. Provision of accommodation or other benefits

Providing a volunteer with accommodation is acceptable from a National Minimum Wage perspective, provided that it is actual accommodation and not an allowance. It could, however, be seen as providing something of value in exchange for the volunteer's work, and therefore giving rise to an employee or worker relationship. There could also be tax liabilities on this 'benefit'. You should clearly link the accommodation to enabling the volunteer activity to be carried out better (typically living onsite to carry out voluntary tasks onsite), and it is advisable to take legal advice about this to ensure that this is both proportionately arranged and properly documented. You need to avoid providing volunteers with other benefits entirely, unless it is something intrinsically linked to the volunteering itself (for instance training to facilitate the volunteering, or provision of childcare while a volunteer is volunteering).

In summary, consider all aspects of your volunteer arrangements carefully, document them appropriately and ensure that the treatment of volunteers always recognises their different and separate legal status.

Major changes to the Immigration Rules – how do they impact faith groups?



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“The introduction of higher salary thresholds means that faith-based organisations will find it increasingly difficult to sponsor migrants”

In April 2024, the UK government introduced significant changes to the Immigration Rules, which have reshaped the landscape for employers who sponsor migrants. A key change is that the general salary threshold for sponsoring Skilled Workers has increased from £26,200 per annum to £38,700 per annum, an increase of 47.7 per cent. The ‘going rates’ for each **Standard Occupational Code** have also increased from the 25th to the 50th percentile of average annual earnings. This means that for roles such as a Financial Manager or Director, the salary threshold has increased from £42,800 to an astonishing £70,000 per annum (based on a 37.5-hour week).

Transitional arrangements are in place for migrants who were sponsored before April 2024, and applicants can still rely on limited concessions based on their individual circumstances. However, the introduction of higher salary thresholds means that organisations will find it increasingly difficult to sponsor migrants.

Understanding the points-based immigration system

The UK operates a points-based immigration system designed to assess applicants based on various factors, including qualifications, salary, and skills. To qualify for a Skilled Worker visa, applicants must accumulate 70 points, including both mandatory criteria and tradeable characteristics, distributed as follows:

- **20 points** for having a job offer from an approved sponsor (i.e. an employer that has a licence from the Home Office to sponsor migrants)
- **20 points** for the job being at the appropriate skill level (aligned with the occupational codes set in the Home Office guidance)
- **10 points** for meeting the English language requirements.
- **20 points** for meeting the Home Office's salary thresholds. A sponsored worker must be paid above the general salary threshold **and** at or above the 'going rate' for their role in the Standard Occupational Code. The sponsored worker must be paid the **higher** of the two thresholds.

How will the salary thresholds affect faith-based organisations?

Many international faith-based organisations hold a sponsor licence with the Home Office and sponsor not only under the Minister of Religion category, but also the Skilled Worker category. The Skilled Worker category gives sponsors the flexibility to have a diverse workforce by employing migrants in key roles that aren't solely pastoral. Many also use this category to transfer overseas employees with in depth knowledge of the organisation to the UK. Sometimes these individuals hold senior leadership roles and the Skilled Worker route is the most appropriate.

Positions traditionally filled by overseas workers, particularly in smaller congregations or community-focused organisations, may now fall below the new salary thresholds, which will impact the hiring process.

For individuals who held continuous permission as a Skilled Worker before 4 April 2024, there is some partial protection from the new salary rules. Previous minimum

salary calculations will apply; but an inflation-adjusted threshold of £29,000 (up from £26,200) will come into effect when a new Certificate of Sponsorship is assigned after this date.

Although a few concessions apply, such as for graduates, the significant increase set in specific Standard Occupational Codes will also act as a barrier for employers wishing to sponsor migrants in the following roles:

Role	Salary increase
Youth Work Professionals (Occupation Code 2464)	Minimum salary increased from £30,200 to £36,100.
Youth and Community Worker (Occupation Code 3221)	Minimum salary raised from £24,900 to £30,960
Other Administrative Occupations (Occupation Code 4159)	Minimum salary increased from £23,200 to £30,960
Chief Executive and Senior Officials (Occupation Code 1115)	Minimum salary raised from £59,300 to £84,100

If you are looking to extend the stay of existing sponsored workers, you should consider these adjustments in your financial planning, which may mean renegotiating salaries or reallocating budget resources.

Implications for faith-based organisations

- **Recruitment challenges:** The most immediate consequence of these changes is the potential difficulty in recruiting skilled international workers. You may find that your traditional funding models do not allow for the higher salaries now required. This could lead to staffing shortages, particularly in specialised roles that are vital for community engagement and outreach. You may also struggle to justify paying a higher salary to a migrant than to a settled worker in the same role, triggering potential employment law action.
- **Financial planning and budget constraints:** With increased salary thresholds, it's important to reassess your financial strategy. If your organisation relies on donations and grants, you may struggle to meet the new salary requirements, especially in smaller congregations with limited budgets. This may lead to difficult decisions about which positions to prioritise for sponsorship or whether to scale back the services you offer to the community. Offering a financial manager or director a salary of £70,000 or more may be contentious and difficult to justify.

- **Compliance and risk management:**
It is vital to make sure you comply with the new immigration rules. Failure to comply can have an impact on your sponsor licence. You should establish clear procedures for monitoring compliance, including regular training for staff involved in hiring and sponsorship processes.
- **Long-term strategic planning:**
Looking beyond immediate challenges, organisations may need to develop long-term strategies for workforce development. This could involve investing in training programs for local volunteers or staff to fill roles previously held by international workers. Engaging in community partnerships to foster local talent can also help mitigate the impact of these changes.

Conclusion

Although we now have a new government, the salary thresholds remain. The changes are no doubt a result of government policy to reduce net migration – a high-profile issue in the run up to the election. Therefore, it is essential for faith-based organisations to stay informed, proactive, and prepared to adjust their recruitment strategies and financial plans to ensure they can effectively serve their communities.



Personal perspective

What our Hindu faith means to us



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Stephanie Biden interviews Roshni Pisavadia and Raveena Rao



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Stephanie: Were you brought up in the Hindu faith?

Roshni: Yes. Growing up, my family participated in many Hindu festivals and rituals. We attended the temple regularly and read spiritual books. I loved learning about the different aspects of Hinduism and its teachings became a way of life – something which I carry with me today.

Raveena: My mum came over to the UK in her early 20s: growing up, her rituals became a part of my daily routine. For example, my mum, brother and I would recite a Marathi prayer, Shubham Karoti Kalyanam, after we had washed and brushed our teeth, and we have always avoided eating beef.

Stephanie: If there's one thing you would want people to understand about the Hindu faith, what is it?

Roshni and Raveena: Hinduism is ultimately a way of life as well as a religion. It is unique in that there is no single recognised 'God' or holy scripture.

Underpinning the religion is the practice of caste, or community-driven practices, which can influence how a Hindu practises their religion. This means most Hindus will practise differently.

Despite the variations, there are four aims of life in Hinduism – Dharma (duty), Artha (success), Kama (pleasure), and Moksha (liberation). Hindus also follow the concept of Karma, which says that our actions determine our future life. After attaining enlightenment in our human form, we end the cycle of birth and death (Moksha) and the soul reaches the Supreme Being.

The Hindu faith is inherently spiritual and much more than worshipping incarnations of the Trimurti (three main forms of God: Brahma the creator, Vishnu the preserver, and Shiva the destroyer) or the colour and display associated with Hindu festivals.

Stephanie: Has there been a significant milestone or turning point in making the Hindu faith your own?

Roshni: In Hinduism, there are numerous depictions of the Supreme Being ('God') in different deity forms, each being linked to different attributes. I was brought up following the customs and practices of different deity forms. Over time, I found that I feel most 'at home' with the practices of one particular deity form, Krishna (an incarnation of Vishnu). I am a Hare Krishna devotee, but feel blessed to have experienced so many other teachings growing up.

Raveena: Moving out for university was a turning point for me. It forced me to choose the elements of my faith I wanted to retain as an adult. I only know a few words of my family's main languages (Marathi, Konkani and Hindi): I like to find translations of the prayers we'll be reciting and ask family and friends about why we perform certain rituals, so each aspect feels more intentional.

Stephanie: What difference does your faith make in your day-to-day life?

Roshni: I follow the core religious principles as a way of life. It provides a guiding framework and moral compass when I face an issue or need to make a difficult decision.

Raveena: My faith reminds me that I am one part of a much wider universe and planet. I try to be more conscious of this by, for example, following a largely vegetarian diet and taking small but cumulative steps for the environment.



Stephanie: What are some highlights in the Hindu year and why are these special for you?

Roshni: The festival of Diwali, which signifies the triumph of light over darkness and goodness over evil. I have fond memories of decorating the house with clay lamps (divas) and designing colourful patterns made out of powders (rangoli) to welcome light and prosperity. We visit family and eat a lot of delicious food and Indian sweets during this time!

Raveena: The most important parts of the year for my family are Ganesh Chaturthi and Janmashtami (the birthdays of Lords Ganesh and Krishna respectively). Some of my most treasured memories are of the puja to Parvati, Ganesh's mother. It is a ritual for, and by, women. I was close to my grandmother who passed away in 2022 and I continue to feel her presence when my mum and I perform the puja each year.

Stephanie: How does your faith influence your approach to your work?

Roshni: While I approach work with a good sense of Dharma (duty), my faith guides me towards more purposeful work. I am fortunate at Bates Wells to work with so many purposeful organisations, which helps me to further my Dharma in a way more closely aligned with my faith.

Raveena: I've always wanted a career that would have a positive impact. So many of our clients, faith-based and otherwise, care deeply about their beneficiaries, staff and wider stakeholders, which makes my work feel aligned with my core Hindu values. A work-life balance also allows me to nurture family relationships and friendships and maintain a sense of perspective.



Data protection – handling personal information with care



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Any faith-based organisation will certainly (and necessarily) be processing personal data, and you will need to consider your obligations under UK data protection law (including the UK GDPR and Data Protection Act 2018 (DP Act 2018)). We outline below some of the key principles and practical points that all faith-based organisations should consider in handling personal data.

Special category data

Under the UK GDPR, certain personal data – also known as ‘special category data’ – is afforded greater protection. Special category data includes data relating to (among other things) an individual’s:

- religious or philosophical belief
- health
- race/ethnic origin
- political opinion(s)
- sex life
- sexual orientation

As such, faith-based organisations will almost certainly be collecting and using special category data during the course of their work: firstly in the context of information about an individual’s religious beliefs, but potentially other special category data if the organisation undertakes

a pastoral role, offering counselling or similar services to members or other individuals. In our experience, it can be common for members of a faith community, such as a church, mosque or temple, to entrust personal information to their pastors or other leaders within the organisation. Sometimes this sensitive information is then shared with good intentions, such as to help resolve a pastoral issue. But this sharing is often inappropriate and not permitted by data protection law.

It is important for those in positions of trust within faith-based organisations to understand that certain information is inherently sensitive and seen as particularly private by individuals (who may be more likely to make complaints where this type of data is shared inappropriately or misused). For this reason, the processing of special category data is generally considered to be higher risk from a data protection perspective, and organisations that process this type of data are held to a high standard by the ICO (Information Commissioner’s Office) – the UK regulator for data protection.

Lawfulness and transparency

You should keep two key principles under the UK GDPR in mind – lawfulness and transparency:

Lawfulness

In order to process (including to share) personal data lawfully, organisations must establish a **lawful basis** (under Article 6 UK GDPR). Common lawful bases include legitimate interests (where the processing of personal data is in the organisation's or another third party's interests and those interests are not overridden by the rights of the individual concerned) and – in some cases – consent.

If your organisation wishes to process special category data (including by sharing that data), you must establish a lawful basis and satisfy a further condition (under Article 9 UK GDPR and/or Schedule 1 DPA 2018). Different conditions will be appropriate for different circumstances, but some conditions that may be relevant to faith-based organisations include:

- The processing of personal data relating to the religion of the organisation's members;
- Conditions relating to counselling,

safeguarding or the prevention or detection of crime, each of which may be relevant in the context of using/sharing personal data to provide pastoral care; and

- Consent (note that if an organisation has relied on consent to obtain data, it must also obtain consent to share that data).

Whichever lawful basis and condition an organisation relies on to process special category data, it is important that it documents its approach and reasoning.

Transparency

The UK GDPR requires organisations to make people aware of how their personal data is being processed, including by providing transparency information set out in Article 13 UK GDPR.

This information is typically provided to individuals in the form of a 'Privacy Policy' or 'Privacy Notice'. It is important that faith-based organisations review (or, if needed, prepare) your Privacy Notices to make sure they cover all the ways in which your organisation might process personal data (including how the data might be shared, including in a pastoral context). If you share (or otherwise use) personal data in a way that is not covered by your Privacy Notice,

the starting position is that you must inform individuals beforehand (unless, for example, you are sharing the information to prevent or detect a crime and informing the individual might tip them off).

Data sharing

If sharing personal data with other organisations, you will need to enter into some form of data sharing agreement (or include these provisions in a broader agreement) with the recipient of the data:

- If the recipient of the data is another **controller** (including, for example, an independent investigator), the parties will need to enter into a data sharing agreement, as in the ICO's Data Sharing Code of Practice; and
- If the recipient is a **processor** (i.e. is purely processing personal data on the faith-based organisation's behalf), the parties will need to enter into a data processing agreement (per Article 28 UK GDPR).

Further requirements may apply if the recipient of the data is based outside of the UK.

Data Protection Impact Assessment (DPIA)

Organisations are required to carry out a DPIA where their processing of personal data is likely to result in a high risk to the rights and freedoms of individuals. This threshold is likely to be met when processing special category data about vulnerable individuals (e.g. children, individuals in need of particular support). If your organisation has not already done so, you will want to consider whether you are required to conduct a DPIA: doing so can have the added benefit of allowing your organisation to think through other data protection issues (including the points raised above) and to document your approach to data protection compliance.

The ICO's template DPIA is available [here](#).

Guest feature

Catholic Children's Society



Greg Brister
Chief Executive of CCS

The Catholic Children's Society (CCS) was founded in 1859 and is one of the oldest children's charities in the country. Throughout our long history our aim has been to provide life-changing support for disadvantaged children and families. Today we support over 12,000 individuals each year delivering services across London, Hertfordshire and the Southeast.

Our work is inspired by Catholic social teaching and through all our services we strive to give hope to those who feel marginalised and alone, promote the common good and create a better society for all.

CCS works with people of all faiths and none and our focus is to provide support as early as possible. We aim to help vulnerable children overcome the challenges they face so they can achieve their potential and have hope of a brighter future. To achieve this we deliver a range of services including:

Connect-Ed Mental Health Services

We deliver professional counselling and therapy services in over 70 schools. Each year we support hundreds of children who experience issues such as abuse, neglect, domestic violence and family breakdown. We also train school staff, enhancing their skills to identify and support pupils with mental health needs.

Rainbows Bereavement Support Programme

We provide training for school staff so they can deliver support groups for children who have experienced a significant loss in their lives. This programme helps children develop greater resilience, cope with their grief and feel less alone. It also helps prevent more serious mental health issues from developing.

St Francis Family Centre

We recognise how important children's first few years of life are and provide early years education and family support for children living in Poplar, Tower Hamlets – an area with the highest rate of child poverty in the country.

St Mark's Stay & Play

We support parents and children aged 0-5 in a deprived part of North Kensington. Here levels of inequality are extremely high; many of the families we work with live in areas ranked in the top 10 per cent most deprived nationally. We provide assistance and advice to parents, and educational activities for their children to help them develop the skills they need to thrive at school and beyond.

Crisis Fund

Our Crisis Fund provides immediate financial support for families facing a crisis in their lives. This support makes a huge difference to families in desperate situations when they have nowhere else to turn. The Crisis Fund marked the significant milestone in 2024 of having distributed £1 million in financial support.

Pathways Post Adoption & Aftercare Service

We historically placed over 6,000 children for adoption and continue to work as an Adoption Support Agency, ensuring these individuals, and their families, can receive support in finding out more about their past.

Christmas Gift Appeal

Each year our supporters (individuals, schools and parishes) donate brand new gifts, food and toiletries to support families who would otherwise go without at Christmas. In 2023 we distributed almost £60,000 worth of items to families in over 80 schools, helping 2,829 individuals.

“Life felt hopeless and kept getting worse. But this help has been amazing... it’s brought smiles to my children’s faces.”

(Parent helped through our Crisis Fund)

Bates Wells is delighted to have advised on CCS real estate matters for over 10 years. Alongside other property matters, we’ve advised in relation to tenancies at 73 St Charles Square and in 2024 we have completed new leases for units for office use and a unit to a nursery. The Charles Square premises are now fully let, which ensures a regular income stream for the charity. Lucy McLynn of Bates Wells is Vice Chair of CCS.



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Charities Act update



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In our **2023 update**, we looked at how the second tranche of Charities Act 2022 provisions, which came into force in June 2023, would impact faith-based organisations.

The third (but not final) tranche of changes has now come into force as of 7 March 2024. We highlight below the key changes that are most likely to be relevant for faith-based organisations.

Amending the governing documents of unincorporated charities

A new broad statutory power of amendment, s.280A Charities Act 2022, allows trusts and unincorporated associations to make amendments to their governing documents. The statutory power allows trustees to change any provision within their charity's governing document, but certain types of changes will also need the Charity Commission's prior consent before the changes can take effect. These are known as 'regulated alterations' and include:

- Changes to the charity's purposes;
- Changes that allow trustees, members, and people or organisations connected to them, to benefit from the charity;
- Changes to what happens to the charity's funds if it closes down;
- Changes that affect the rights of third parties (e.g. if the governing document gives a third party the right to appoint trustees).

For a trust, the resolution to exercise the statutory power of amendment must be passed by at least 75 per cent of the trustees.

For an unincorporated association, you will need to pass two resolutions: a members' resolution and a trustees' resolution. The trustees' resolution can be by simple majority, but the members' resolution will need to be passed by either 75 per cent of members attending and voting at a general meeting; or by **all** members if the resolution is passed outside of a meeting.

What does this mean for faith-based organisations?

For faith-based organisations that are structured as unincorporated charities, this should mean that amending your governing document is now quicker and

easier. The new statutory power will help unincorporated charities that, under the old regime, would have needed to go to the time and effort of obtaining a Charity Commission scheme to update your governing documents. For many of the changes, you can now do this without needing to involve the Charity Commission.

Charity mergers

Merging charities together can sometimes create a headache for legacy management. Legacies left to a charity that has ceased to exist following a merger can be lost, unless the merger is listed on the Charity Commission's Register of Mergers.

However, the way the old rules were drafted meant that not all legacies were protected, and there was a particular risk where the testator had specified what should happen to the legacy if the named charity no longer existed. This meant that many organisations ended up keeping the old charities in existence as 'shells' to capture these legacies.

The new Charities Act 2022 rules mean that if the merger is registered on the Register of Mergers, the merged charity is treated as continuing to exist despite the merger. This is intended to resolve the issues with the previous Register of Mergers provisions, with a view to 'saving' legacies that might otherwise be lost and reduce the need for charities to retain 'shell' charities.

What does this mean for faith-based organisations?

Legacies are an important source of income for faith-based organisations, with many people leaving generous gifts as an expression of the faith priorities that have guided their lives. The new provisions are helpful in protecting these legacies. However, we should highlight that they are not foolproof. Our view is that charities will still need to consider on a case-by-case basis whether the Register of Mergers provides adequate protection or if they should retain a shell charity to avoid potential legacies being lost.

Powers relating to appointments of trustees

The Charity Commission now has a very helpful new power to fix defective (or potentially defective) trustee appointments. This could help a charity that has discovered that its board of trustees is not properly constituted – for example, if it turned out various rules hadn't been fully followed for historic changes of trustees.

What does this mean for faith-based organisations?

While we don't yet know how amenable the Charity Commission will be to exercising its new power in practice, it is a welcome addition to its suite of tools. Faith-based organisations can often have a long and complex history and we sometimes find that there have been some technical oversights in the validity of trustee appointments.



Round-up of cases



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Commission inquiries into misconduct and mismanagement of faith-based charities

As in previous years, 2023 and 2024 saw numerous statutory inquiries into the activities of various faith-based charities. These cases highlight recurring governance failures that charity trustees all too often commit. In two of the cases we look at, the misconduct was so serious that the Charity Commission disqualified the trustees concerned and the charity was ultimately wound up.

Salvation Proclaimers Ministries Limited (also known as SPAC Nation)

SPAC Nation was a Christian charity that held religious services at venues in London and organised community and outreach events. In August 2024, the commission published its inquiry report, which revealed a particularly serious case of mismanagement over a sustained period. The misconduct included inadequate safeguarding practices, poor governance, and significant financial concerns.

The charity had houses associated with it where some charity members lived. The houses were not owned or rented by the charity but were the homes of church leaders, made available by them as a way of providing housing support for the local community. There had been safeguarding allegations made against the charity in relation to these houses. The commission found the nature of the relationship between the charity and the houses was unclear. The regulator's view was that safeguarding should be a priority for all

charities and that the trustees in this case should have considered doing more to strengthen their safeguarding practices.

The commission was also highly critical of the charity's use of cash – it appeared that most of its income and spending was not run through a bank account. Donations and expenditure were not properly recorded and there was a lack of segregation of duties between the pastors and the trustees. As the assets of the charity were not held centrally, the trustees did not have oversight and control of the charity's assets, and these were exposed to the risk of misapplication.

The commission issued an Order directing the charity to bank all its cash and operate its finances through a bank account. However, the trustees informed the regulator that they had decided to stop collecting donations. The trustees never reversed this decision. The inquiry's view was that the trustees failed to provide convincing reasons as to why this was in the best interests of the charity. As trustees are responsible for their charity's financial security, they should have plans for generating and spending income.

The trustees failed to act with reasonable care and skill, including while the inquiry was ongoing. They repeatedly failed to address the commission's regulatory concerns or to work with the commission to get the charity back on a good footing. In the end, the commission disqualified three trustees for 12 years each, and a former trustee for 10 years.

The Insolvency Service applied for a petition for a public interest winding up order, which was granted. An Official Receiver was appointed and the winding up is ongoing. The charity was removed from the register of charities in June 2022 as it had ceased to operate. As the commission noted: "The charity had been mismanaged to such an extent that another regulator had to take steps to wind it up."

[Click here for full decision.](#)



The Kingdom Church GB

The commission opened a statutory inquiry into the Christian charity, The Kingdom Church GB, following allegations that the church's pastor and trustee, Bishop Climate Wiseman, was using a website linked to the charity to sell an oil product as a fake Covid-19 'cure'.

The commission appointed an interim manager to conduct a review of the charity's governance. The inquiry revealed multiple, serious governance failings:

- The trustees were unable to provide minutes or records of decision-making. It was established that the trustees never held trustee meetings and Wiseman had been allowed to unilaterally make decisions about the charity.
- The trustees failed to keep accurate charity records or management accounts – there were poor financial controls and management.
- Conflicts of interest were not properly managed – two out of the three trustees were married (Wiseman and his wife), and the trustees failed to manage the conflicts between Wiseman's business interests and the charity.

- The charity's reputation had been exposed to undue risk by allowing the charity to be linked to Wiseman's private business interests, including the Covid-19 cure scam.

The commission directed the interim manager to close the charity and have it removed from the charities register. It also disqualified Wiseman from being a charity trustee or holding a senior position in a charity for 15 years. Wiseman had sought to take advantage of vulnerable people at the height of the Covid-19 pandemic and the commission's view was that he fell woefully short of the standards expected of charity trustees. His disqualification was intended to protect other charities. Wiseman was subsequently found guilty of fraud for his Covid-19 scam.

This case shows the robust action the commission is willing to take when it discovers serious shortcomings in the governance and management of a charity. In terms of learnings for the wider sector, the commission emphasised the need for trustees to ensure that their charity has an effective trustee body that takes joint and equal responsibility for the management of the charity and controls it in accordance with the charity's governing document, charity law and commission guidance.

[Click here for the full decision.](#)

Birmingham Education Trust

As with the above cases, the commission's statutory inquiry into the Birmingham Education Trust and its governance of a Muslim school revealed numerous failures by the two original trustees. The trustees were a husband and wife who had neglected the most basic duties expected of all charity trustees.

The trustees repeatedly failed to comply with their legal duty to file the Trust's accounts and annual returns, despite comprehensive advice and guidance from the commission. From the charity's registration in 1997 until the opening of the inquiry in 2020, it had only submitted an annual return once.

The commission identified wider governance concerns during its inquiry. The trustees did not maintain sufficient financial records, which the commission viewed as a serious failing in the management of the Trust. It meant the trustees could not fully account for all of the charity's expenditure, making it impossible to determine if funds had been misapplied. In addition, only one of the trustees acted as a signatory to the charity's bank account, which not only put charitable funds at risk but was also a breach of the Trust's governing document.

Due to the trustees being married, it was not surprising that they were unable to manage potential conflicts. This issue was further complicated by the fact that one of the trustees was employed as head teacher at the school, despite the Trust's governing document prohibiting the employment of trustees. Their two daughters were also employed as teachers at the school. The trustees were unable to manage the conflicts arising from these appointments due to the lack of independent trustees. There was no evidence that these appointments were in the best interests of the Trust.

In the end, the commission removed the two original trustees, and they are now disqualified from acting as a trustee of any charity.

The commission did not order the winding up of the charity in this case. Instead, new independent trustees were appointed and directed to review the skill set of the board and appoint additional trustees. An effective conflicts of interest policy was put in place, and the Trust's outstanding accounts were eventually submitted. The commission's hope is that the Trust is now back on track and will deliver in the future for its beneficiaries.

[Click here for the full decision](#)

Recent court decisions about freedom of religious expression

In 2024, several cases focused on how individuals express their religious faith in employment and educational settings.

Michaela Community Schools Trust

The High Court addressed a claim brought by a pupil against the Michaela Community Schools Trust, which had implemented a prayer ritual policy that prohibited students from performing any prayer rituals on school grounds.

The pupil, a Muslim student, argued that this policy violated her right to practise her religion, particularly her ability to perform the Duhr prayer, which falls within the school lunch break during autumn and winter.

The court ruled in favour of the school, finding that the policy did not interfere with the pupil's rights under Article 9 of the European Convention on Human Rights. The High Court emphasised that the pupil had voluntarily accepted the school's secular environment when she enrolled and could have transferred to another school that would allow her to pray. They noted that she did not demonstrate any significant hardship or inconvenience that would arise from moving schools, which is an important consideration in determining whether her rights were violated.

The High Court also considered the school's reasons for implementing the prayer policy, including the need to maintain its unique ethos and foster social cohesion among students of diverse backgrounds. The headteacher expressed concerns that allowing prayer rituals could create divisions among students and lead to practical difficulties, such as inadequate space and supervision. The court found that the advantages of the policy, such as protecting the school's educational environment and preventing disruptions, outweighed the impact on the pupil's religious expression.

[Click here for the full decision](#)

Omooba v Michael Garrett Associates and others

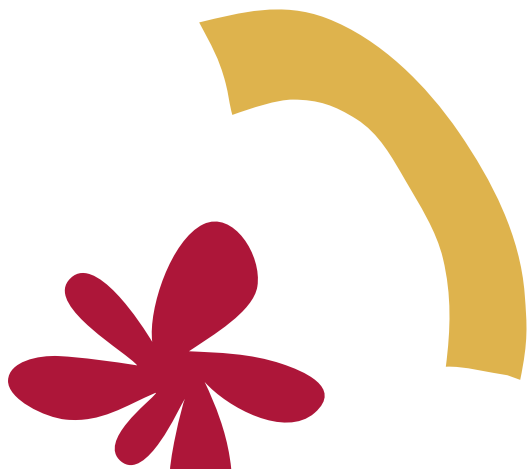
Ms Omooba was dismissed from a leading role in a play after her social media comments regarding her religious beliefs – specifically, her views on same-sex relationships – surfaced.

Ms Omooba had been cast to play a lesbian character in the stage production of *The Color Purple*. She later faced backlash on social media after her past Facebook post expressing the belief that homosexuality is a sin was brought to light. This controversy resulted in the termination of her contracts with both the theatre and her agency. Following these events, she filed claims with the Employment Tribunal for religion and belief discrimination, harassment, and breach of contract.

The tribunal found no direct discrimination or harassment against Ms Omooba. They determined that the theatre and her agency terminated her contracts for separable commercial reasons, primarily concerns over potential adverse publicity and audience reaction that could jeopardise the production's success. The agency was also worried about the negative impact on its business and its other clients. Ms Omooba appealed to the Employment Appeal Tribunal (EAT).

In rejecting Ms Omooba's harassment claim, the EAT confirmed that the tribunal had properly considered the broader context, including the social media campaign against her. It found that the theatre had not created a hostile environment and that it was unreasonable for Ms Omooba to believe it had contributed to it. The EAT also dismissed her argument that any unjustified interference with her rights under the European Convention on Human Rights (ECHR) equated to a violation of dignity for harassment purposes, asserting that the statutory language of the Equality Act 2010 was not intended to enforce ECHR rights.

[Click here for the full decision](#)



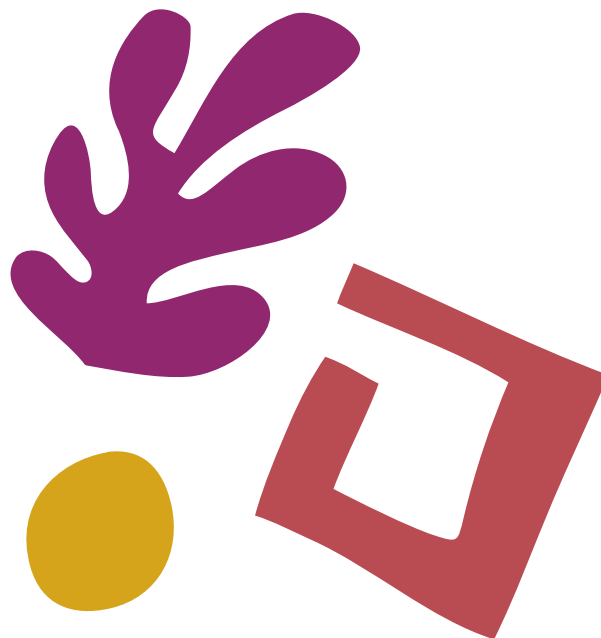
Sutcliffe v Secretary of State for Education

A teacher (S) faced disciplinary action for his conduct regarding a transgender male pupil and his views on homosexuality. S used female pronouns for the pupil and publicly stated that homosexuality was a sin, causing significant distress to the pupil and disregarding the feelings of LGBTQI+ students in his class.

A professional conduct panel of the Teaching Regulation Agency found S guilty of unacceptable professional conduct, concluding that his actions brought the teaching profession into disrepute. The Secretary of State supported the panel's recommendation to impose a prohibition order against S, barring him from teaching. S appealed against the making of the prohibition order and sought an extension of time to bring his appeal.

The High Court rejected S's appeal and upheld the panel's findings, noting that the panel properly evaluated S's failure to treat the pupil with dignity and respect, essential under the Teachers' Standards. The court recognised S's rights to freedom of thought and expression under the ECHR (Articles 9 and 10) but highlighted that these rights were qualified. It emphasised that teachers must prioritise the well-being and respect of their students, which can limit the manifestation of personal beliefs.

[Click here for the full decision](#)



Ngole v Touchstone Leeds

The Employment Tribunal examined whether Touchstone, a charity providing mental health services, discriminated against Mr Ngole based on his Christian beliefs.

Touchstone, which serves the LGBTQI+ community, initially offered Mr Ngole a position but retracted it after discovering negative Facebook posts he made about homosexuality and same-sex marriage. Although they later invited him for a second interview, they did not reinstate the job offer. Mr Ngole claimed discrimination and harassment, arguing that his right to express his beliefs was violated. The tribunal considered his rights under Articles 9 and 10 of the ECHR, alongside the Equality Act 2010.

While it recognised Touchstone's objective of protecting its staff and vulnerable service users as legitimate, the Tribunal ruled that withdrawing the job offer before conducting a follow-up interview was excessive and amounted to direct discrimination. The tribunal noted that Touchstone could have addressed its concerns by first seeking assurances from Mr Ngole regarding his suitability for the role.

The tribunal dismissed all his other claims. Touchstone's final decision not to reinstate the offer was deemed non-discriminatory, as they had not received assurance that Mr Ngole would align with their values. The tribunal's decision, while not legally binding, offers guidance for organisations balancing the rights of applicants and the protection of service users, emphasising the importance of proportionality in decision-making.

[Click here for the full decision](#)

Update on new anti-terrorism law

The Terrorism (Protection of Premises) Bill, also known as 'Martyn's Law', was introduced to Parliament in September 2024. The Bill aims to keep people safe and reduce the risk to the public from terrorist attacks at public venues. The Bill introduces a new duty on those responsible for certain premises and public events to consider the threat of terrorism and implement appropriate mitigation measures.

As with the first version of the Bill published in May 2023, the Bill proposes a two-tiered approach where the necessary steps that those responsible will need to take depends on the size of the venue, how many people will be there and the activity taking place. The standard duty premises (those with a capacity of 100-799 individuals) will have less onerous requirements than the enhanced duty premises (those with a capacity of 800 or over). Most church buildings will fall within the standard tier, and it is expected that larger church buildings will be able to benefit from an important exception in the Bill that treats all places of worship as standard duty premises.

See our [2023 Faith Update](#) for more detail on this.



Making a profit is core to all businesses but our goal is to combine this with a real social purpose. Our values are pivotal to us, they shape our decisions and the way we live and work.

We focus on positive social impact as much as we focus on being a successful law firm. Our top tier legal advice is coupled with a real desire to drive change and we were the first UK law firm to achieve B Corp certification, awarded to businesses that balance purpose and profit.

Today, our clients are diverse – from corporate household names, to public bodies, to start-ups. We're also the firm of choice for thousands of charities and social enterprises. We continue to lead the market we helped to shape.

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