

A sector in waiting

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In a sector facing coordinated pressure and contested interpretations, trustees are being urged to document decisions, protect staff and stay true to charitable purpose

When the UK Supreme Court handed down its judgment in April 2025, ruling that for the purposes of the Equality Act 2010 the terms “sex”, “man” and “woman” refer to biological sex, few anticipated how swiftly the implications would land on charity boards’ desks.

Nearly a year on, the sector is still operating in a state of managed uncertainty. The statutory Code of Practice from the Equality and Human Rights Commission (EHRC) has yet to be finalised and the Charity Commission has written to ministers urging clarity. Meanwhile, membership organisations including Girlguiding and the Women’s Institute have altered

policies under threat of legal action.

For charity leaders, the question is no longer what the judgment says, it is how to govern responsibly while the guidance catches up.

Regulatory reality

While the Court stressed that the ruling “must not be seen as a triumph of one group at the expense of another” and that protections for trans people against discrimination remain intact, sector leaders report widespread confusion, heightened organisational risk, and intensified external pressure.

The clearest formal steer to organisations has come from the Charity Commission in January 2026. In response to governance consultant Penny Wilson, chief executive David Holdsworth confirmed in an open letter: “It can be a reasonable decision for trustees to await the final statutory guidance, or alternatively to seek legal advice relevant to their charity’s position and make changes as they consider necessary.” In other words, boards, and therefore charities, are not required to rush into decisions.

When talking about what steps charities should take, Wilson tells charities to “sit tight”. “The Charity Commission has said that you don’t need to make any changes until the EHRC final guidance has been issued,” she explains.

What it really means is that trustees’ duties remain unchanged. They must act in good faith, pursue their charitable purposes, and make decisions in the charity’s best interests. Acting precipitously, whether to exclude trans beneficiaries or to double down on inclusion without assessing legal risk, could expose charities to challenge on governance grounds.

Kevin Taylor-McKnight, founder of Third Sector Against Transphobia (TSAT), also warns organisations against reactive decision-making. “Good governance is not about reacting to external noise, it’s about acting in the best interests of your stakeholders based on firm evidence,” Taylor-McKnight says. “Good governance requires a steady approach, not a speedy one, and an approach that is informed by expert and balanced legal advice.”

Operational impact

While the judgment addressed statutory interpretation, its practical effects are being felt most acutely in service delivery and workplace management.

Alex Matheson, director of inclusion at the LGBT Foundation, describes the aftermath as “a difficult and unexpected blow”. The subsequent lack of clear guidance, she says, has left organisations “wondering what this means for their services (particularly if gender based), bathrooms and changing facilities.”

The complexity also differs depending on context. For service providers, current case law affirms that charities are not required to provide single-sex services, though they may choose to where objectively justified. Any exclusion of trans people must meet a proportionality test and be necessary and evidence-based.

For workplaces, employers must provide single-sex toilet and washing facilities for staff. However, the ruling does not require all facilities to be exclusionary; mixed or gender-neutral options may sit alongside single-sex provision.

Matheson stresses that any exclusion must be documented and justified. “Any decision a charity makes will need to be able to show ‘proportionate’ decision making, ensuring dignity, and inclusion-based practices which respect and uphold the rights of all.”

Even more so, one of the most complex governance questions organisations are facing concerns charitable objects.

Some charities with single-sex objects are awaiting EHRC guidance to determine whether they can continue serving trans beneficiaries without amending their governing documents. Under the Charities Act 2022, any change must pass the “similarity test”, requiring new purposes to be similar to the original.

Wilson anticipates that, depending on final guidance, “many boards will wish to explore amending their objects to ensure inclusion.” But this requires

Commission approval and careful navigation of CC36 guidance on governing document changes.

The decision to amend objects is strategic, not merely operational. It signals long-term positioning on inclusion, beneficiary scope and risk appetite.

Dealing with external pressures

Beyond legal complexity, many leaders report coordinated external campaigns.

Taylor-McKnight says he is seeing “coordinated external pressure from trans-hostile organisations and their followers.” TSAT, founded in December 2025, has grown to more than 400 sector professionals and senior leaders. Its purpose, he says, is to ensure charities are not “totally blindsided by vexatious attacks” and can make “calm, lawful, evidence-based decisions rooted in their charitable purpose.”

An anonymous trans charity CEO describes the impact more starkly: “It took the increasing lawfare threat to force changes from a couple of high-profile charities before the dynamic started to change [...] This growing group is hearing some tragic tales of external actors, even including

charities, trying to force charities to make changes they don’t want to make, and that are contrary to their charitable purpose and mission.”

With these threats, boards are not having to just interpret a judgment, they are also assessing legal risks of discrimination claims, financial risk from threatened litigation, reputational risk from either





perceived exclusion or inclusion and mission drift if policy changes are driven by external pressure rather than charitable purpose.

As Taylor-McKnight notes: “The loudest voice in the room is not necessarily the one you are legally

obliged to serve [...] The anchor here is ‘what best advances our charitable purpose and protects our beneficiaries?’”

Internal impact

For many charities, the most immediate impact is internal. Matheson explains that “poorly communicated or overly rigid interpretations can have a ‘devastating impact’ on trans and intersex people’s lives.” Matheson advises leaders to hold spaces for discussion, survey colleagues, and reassure staff that decisions will align with values and legal compliance.

The anonymous CEO articulates the human toll: “Can you imagine what

it feels like to have the government, judiciary and media celebrating the removal of your rights [...] I am just trying to get on and deliver our charitable purpose and deliver social good.”

Maintaining psychological safety, leaders argue, is not about validating all views equally but about upholding behavioural standards and legal duties.

Taylor-McKnight explains: “The goal isn’t to create a space where all views are equally validated; it’s to create a space where everyone is safe, respected, and able to work without fear, while the organisation still upholds its values, and its legal duties.”

Leaders are being urged to reaffirm organisational values, set clear behavioural expectations, address harassment consistently and avoid breaches of confidentiality, particularly the risk of outing trans staff.

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Ultimately, until the EHRC publishes its final Code of Practice, uncertainty will persist. The Charity Commission has signalled that awaiting guidance is reasonable but legal challenges continue and external pressure has not abated. For now, charity leadership in this space is defined less by definitive answers and more by disciplined governance.

While waiting for guidance, charities should clarify charitable purpose, assess proportionality and risk, document decisions, communicate transparently, protect staff and beneficiaries and seek expert advice where needed.

In the meantime, charity leaders must do what they have always done in contested terrain: hold the line on purpose, protect those they serve, and govern with steadiness in the face of noise.