



WRIGLEYS
— SOLICITORS —

A guide to decision-making by members and boards of
academy trusts

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Overview

- Why is good decision-making important?
- The legal and regulatory framework
- The roles of members and trustees
- The legal requirements of decision-making
- Good practice in decision-making

Why is good decision-making important?

Legal
requirement

Covid-19

Supports
good
governance

Benefits
your
students

Regulatory
compliance

Avoids
scrutiny and
intervention

Underpins
your future
success

The legal and regulatory framework

Academies Financial Handbook

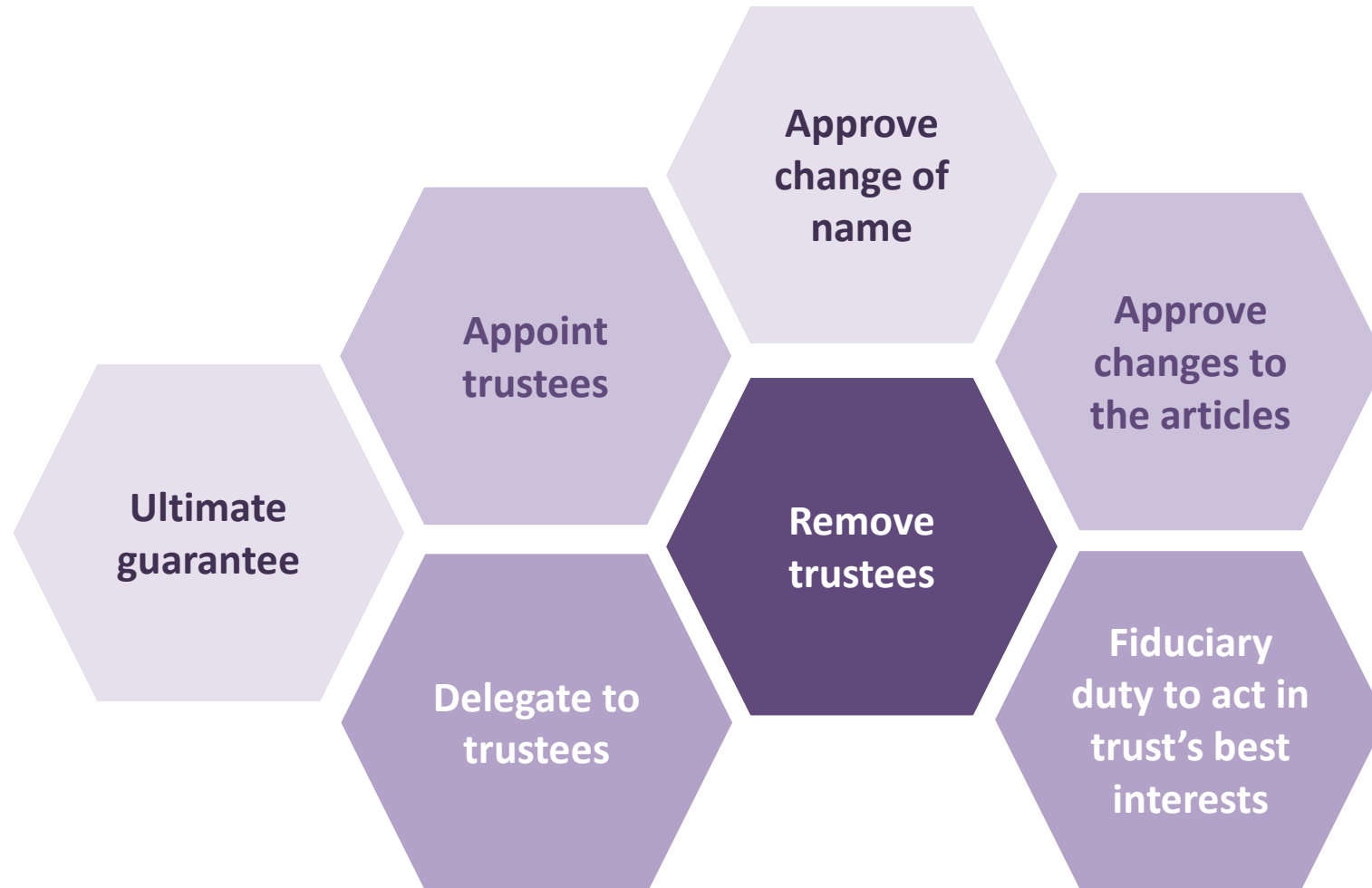
Funding Agreement

Articles of Association

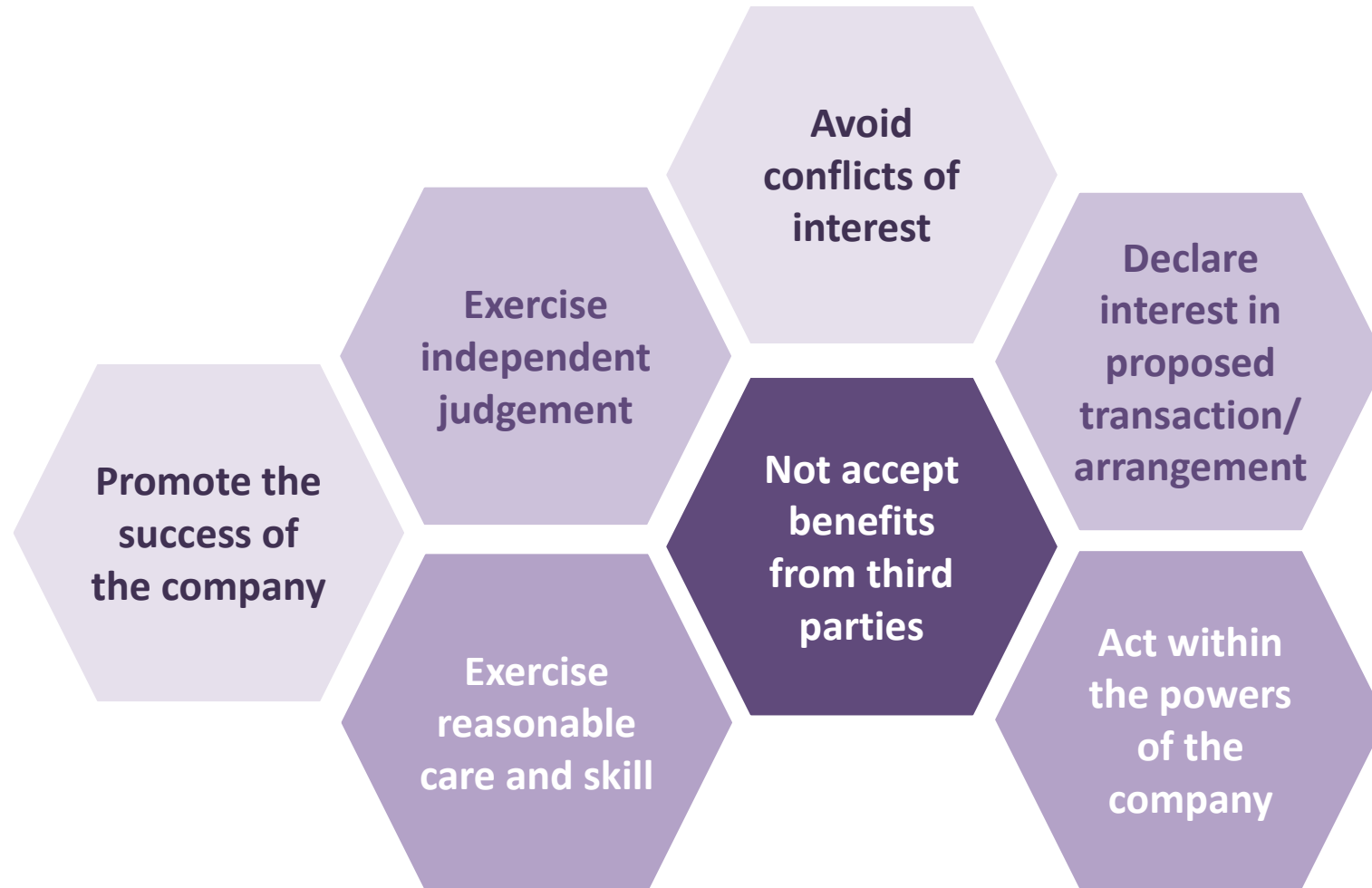
Charity Law

Company Law

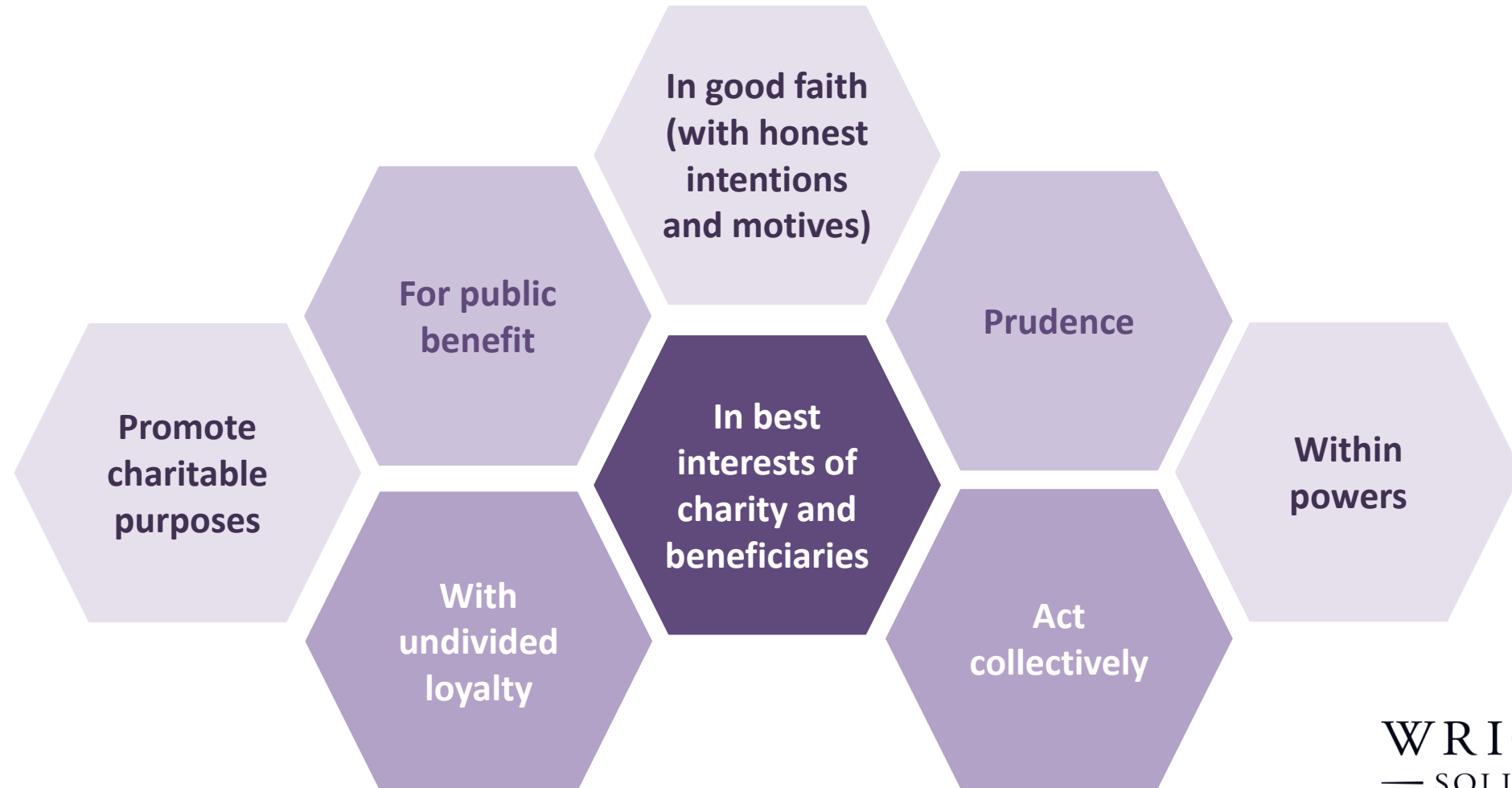
The role of the members



The role of the trustees - company law duties



The role of the trustees – charity law duties



Legal requirements - decisions by the members (1)

- Where are resolutions passed?
 - Annual General Meeting (AGM), if in articles
 - other general meetings
- Can resolutions be passed without a meeting?
 - yes, by written resolution sent to every member
 - can be circulated in hard copy or by email
 - signed, dated and returned (same or separate copies)



Legal requirements - decisions by the members (2)

- Can the members meet by phone or video?
 - not under the DfE model articles but
 - the articles can be updated (DfE consent?) and
 - members can agree to meet remotely (trumps articles)
- What is the procedure for calling a meeting?
 - not less than 14 days' notice unless 90% agree
 - notice sent to members, trustees and auditors
 - notice must specify meeting type, nature of business and any special resolution



Legal requirements - decisions by the members (4)

- How are resolutions passed?
 - one vote each
 - show of hands
 - secret ballot, if chair or 2 or 10% of trustees demand
 - ordinary resolution – majority decision
 - special resolution – 75% decision (e.g. change articles)
 - meeting must be quorate
 - conclusive evidence – chair's declaration and entry in minutes



Legal requirements - decisions by the members (5)

- What is the procedure once a resolution is passed?
 - minutes signed by the chair of the meeting
 - minutes kept at RO (or address notified to CH) for 10 yrs
 - special resolution filed with CH within 15 days
 - new director registered with CH within 14 days



Legal requirements - decisions by the trustees (1)

- Where are resolutions passed?
 - normally at a meeting of the trustees
- Can the trustees pass resolutions without meeting?
 - yes, by written resolution circulated to trustees
 - signed, dated and returned (hard copy or email)
- Can the trustees pass resolutions by email?
 - technically yes, but care needed to evidence a clear decision



Legal requirements - decisions by the trustees (2)

- What is the procedure for calling a meeting?
 - convened by clerk or company secretary who ...
 - must comply with trustees, 3 trustees, chair (or v/chair)
 - not less than 7 days' notice or less if chair decides urgent
 - agenda must accompany the notice
- Can the trustees meet by phone or video?
 - yes, if details circulated at least 48 hours in advance and ...
 - trustees have access to the appropriate equipment



Legal requirements - decisions by the trustees (3)

- How are resolutions passed?
 - one vote each
 - casting vote for chair
 - majority decisions
- What is the procedure for resolutions at meetings?
 - meeting must be quorate
 - three or one third but ...
 - two thirds if decision to remove chair or v/chair (confirmed within 14 days)
 - conflicts of interest – declare, be absent (still quorate?) and don't vote

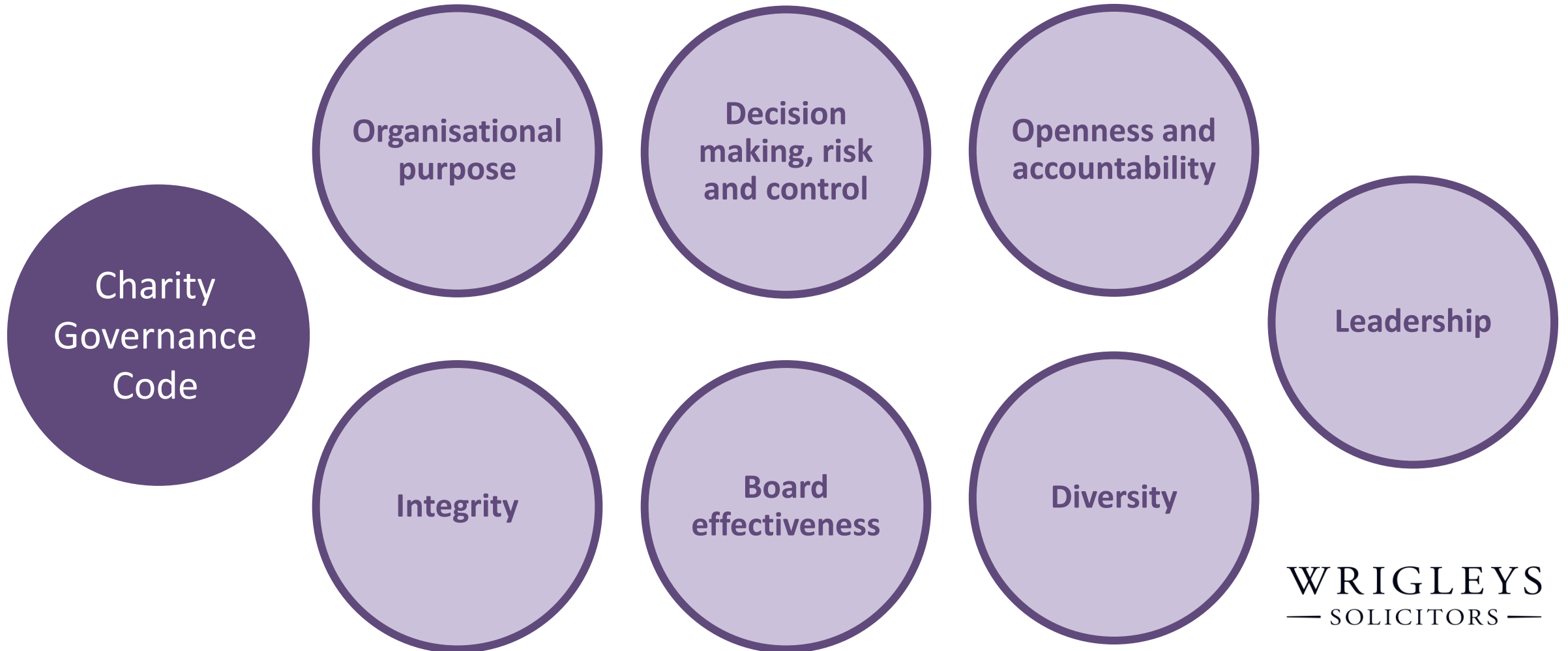


Legal requirements - decisions by the trustees (4)

- What is the procedure once a resolution is passed?
 - minutes must be taken and kept for at least 10 years
 - agenda, minutes, papers to DfE on request unless ...
 - staff, student or trust reasonably believes is confidential



Good practice in decision-making (1)



Good practice in decision-making (2)



Good practice in decision-making (3)

- Code of conduct for trustees
 - an agreed set of guidelines
 - not a legal requirement
 - confirms expected behaviours
 - codifies what works well
 - builds team



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ANY QUESTIONS?



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