

Introduction

Charities and Campaigning

This document is for charities who are thinking of campaigning in the run up to an election and who would like to understand the interaction between charity and election law

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Terms and expressions we use

We use '**must**' when we refer to a specific legal or regulatory requirement. We use '**should**' for items we consider to be minimum good practice, but which are not legal requirements.

The UK Charity regulators expect trustees to follow best practice recommendations unless there is a good reason not to do so. Failing to do so may be an indicator of mismanagement or misconduct which could lead to regulatory action being taken.

Wherever possible, the Electoral Commission uses advice and guidance proactively in order to secure compliance. And we regulate in a way that is effective, proportionate and fair. If you do not comply with legal or regulatory requirements you or your organisation may be subject to civil or criminal sanctions. You can find more information about the Electoral Commission's approach to enforcement at www.electoralcommission.org.uk/party-finance/enforcement

Charities and Campaigning

Who this document is for:

Charities who are thinking of campaigning in the run up to an election and who want to understand the interaction between charity law and election law.

This covers:

The roles of the Regulators
Charity law and campaigning
Election law and campaigning
Areas of particular interest to charities

Related documents:

Charity Commission for Northern Ireland:

[Running your charity](#)
[Campaigning and political activity](#)

Charity Commission for England and Wales:

[Campaigning and Political Activity by Charities \(CC9\)](#)
[Charities, Elections and Referendums](#)
www.gov.uk/charity-commission

Scottish Charity Regulator:

[Charities and campaigning on political issues](#)

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Electoral Commission

[An introduction for non-party campaigners](#)

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Summary

Political parties, candidates and non-party campaigners are vital to a healthy democracy and we encourage active participation by campaigners. Charities are an important part of this process and make a significant contribution. Where there is significant spending on campaigning, there are electoral rules that must be followed to ensure that there is transparency in the system.

Charities may undertake a wide variety of campaigning activities as part of their work. In many cases, these campaigns and activities will **not** be regulated under electoral law. This guidance outlines the rules on campaigning from both charity law and electoral law perspectives, explaining when a charity's campaigning may be regulated by the Electoral Commission as well as by one or more of the UK Charity Regulators. If you will be campaigning in the run up to an election, you should read the Electoral Commission guidance for non-party campaigners:

<http://www.electoralcommission.org.uk/i-am-a/party-or-campaigner/non-party-campaigners>

This guidance is produced by the Electoral Commission, together with the Charity Commission for England and Wales, the Scottish Charity Regulator and the Charity Commission for Northern Ireland. Its intention is to empower charities to campaign confidently and effectively in the run up to elections while meeting their legal obligations, maintaining their political independence and ensuring that public trust and confidence in charities is maintained.

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Introduction

Non-party campaigners are individuals or organisations that campaign at elections but are not standing as political parties or candidates.

Although charities are primarily regulated by the UK's charity regulators, spending on certain campaigning may also be regulated by the Electoral Commission depending on how a charity campaigns during the run up to certain elections.

While charities must not be established for political purposes and must never engage in party political activity, there may be circumstances where spending on activities that are in pursuit of their purposes means that they must register with the Electoral Commission as a non-party campaigner.

The Charity Commission for England and Wales, the Scottish Charity Regulator and the Charity Commission for Northern Ireland recognise that such activity can be legitimate and necessary for charities, and expect those charities to meet their separate obligations under electoral law. Charities that engage in any form of campaigning activity should therefore familiarise themselves with both charity law and electoral law in this area.

The non-party campaigner rules apply to individuals and many types of organisations that spend money on campaigning. Consequently, there are some things that are permitted under electoral law that would not be legal for charities to carry out under charity law. Equally, much of what charities do is not regulated by electoral law. This guidance explains the overlap between charity law and electoral law.

When we talk about charity law we mean:

The Charities Act 2011

The Charities Act (Northern Ireland) 2008

The Charities and Trustee Investment (Scotland) Act 2005

We use the phrase 'charity law' where the law is common to these three Acts. Where there are differences between the UK charity laws we will explain which law is applicable.

When we talk about electoral law, we mean the Political Parties, Elections and Referendum Act 2000 ("PPERA"). The Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Act 2014 changed the rules on campaigning that are in PERA. These new rules came into effect on **19th September 2014**.

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The role of the Regulators

The UK Charity Regulators

The Charity Commission for England and Wales, the Scottish Regulator, and the Charity Commission for Northern Ireland are the independent regulators of charities in England and Wales, Scotland and Northern Ireland. They register charities, provide guidance and take regulatory action where charities fail to comply with their legal obligations.

The Electoral Commission

We are an independent body set up by the UK Parliament. We regulate party and election finance and set standards for well-run elections. We work to support a healthy democracy, where elections and referendums are based on our principles of trust, participation, and no undue influence.

There are rules about:

- where political parties and non-party campaigners can receive funds from
- how much they can spend on campaigning at certain elections
- transparency in our political system

We work to ensure that people comply with these rules by:

- providing advice and guidance to help people understand the rules
- receiving, analysing and publishing information about party donations and campaign spending and non-party campaigners
- monitoring how well the rules are being followed
- dealing with possible breaches of the rules

You can find out more about our role at www.electoralcommission.org.uk.

Charity law and campaigning in the run up to an election

Charity law

A charity must be established for exclusively charitable purposes. An organisation established for a political purpose cannot be a charity. As a general principle, charities may undertake campaigning and political activity provided:

- it is in furtherance of their charitable purposes
- it is permitted subject to the terms of their governing documents
- they never engage in any form of party political activity and
- they retain their independence and political neutrality

Under charity law, charities must not support or oppose a political party or a candidate but they can engage in campaigning and political activity aimed at securing, or opposing, any change in the law or policy of central government, local authorities or other public bodies in support of their charitable purposes. A charity may express support for specific policies that are also advocated by political parties if it will contribute to the delivery of its charitable purposes. Charities may also campaign to mobilise public support on a particular issue, to influence or change public attitudes. Charities can campaign in this way and remain within the charity law framework. In some circumstances – outlined in this guidance, spending on their campaigns may also be regulated by the Electoral Commission if it meets the PPERA tests described on pages 9-12.

A charity must, first and foremost, make sure that it is in full compliance with charity law regarding campaigning and political activity by reviewing the guidance available from their charity regulator. A charity must also comply with any other laws that apply to it.

The next step is to identify whether the charity needs to register as a non-party campaigner with the Electoral Commission. This involves looking at the charity's planned activities, the timing of those activities and how much money the charity plans to spend on those activities.

Election law and campaigning

What is a non-party campaigner?

Non-party campaigners are individuals or organisations that campaign in the run-up to elections, but are not standing as political parties or candidates.

In electoral law, these individuals or organisations are called 'third parties'. Where non-party campaigners have registered with the Electoral Commission they are called 'recognised third parties'; in our guidance, we call recognised third parties 'registered non-party campaigners'.

What is regulated campaign activity?

The non-party campaigning rules apply to spending on what we call 'regulated campaign activity'.

The following will be 'regulated campaign activity' if they can reasonably be regarded as intended to influence voters to vote for or against political parties or categories of candidates, including political parties or categories of candidates who support or do not support particular policies or issues (we call this the '**purpose test**')

- press conferences or other media events that you organise
- transport in connection with publicising your campaign

As well as meeting the purpose test, spending on the following activities is only regulated if the activities are **also** aimed at, seen or heard by, or involve the public (we call this the '**public test**'): This applies to:

- the production or publication of election material
- canvassing and market research (including the use of phone banks)
- public rallies and public events

For more information on campaign activity, see:

[Overview of non-party campaign activity](#)

The purpose test

Spending on campaign activity during a regulated period will only be regulated if the activity can reasonably be regarded as intended to influence voters to vote for or against:

- one or more political parties
- political parties or candidates that support or do not support oppose particular policies or issues or
- categories of candidate, for example, candidates in a certain age group

Campaign activity may meet the **purpose test** even if it does not name a particular party or candidate. For example, if you are campaigning for a policy that is closely and publicly associated with one or more political parties.

Even if you intend your campaign activity to achieve something else, such as raising awareness of an issue, it may still meet the **purpose test**.

Given that, under charity law, charities must not support or oppose political parties or candidates, it can be difficult for charities to understand how their activities could meet the 'purpose test'. However, electoral law states that a campaign activity may meet the purpose test even if your aim is to achieve something else such as raising awareness of an issue.

A campaigning activity can also be regulated even if you do not name a political party or group of candidates as part of your campaign. For example, your activity could be advocating support for a policy that is so closely and publicly associated with a party or parties or with a category of candidates that it is reasonable to regard your activity as intended to influence voters to vote for or against political parties or candidates. A charity may undertake this activity under charity law so long as its reason for doing so is to contribute to the delivery of its own charitable purposes, and its independence, and perceptions of its independence are not adversely affected.

You must therefore consider whether your campaigning activity can reasonably be regarded as intended to influence voters, even if:

- you do not name a particular party or candidate in their campaign, or
- you have another purpose, such as awareness raising, in running the campaign

The public test

Even if they meet the **purpose test**, the following activities will only be considered regulated campaigning activity if they also meet the **public test** – that is, if the activity is aimed at, seen or heard by, or involves the public, or a section of the public:

- production or publication of election material
- canvassing and market research
- public rallies or other public events

Members and committed supporters

Your organisation's official members or 'committed supporters' (people who support your organisation in the same way as members) will **not** be considered part of the public.

The exact nature of 'committed supporters' will vary between charities, but they could include:

- regular donors by direct debit
- people with an annual subscription
- people who are actively involved in your charities

Generally, activities aimed exclusively at your members or committed supporters will not meet the public test and so will not be considered regulated campaign activity.

People you regularly communicate with

People that your organisation regularly communicates with, such as people who:

- have signed up to social networking sites or tools (for example, Facebook groups or Twitter feeds)
- are on mailing lists that have been compiled for general commercial purposes (for example, a business's customer records)
- have signed up for email updates

are considered members of the public **unless** they are also members or committed supporters of your organisation.

When will a charity need to register with the Electoral Commission?

If you spend, or plan to spend, more than £20,000 in England or **£10,000 in any of Scotland, Wales or Northern Ireland** on regulated campaign activity during a regulated period, you must register with the Electoral Commission as a non-party campaigner. You can find more information about registering with us in [Registering as a non-party campaigner](#).

If you do not register, or you are not eligible to register, you cannot spend more than £20,000 in England or **£10,000 in any of Scotland, Wales or Northern Ireland** on regulated campaign activity during a regulated period.

If you think you may spend more than £20,000 in England or **£10,000 in any of Scotland, Wales or Northern Ireland**, you should keep records of your spending and donations in case you register later in the regulated period.

Once registered, you will need to follow the rules and reporting requirements on campaign spending and donations.

The UK charity regulators recognise that there are circumstances where charities are undertaking campaigning that complies with the charity law framework and may also need to register with the Electoral Commission. Charities must meet their obligations under both election law and charity law. Charity trustees are responsible for the decisions of their charity.

It is important that if their charity is engaging in campaigning in the run-up to an election the trustees consider this guidance and the guidance from the charity regulators, make an informed decision about the need to register with the Electoral Commission, and keep a record of their decision. The charity regulators have guidance which sets out key questions for charity trustees which are a helpful starting point to make sure they comply with existing requirements before deciding whether to register with the Electoral Commission.

What is the regulated period?

In the run-up to certain elections, there is a set time when the rules on spending and donations apply. We call this time the 'regulated period'. The rules will differ depending on which election is being held.

Elections taking place in **England** on 5 May 2016 are covered by the local campaign rules only. The PPERA rules on non-party campaigning do not apply to the elections taking place in England and non-party campaigners do not need to register with us if they are spending money on general campaigning in England only.

Campaigns are regulated in the run-up to elections to:

- the European Parliament
- the UK Parliament
- the Scottish Parliament
- the National Assembly for Wales
- the Northern Ireland Assembly

UK Parliamentary general elections usually have a regulated period of 365 days, ending on the day of the election.

All other elections have a regulated period of four months, ending on the day of the election.

We publish specific guidance for each election which sets out the spending limits, regulated period and reporting deadlines which you can find on our [website](#).

If charities are planning to spend money on regulated campaign activity, it is important to note that the rules under PPERA apply from the start of the regulated period.

The specific charity guidance that charities regulated by the Charity Commission for England and Wales must follow in order to ensure they are complying with charity law on elections and referendums comes into effect only for the period between the announcement of an election, and the date on which an election is held, which the charity regulators refer to as an “election period”. This is because the risk of charities engaging in party political activity, albeit inadvertently, is considered to be greater once an election has been announced.

The PPERA rules on general non-party campaigning apply to the following elections being held on 5 May 2016:

- [Scottish Parliament](#)
- [National Assembly for Wales](#)
- [Northern Ireland Assembly](#).

Elections taking place in England on 5 May 2016 are covered by the rules on local campaigns only.

Electoral spending limits and thresholds at a UK Parliamentary general election

Spending limits

The amount registered non-party campaigners can spend at UK Parliamentary general elections during the regulated period is:

£319,800 in England

£55,400 in Scotland

£44,000 in Wales

£30,800 in Northern Ireland

Limit on spending in a particular constituency

During the regulated period for the UK Parliamentary general election, the maximum amount a registered or unregistered non-party campaigner can spend on regulated campaign activity in a particular parliamentary constituency is £9,750. For more information please see the [Overview of focused constituency campaigning](#).

We call regulated campaign activity whose effects are wholly or substantially confined to a particular constituency or constituencies 'focused constituency campaigning'. You can undertake focused constituency campaigning in more than one constituency but it does not include a national campaign across the whole of a part of the UK (England, Scotland, Wales or Northern Ireland).

There are 533 constituencies in England, 59 in Scotland, 40 in Wales and 18 in Northern Ireland

Regulated campaign activities under electoral law

The Electoral Commission produces guidance for non-party campaigners and you should read that guidance if you will be campaigning in the run up to an election. There are some areas that are of particular interest to charities because of the interaction between charity law and electoral law. These are covered below. This is not a substitute for reading the Electoral Commission guidance for non-party campaigners.

Donations

Under PPERA, there are rules that registered non-party campaigners must follow on donations. Certain donations that you receive should be recorded and must be reported to the Electoral Commission. We publish these reports on our website. There are also rules about who you can accept donations from. The rules cover all donations that are given towards your regulated campaign spending even if you receive them before the start of the regulated period or before you register as a non-party campaigner.

You must report donations to the Electoral Commission after each election as part of your spending return. If you campaign in the run up to a UK Parliamentary general election, you must also report certain donations to us in the regulated period before the election. The rules under PPERA do not cover:

- money that you receive towards spending that is not regulated. For example, leaflets you produce and use before the regulated period begins.
- money given for campaign activity that is not regulated by the Electoral Commission

Money given to you or your organisation for general purposes, rather than specifically to fund regulated campaign activity is not covered by the rules on donations.

For example, if you hold a fund-raising event to raise money to support your organisation's general activities or have regular donors who donate money on this basis, these contributions

Under PPERA, a donation is money, goods or services which is given:

- towards your regulated campaign spending
- without charge or on non-commercial terms and has a value over £500.

will not be covered by the rules on donations to registered non-party campaigners.

Money given to your organisation for general purposes is not regulated by the permissibility rules in the Political Parties Elections and Referendums Act 2000.

Charities (including any trading subsidiaries of a charity) cannot make political donations or give any financial support or resources to political parties.

Election material

Charities sometimes produce material that sets out or compares the position of parties or types of candidates that support or oppose the aims or a policy that they are promoting, where these views relate to their charity's purposes.

Where a charity produces election material it must make sure that promotion of its aims is not confused with promotion of a political party or candidate. This is because a charity must not deliberately encourage support for any particular party or candidate.

Spending on election material that is distributed to the public may be regulated by the Electoral Commission if it:

- identifies political parties or candidates who support or do not support your campaign's aims
- sets out or compares the position of political parties or candidates on a policy you are promoting in a way that can reasonably be regarded as intended to influence voters to vote for or against particular parties or candidates
- promotes or opposes policies which are so closely and publicly associated with a party or parties or with categories of candidate that it is reasonable to regard your campaign activity as intended to influence voters to vote for or against political parties or candidates

Engaging with parties and politicians

Charities may engage with political parties and politicians in ways that supports their charitable purposes. In doing so, they must remain politically neutral and should consider working with other parties to help ensure public perceptions of neutrality.

Electoral rules do not generally cover lobbying or influencing MPs, governments or Parliamentary lobbying unless you involve the public in that activity and your campaign can be seen as intended to influence voter choice during a regulated period.

Engaging with members and committed supporters

Some of the campaigning activities will only be regulated if they are directed at, or seen by, the public or a section of the public. These activities are election material, canvassing or market research and public rallies and events.

If you send election material to your members and committed supporters only, that material will generally not be regulated by the Electoral Commission. It will, however, be regulated by the charity regulators. You will therefore need to consider how your campaign material is furthering or supporting your charitable purposes, and to weigh up the risks against the potential benefits.

The Electoral Commission does not regulate public processions or protest meetings in Northern Ireland where notice has been given under the Public Processions (Northern Ireland) Act 1998 as these are regulated by the Parades Commission.

Joint campaigns

A charity may choose to work with other organisations on a campaign to further or support its own charitable purposes, perhaps in order to make the overall campaign more effective.

You may decide to work together with other non-party campaigners on regulated campaigning as part of a coordinated plan or arrangement that is intended to achieve a common purpose. We call these campaigns 'joint campaigns'.

Under PPERA, there are spending rules that apply if you and another campaigner spend money on regulated campaign activity as part of a joint campaign.

Joint campaigns with other campaigners

If you work together with other non-party campaigners (whether or not they are charities), this may affect your spending limits and whether you need to register as a non-party campaigner. This is because when you spend money as part of a joint campaign, that combined spending may count towards the spending limits for each campaigner involved.

There are a number of different ways you can work together with other campaigners as part of a joint campaign:

- you can be a non-party campaigner working with other campaigners
- you can be involved in a 'lead campaign' as either a 'lead campaigner' or a 'minor campaigner'
- you can be a non-party campaigner working with other campaigners where there is at least one lead campaigner and minor campaigner

Different rules will apply depending on how you work with other non-party campaigners in your joint campaign. For more information on joint campaigns see our guidance:

- [Overview of joint campaigning for non-party campaigners](#)
- [Overview of donations for non-party campaigners](#)
- [Registering as a non-party campaigner](#)

A 'lead campaigner' is a registered non-party campaigner that agrees to report the spending of minor campaigners. A campaigner whose joint campaign spending is reported by another campaigner is known as a 'minor campaigner'.

Hustings

A non-selective hustings is a hustings that would not reasonably be regarded as intended to influence voters to vote for or against political parties or categories of candidates, including political parties or categories of candidates who support or oppose particular policies or issues.

Charity trustees of charities regulated by the Charity Commission for England and Wales need to be aware that, although Charity Commission guidance on elections gives trustees some discretion in invitations to public meetings such as hustings, spending on hustings may be regulated by the Electoral Commission if you selectively invite, or do not invite, only certain candidates or parties. Charity law requires that charities must not support or oppose a political party or candidate, or encourage support for any political party.

If you are holding a non-selective hustings, it will not be regulated by the non-party campaigning rules in PPERA.

In our view, a hustings will be non-selective if:

- the organiser of a local hustings has invited all the candidates known to be standing in the constituency
- the organiser of a national hustings has invited all the parties campaigning in the election
- you have impartial reasons for not inviting certain candidates or parties or
- the event will only be open to members of the organisation holding the event and it is not made available to the public

The organiser does not have to ensure that all candidates or parties attend the event. They just need to be invited.

If you are holding a public hustings, and you want to ensure that it is a non-selective hustings, the simplest way is to invite all the relevant candidates in the area or all political parties campaigning in the election, and allow all those attending an equal opportunity to participate.

However, this may not always be practical. For example, there may be so many candidates or parties standing that a meeting would be hard to manage.

If you decide not to invite all candidates, there are some good practice recommendations you should follow to ensure your hustings is genuinely not promoting particular candidates or parties more than others.

Good practice recommendations

To show your hustings is non-selective you should:

- be able to give impartial reasons why you have not invited particular candidates or parties. You should be prepared to explain your reasons to candidates or parties you haven't invited
- make sure that candidates or parties you invite represent a reasonable variety of view, from different parts of the political spectrum
- allow each candidate or party representative attending a fair chance to answer questions and, where appropriate, a reasonable opportunity to respond to points made against them by other candidates or party representative
- inform the audience at the meeting of candidates or parties standing who haven't been invited.

Please see the Electoral Commission's [Hustings Guidance](#) for further advice.

Impartial reasons may emerge from the following considerations:

- local prominence of some parties or candidates over others
- the number of elected representatives at the local or national level
- recent election results in the area
- resources and other practicalities constraining numbers of invitees
- security concerns

Impartial reasons do **not** include reasons such as your views on the policies of a candidate or party.