



**PUBLIC ADMINISTRATION SELECT COMMITTEE  
Regulation of the Charitable Sector and the Charities Act 2006:  
Issues and Questions Paper**

**Response from the Sheila McKechnie Foundation to Q10:  
*'Are the rules around political activity by charities reasonable and proportionate?'***

**1. Summary**

The Sheila McKechnie Foundation (SMK) believes that the rules around political activity by charities are currently reasonable and proportionate. We think that there should be no change to these rules.

Furthermore, we believe that charities' independence and right to campaign on behalf of their beneficiaries must be maintained. Receipt of Government funding must not under any circumstances neuter the voice of charities, whose primary responsibility must be to deliver their charitable objectives, which in some circumstances might necessitate speaking out.

**2. About the Sheila McKechnie Foundation**

The Sheila McKechnie Foundation (SMK) was established as a charity in 2005 to help develop a new generation of campaigners who are tackling the root causes of injustice. We exist to connect, inform and support campaigners. You can find out more about us at [www.smk.org.uk](http://www.smk.org.uk).

**3. The scope of our consultation response**

SMK is a registered charity that supports campaigners, many of whom work within the charity sector, and we support the right to campaign.

For this reason our response focuses on just one question from the Public Administration Select Committee's 'Issues and Questions' paper, namely question 10:

*"Are the rules around political activity by charities reasonable and proportionate?"*

Our response explores the issue of political activity, but also the wider issues related to independence of voice.

#### **4. The voluntary sector's right to campaign**

The voluntary sector is distinct from the public and private sector, and therefore it is vital that it retains a fundamental right to have its own distinct voice in public debate.

We agree with the Charity Commission's comments that:

*"The experience of charities means that it is right that they should have a strong and assertive voice. Often they speak for those who are powerless, and cannot make their case themselves. Sometimes charities confront extreme social injustice, which they will want to tackle head-on."*<sup>1</sup>

The Compact, the agreement between the Government and the voluntary sector that outlines how the two sectors should work together, includes a Government commitment to:

*"...respect and uphold the independence of civil society organisations to deliver their mission, including their right to campaign, regardless of any relationship, financial or otherwise, which may exist".*<sup>2</sup>

The right of charities to campaign can be an essential part of achieving their charitable aims. Many charities feel they do not need to campaign to deliver their charitable objectives, but others believe that they *must* campaign in order to do so.

While charities play an increasingly important role in delivering public services, receipt of Government funding must not diminish or compromise their fundamental right to have a voice (see also section 12, 'Fear of speaking out'). Attaching such conditions to funding represents a serious encroachment of this fundamental right, in effect potentially 'buying silence'.

#### **5. Transparency and regulation**

It should be noted that the private sector is able to lobby Government with few restrictions or regulations (although we are aware of plans to introduce a register of lobbyists by 2015). Just as the private sector is able to lobby Government, the voluntary sector must retain the same right.

Unlike the private sector:

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<sup>1</sup> <http://www.charity-commission.gov.uk/Publications/cc9.aspx>, accessed on 16<sup>th</sup> August 2012

<sup>2</sup> *'The Compact: The Coalition Government and civil society organisations working effectively in partnership for the benefit of communities and citizens in England'*, Cabinet office December 2010 (<http://www.cabinetoffice.gov.uk/sites/default/files/resources/The%20Compact.pdf>)

- the voluntary sector's work, including its campaigning work, is regulated (by the Charity Commission).
- there is also specific regulatory guidance, CC9 (see next section, 'Charity Commission guidance'), which sets out clear rules for charity campaigning.
- all charities must prepare accounts and make them available on request. All registered charities whose gross income exceeds £25,000 have a duty to file accounts with the Charity Commission.
- charities' accounts are published online and are searchable on the Charity Commission website, ensuring transparency and probity.

In the rare cases where charities 'overstep the mark' and compromise their political neutrality, it is right that such impropriety should be dealt with (see section 7, 'Abuses').

## **6. Charity Commission guidance: 'Speaking Out: Guidance on Campaigning and Political Activity by Charities (CC9)**

The most recent iteration of the Charity Commission's guidance on campaigning and political activity, commonly known as CC9, was published in March 2008<sup>3</sup>.

We believe that CC9 sets out clear, sensible and balanced rules about campaigning and political activity, and that the guidance in its current form should remain in place.

The guidance is clear that charities CAN:

- undertake campaigning and political activity as a positive way of furthering or supporting their purposes;
- undertake political campaigning, or political activity, only in the context of supporting the delivery of their charitable purposes;
- choose to focus most, or all, of their resources on political activity for a period but cannot do so on a permanent basis.

We think that these measures provide the right framework for enabling charities to campaign, but to prevent them acting like or becoming political bodies.

The guidance is also clear that charities CANNOT:

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<sup>3</sup> "Speaking Out: Guidance on Campaigning and Political Activity by Charities (CC9), Charity Commission, March 2008, available at <http://www.charity-commission.gov.uk/Publications/cc9.aspx>

- exist for a political purpose;
- give their support to a political party;
- engage in any party political activity;
- undertake political activity;
- give support or funding to a political party, nor to a candidate or politician;
- be used as a vehicle for the expression of the political views of any individual trustee or staff member.

The restrictions set out above not only rightly prevent charities becoming too close to politics, they also rightly *protect and insulate* charities from party politics. CC9 has brought a good level of clarity to charities about their rights and responsibilities around campaigning and there is no clear justification for altering regulatory guidance that is working so effectively.

## **7. Abuses**

In 2010-11 the Charity Commission completed 1,912 assessment cases. Concerns about a charity's campaigning and/or political activities arose in only 2% of these cases – about three dozen in all.<sup>4</sup>

Certainly, there are rare occurrences of charities being overtly political, or inadvertently straying into political territory. But the extensive scrutiny that the public, the press, bodies such as the Advertising Standards Authority (ASA), and the Charity Commission itself provide is wholly adequate in identifying and addressing any such impropriety.

There is no evidence of an endemic problem of charities being political. The existing regulatory framework is fit for purpose in ensuring that charities remain charitable.

## **8. Lord Hodgson's review of the Charities Act 2006**

Lord Hodgson recently published his review of the Charities Act 2006<sup>5</sup>. The detailed review found no area of concern in terms of campaigning by charities. Indeed, Lord Hodgson states:

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<sup>4</sup> 'Charities Back on Track 2010-2011', Charity Commission, 2011, [http://www.charity-commission.gov.uk/Library/track\\_11.pdf](http://www.charity-commission.gov.uk/Library/track_11.pdf)

<sup>5</sup> 'Trusted and Independent: Giving charity back to charities', The Cabinet Office, July 2012

*"...the independence of the sector must remain paramount. Although it is part of the existing common law that charities must be, and be seen to be, free from the influence of Government or any other group, no more formal protection of that status exists. The sector must continue to be seen as more than an outlier to local or national government. How independence can best be promoted and safeguarded must be an important feature of any debate on the future of the sector."*

This is further indication that not the current rules around political activity are reasonable and proportionate, and that there are no compelling reasons for any change.

## **9. Public attitudes to charities campaigning**

The public support the right of charities to campaign. According to research by nfpSynergy, 56% of the public identify 'lobbying government and other organisations' as a worthwhile activity for charities, whereas only 16% think it is wasteful (which is still not to say that they do not think charities should have the right)<sup>6</sup>. 67% of respondents agree that *"...charities should be able to campaign to change laws and government policies relevant to their work"*. Only 2% identified campaigning as a barrier to giving to charity (ibid).

Far from opposing charity campaigning, the public consistently support it, through both engaging with charity campaigns and continuing to donate to charities that campaign.

## **10. MPs' attitude to campaigning**

NfpSynergy's research also indicates that most MPs are also supportive of charity campaigning. Eighty-six per cent (86%) of MPs surveyed agreed with the statement 'I think charities should be able to campaign to change laws and government policies relevant to their work'<sup>7</sup>.

## **11. Are campaigning charities 'Sock Puppets'?**

The PASC consultation document makes reference to the Institute for Economic Affairs' Sock Puppets research<sup>8</sup>, so while we would not normally give it prominence it does not warrant, we do want to briefly respond to the key assertion of that report.

The report argues against what it perceives as "state funded campaigning", where politicians and bureaucrats who wish to pursue unpopular - or even popular - political

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<sup>6</sup> *1,000 adults 16+, Britain, Charity Awareness Monitor, Sep 08, nfpSynergy*

<sup>7</sup> *150 MPs, Charity Parliamentary Monitor, Nov 07, nfpSynergy*

<sup>8</sup> *'Sock Puppets: How the Government lobbies itself and why, Institute of Economic Affairs, June 2012, available at <http://www.iea.org.uk/sites/default/files/publications/files/Sock%20Puppets.pdf>*

causes" create "astroturf" support through funding charity campaigning. It makes strong, strident claims but presents little evidence.

The report puts considerable focus on Action on Smoking and Health (ASH) as an example of such 'state funded activism'?

But according to ASH's audited accounts:

*"Cancer Research UK and the British Heart Foundation provided the charity with core funding for our entire programme of work.*

*The Department of Health section 64 General Scheme project grant did not, and never has, funded ASH's campaigning work".<sup>10</sup>*

The report makes similar claims about other charities, but does not present any evidence to back up their assertion that Government funding is being channeled into charity campaigning.

The funding charities receive from Government, either in the shape of grants or contracts, is invariably restricted to service delivery. Charity campaigning is funded through other sources, such as public donations and grant-making trusts. To reiterate an earlier point, in furtherance of their objectives charities must be able to speak out on behalf of their beneficiaries, and they must be continued to allowed to use their own funding to do so.

## **12. Fear of speaking out**

Far from there being a cosy relationship between Government and charities, there is a range of research which identifies charities' fear of speaking out.

According to research by the Charity Commission *"only 26% of charities that deliver public services agree that they are free to make decisions without pressure to conform to the wishes of funders."*<sup>11</sup>

The Panel on the Independence of the Voluntary Sector's 'Protecting independence' report recently noted that "some organisations that rely on state funding are fearful of challenging government or local authorities, in case this could lead to reprisals, even

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<sup>9</sup> *'Science and policy: The case of postwar British smoking policy', (Berridge, V. (1998), in S. Lock, L. Reynolds, E. M. Tansey (eds), Ashes to Ashes: The History of Smoking and Health.*

<sup>10</sup> *'Action on Smoking and Health, Financial Statements for the year ended 31 March 2012', available online at <http://www.ash.org.uk/about-ash/ash-publications/accounts>*

<sup>11</sup> *'Stand and deliver: The future for charities providing public services', Charity Commission, February 2007*

though voluntary organisations that are in touch with, and can give voice to the concerns of those they serve are a legitimate part of a vibrant democracy.”<sup>12</sup>

Because many charities exist to support vulnerable and marginalised groups there will always be a degree of connection to the political sphere – addressing poverty, exclusion, stigma, discrimination, and working with those who are poor and vulnerable are political issues. As long as they do not become (party) political, it is vital that charities do not feel fearful of speaking out on behalf of their beneficiaries. We need more voices in public debate, not fewer.

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September 2012

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<sup>12</sup> *Protecting independence: The Voluntary Sector in 2012*, Panel on the Independence of the Voluntary Sector, 2012  
(<http://www.independencepanel.org.uk/wp-content/uploads/2012/01/Protecting-Independence-final.pdf>)