

General Election 2024: Charity Campaigning

Using your charity's voice
effectively in the run-up
to a General Election

October 2023



Foreword from the Sheila McKechnie Foundation

As we approach an election year, charities will be exploring opportunities to get their issues onto the agendas of candidates and any future government. At the Sheila McKechnie Foundation, the conversations we are having with campaigners, CEOs, and boards suggest a fresh determination to be more confident about campaigning and speaking out. The results of our latest Campaigner Survey back that up – around 40% say that they have seen attitudes to campaigning within civil society become more positive in the past 12 months.

The legal and regulatory environment for charities has, in recent years, been complicated by the narrative of a small but vocal minority of politicians and commentators that says charities should not be ‘political’. In an election year, this debate becomes even more live, even more contested. But it is, above all, a fake debate. Can charities campaign in the run-up to an election, especially on controversial or disputed issues? We know the answer to this question – it is, and has always been, a resounding ‘yes’. Orlando Fraser, Chair of the Charity Commission, said recently, “I will robustly defend charities’ right to campaign lawfully, even where such campaigning covers sensitive or politically divisive ground.”

That’s why we welcome this new guide, filled with expert legal guidance and informed by Bates Wells’ years of work with charities of all shapes and sizes. We think it should be shared as widely as possible, being of use to campaigners, senior managers, and trustees.

We hope it will help you increase your confidence to campaign. At SMK, we are very clear that it’s both legitimate and desirable for charities to go beyond providing immediate relief and to also seek reform. Many charities, in order to fulfil their overarching mission, determine that they must also look to the causes of the problems and needs they respond

to and to make change. Sometimes this will mean speaking out. Sometimes it will mean concerted campaigning. Sometimes it will take your charity into contentious and even divisive territory. None of this is forbidden and it doesn’t have to be scary if you lay a strong foundation.

Speak up, we need you

The first report from our Charity Reform Group of CEOs, *Speak up, we need you*, found that leaders from across other sectors – business, the public sector, arts and culture, politics – recognised and valued the evidence and experience that charities can bring to public debate. They saw that charities were trusted, in a way that other commentators were not, and that their longer view was guided by strong values and deep conviction. One of them characterised charities as able, like a famous beer, to uniquely reach ‘the parts others can’t reach’.

If your organisation is committed to making change, having a solid internal understanding of the extents and limitations of your political activity can be liberating. It avoids a great deal of second-guessing that can paralyse the creativity, boldness, and agility that effective campaigning requires, freeing you to do what you were created to do – fulfil your mission and, in doing so, make the world better.



Sue Tibballs
CEO, Sheila McKechnie Foundation

Foreword from Bates Wells

Charities are all about making a difference and changing lives. The year before an election can be a fantastic opportunity for charities to engage with parties, candidates, the media and general public to raise awareness of their concerns and drive their mission forward. Elections offer an unrivalled shot for charities to secure support for policies that will advance their charitable mission for years to come.

But too often, concerns about legal constraints on political activity cause charities and their trustees to question how vocal they can be at this vital time, and whether they need to step back from the cut and thrust of public policy debate to avoid breaching charity and election law rules.

This is understandable, particularly as false arguments that charities can't be 'political' are amplified regularly by commentators, interest groups and media outlets, often in pursuit of their own political agendas. But it's also unnecessary and damaging – charities can campaign, they have always campaigned and have achieved some great leaps forward in pursuit of their charitable purposes as a result. From the struggles against discrimination on grounds of gender, race, religion and sexual orientation, to the fights against climate change and for cleaner air, charities have always been on the front line.

Confected 'culture wars' and spurious attacks on 'wokery' have brought new attention to the ongoing mission of charities to push boundaries in support of their charitable purposes and the people they serve. Our experience of working with charities across the sector is that they do a fantastic job of cutting through this noise and continuing to focus relentlessly on their essential work. In doing so, they are helped no end by vital infrastructure bodies such as the Sheila McKechnie Foundation, which provide connections, resources and safe-spaces for the sharing of stories, burdens, tactics and ideas.

We hope that the information and resources contained in this guide will provide further support to the sector in understanding and navigating the rules that apply to charities in the run-up to the next election. We are delighted to be issuing it in partnership with the Sheila McKechnie Foundation, which exists specifically to support and celebrate campaigners and campaigning.

We hope that this guide will help charities across the sector be confident that you can campaign. You can engage with policy debates and with controversy. You can be passionate and emotive. We also hope to explode some of the common myths about charity law and the 'Lobbying Act'. In particular, you need to understand these rules – but very often only to understand that they will not restrict you from doing what you want to do. The Charity Commission accepts that campaigning and political activity "can be legitimate and valuable activities for charities to undertake". And the Electoral Commission accepts that in most cases, campaign activity by charities which abide by charity law and guidance won't be regulated by the 'Lobbying Act'.

We hope that this guide will empower many of you to push ahead with your campaigning and advocacy with confidence and conviction. But if you have any questions, please don't hesitate to **get in touch** with the team!



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Using this guidance

Charities can campaign, including in the run-up to an election. There are some legal principles you should follow to ensure your campaign is both lawful and effective – but they don't need to be a barrier.

This guide is intended to help you navigate charity law, election law and some other relevant rules, whilst recognising that campaigning will often be a lawful, legitimate and impactful way for a charity to achieve its purposes. This guidance is split into three parts:

1. Understanding the law

An overview of the key legal principles which might affect your campaign.

See pages 5-16

2. Planning campaigns

Steps to take when planning campaign activity to ensure you are on the right track legally, with two helpful tools: (A) what to cover in a political activity policy; and (B) a risk matrix for planning campaigns.

See pages 17-22

3. Campaigning techniques: FAQs

A run-through of common campaigning techniques and activities that a charity can legitimately undertake in compliance with the law.

See pages 23-26

Key terms used in this guidance

See page 27

Contacts

If you have any questions, you can reach out to:

Bates Wells

Bates Wells is one of the only UK firms to specialise in electoral law. We've advised on the biggest political issues of our time and we understand the regulatory landscape inside out. Whatever your political objectives, we're one of the few UK firms who can give charities, trade unions, political parties, local authorities and companies big picture advice, from local and national campaigning legislation to campaign finance, donations and lobbying.

Get in touch

Sheila McKechnie Foundation

England and Wales Charity No. 1108210
Scotland Charity No. SC044207

The Sheila McKechnie Foundation (SMK) supports change-makers, bringing the latest thinking and tactics for social change to life in our training and consultancy. We act as a powerful champion for the right to campaign. And we bring the campaign community together to grow solidarity and to share knowledge and ideas.

Get in touch

1. Understanding the law

Even a little knowledge of the legal principles that apply to your charity and its campaigns can help ensure that you use its voice as effectively as possible.

This section offers an overview of the main legal areas that affect charity campaigns in the run-up to an election. Whilst not covered in this guidance, there are other legal areas that may need to be complied with by charities when campaigning, such as defamation, intellectual property, data privacy and advertising law and restrictions on use of your funds imposed by funders.

See our [factsheet](#) for more info.



Charity law

Charities must act in a way that supports their purposes (the charitable aims the charity was set up to achieve), for the public benefit. A charity's trustees are responsible for its compliance with charity law. They must act with reasonable care and skill and in the charity's interests. The trustees must ensure the charity complies with its governing document and uses its resources effectively and responsibly.

Campaigning will often be an effective way of supporting a charity's purposes. The Charity Commission (in England and Wales) produces guidance to help charities comply with the law and best practice in relation to campaigning, available [here](#). The Commission recognises in its guidance that *"campaigning and political activity can be legitimate and valuable activities for charities to undertake."*

Charities which are registered in Scotland must also take account of the OSCR guidance, available [here](#). For activities relating to Northern Ireland, the Charity Commission for Northern Ireland's Guidance on Charities and Politics is available [here](#).

The Charity Commission might check that their guidance and the law is being complied with when charities campaign, particularly where a campaign is subject to media attention, criticism or complaints. Key to understanding how to comply with relevant charity law and Charity Commission's guidance is understanding the three different 'types' of charity campaigning:

Campaigning

The Charity Commission's guidance uses the word 'campaigning' to refer to non-political campaigning activities. In practice, it covers any campaigns or activities intended either to change the views or behaviour of the public or of private companies, or to ensure compliance with existing laws.

For example, a campaign to emphasise the health benefits of consuming less alcohol or to encourage the UK to comply with its legal obligations to protect the human rights of asylum seekers would be 'campaigning'.

Charities can do as much of this type of campaigning as they wish, provided it is a reasonable way of supporting their purposes.

Political activity

The Commission uses the phrase 'political activity' to refer to activities and campaigns intended to bring about or prevent a change in the law, policies or decisions of politicians and public bodies in the UK or abroad.

For example, if your campaign to raise awareness of the health benefits of consuming less alcohol called for the government to pass a law criminalising the sale of larger volume bottles of alcohol, then this would become political activity. Similarly, if you decided to start campaigning for the Government to introduce a new policy to limit the detention of asylum seekers to a maximum of 5 days, then you would be undertaking political activity.

There is nothing wrong with undertaking political activity – you just need to ensure that it is not party political, and that it does not become such a significant part of what the charity does that the political aim becomes an aim of the charity in its own right.

Party political activity

Charities can never engage in party political activity

and they will need to take steps to manage any perception that a campaign is party political. Party political activity would include direct support of a party, politician or candidate, such as donating money or resources to a party's campaign or calling on your supporters to vote for or against a party or candidate.

So, if calling on your supporters to vote against a particular political party because it has refused to support your campaign to introduce new legal limits on the detention of asylum seekers would be prohibited party political activity.

Pre-election campaigning

In the run-up to the general election, charities also need to follow the Charity Commission's supplemental guidance on activities in the run-up to elections and referendums, available [here](#).

The Charity Commission's guidance calls for additional care in maintaining and stressing a charity's independence in the run-up to an election, whilst using its voice effectively at a very opportune moment to get issues into the public discourse and onto political party agendas.

The key to compliance with these charity law requirements is to ensure that any campaign activity supports your charity's purposes on the basis of a credible evidence base, represents a reasonable commitment of charitable resources taking account of the anticipated charitable impact and balances any risks against the benefits of carrying out the activity. This decision-making process should be documented. A charity should have systems in place to ensure that campaign activity is appropriately authorised, managed and reviewed, within a framework and risk tolerance agreed by the trustees.



Election law

In the run-up to the general election, your charity should be aware of some election law principles which might also be relevant to its planning or undertaking of campaigning activities.

There are a lot of myths around election law, rules you may have heard described as the ‘Lobbying Act’. The key thing to remember is that **election law does not stop charities from campaigning**.

Election law crops up in three main ways:

1. General campaigning rules

The general campaigning rules apply to all organisations – including charities – and means that you need to register to carry out certain types of campaign. It is perfectly legitimate for charities to choose to register, and to run these campaigns, though in many cases charitable advocacy will not be regulated by these rules (as explained below).

When: these rules apply in a set period ahead of certain elections – known as the ‘regulated period’. For general elections, it is 365 days before polling day (other than in very specific situations). With a general election likely to be held in Autumn or Spring of 2024, the regulated period may have already begun.

What: The general campaign rules are set out in the Political Parties, Elections and Referendums Act (**PPERA**) and regulated by a body called the **Electoral Commission**.

PPERA applies to many areas of election administration, political party regulation and campaign finance, but the main part relevant to charities is that which applies to individuals and

groups which aren’t standing in an election but might engage in campaign activity ahead of the election (known as ‘non-party campaigners’).

Often referred to as the ‘purpose test’, election law regulates spending on most publicly accessible activities which ‘can reasonably be regarded as intended to promote or procure electoral success at any relevant election’ for:

- one or more political parties
- political parties or candidates who support or do not support particular policies, or
- another particular category of parties or candidates

It is not necessary to name a party or type of candidate in your campaign materials – advocacy material could meet the purpose test if it is positive or negative about a policy that is closely connected with a particular political party, close to the election, for example, in such a way that a reasonable person might think you are calling for the public to vote for or against that party. It does not matter what your actual intention is but how someone external could reasonably view the intention behind your activity.

There are some exceptions, but most everyday campaigning techniques and associated expenses will be caught if they meet this test, unless they are not. While some types of campaigning will clearly be caught by the rules, there can be some grey areas: the Electoral Commission’s guidance suggests looking at whether campaign material includes a call to action, as well as its tone, context, and timing to assess whether it passes the purpose test.

We call activity covered by these rules **regulated activity**.

¹ Activities will not be caught by the regime if they are not accessible to the public. For example, material available only to those who have signed up to receive campaign communications from you or an event only for your members will not be regulated.

Many charities will not undertake any regulated activity, and the Electoral Commission recognises this, stating in its **guidance** that *“If you are a charity and abide by charity law and guidance from the relevant charity regulator, in most circumstances your campaign activity is unlikely to meet the purpose test.”* But, some charities might choose to use regulated activity as part of a campaign and this is perfectly legitimate, as long as they comply with the reporting and other obligations that result from registration.

Note that the law in this area has recently changed and so this section of this guide only applies to a general election held after 24 November 2023 – in the unlikely event that an election is held before that date, the rules will be slightly different.

A new code of practice for non-party campaigners will come into force later this Autumn – complying with it provides a statutory defence against breaches of this area of law (the Code).

What does it mean if we undertake regulated activity?

It is important to recognise that whilst charity law prohibits certain campaigning conduct (i.e. party political conduct), the Electoral Commission is concerned only with whether funds need to be accounted for and reported (and do not exceed specified electoral spending limits). These election law rules do not regulate or restrict the content of campaigning or advocacy materials or activities.

When we talk about regulated activity, we mean that the value of that activity counts towards an organisation or individual’s spending limit under election law for activities covered by these rules ahead of the election.

Spending limits depend on whether you are registered with the Electoral Commission or not, and whether your spending is going to exceed what is known as the ‘reporting threshold’. Registration involves making a ‘notification’ to the Electoral Commission. When you make a notification to the Commission, you can declare that you will not spend more than the reporting threshold (you can change your mind later on if you need to, before you exceed the threshold). If you make this declaration and keep your spending under the reporting threshold, you will not have many compliance obligations under election law. The spending limits and an overview of the consequences of registration are set out below:

No registration with the Electoral Commission

Up to £700 – everyone: any organisation can spend up to £700 on regulated activity – including, e.g. overseas organisations such as US charities that do not have a separate legal entity in the UK.

Up to £10,000² – only if you have a sufficient UK connection: only organisations which have a sufficient UK connection under the law can spend above £700. They can spend up to £10,000 before they have to register with the Electoral Commission to be able to spend more.

This means, for example, that international charities which do not have a separate legal entity in the UK will only be able to spend £700 and not up to £10,000.

² Spending limits under election law can be quite complex. The value of regulated activity has to be apportioned between parliamentary constituencies based on election law rules and a campaigner must make sure that the value of spending apportioned to any particular constituency never exceeds £9,750 (known as the ‘constituency limit’).

Registration with the Electoral Commission

Up to £20,000 in England or £10,000 in any of Scotland, Wales and Northern Ireland – everyone registered with the Commission as a non-party campaigner: all registered non-party campaigners can spend up to these limits, known as the ‘reporting thresholds’. If you have made a declaration that you will not spend above these thresholds, then you will commit an offence if you spend more than this without withdrawing that declaration.

Usually up to around £390,000 for UK-wide regulated activity – registered non-party campaigners whose spending exceeds the reporting threshold: as long as you have not declared that you will only spend up to the reporting threshold, then a registered non-party campaigner will be able to spend up to an overall limit that is set by a calculation in law. That will usually work out to being able to spend around £390,000 on UK-wide campaigning during a regulated period.

Targeted spending: There are also lower spending limits for registered non-party campaigners which undertake regulated activity that can be seen to be aimed at promoting the electoral success of only one particular registered political party or any of its candidates (known as ‘targeted spending’). This should not be relevant for charities due to restrictions on party political activity under charity law.

What does it mean to be registered with the Electoral Commission?

If you make a notification to the Electoral Commission that you do not intend to spend over the reporting threshold (£20,000 on regulated activity in England or £10,000 in Scotland, Wales or Northern Ireland), then the consequences of registration are quite limited. You will have to make sure that donations you receive for regulated activity are ‘permissible’, which broadly means that they will have to come from donors with a sufficient UK connection as set out in law (and you will need to check this).

If you want to spend above the reporting threshold, your organisation will be subject to more detailed rules relating to its internal management of spending on regulated activity and requiring detailed reporting on spending and donations (and you will also need to ensure donations for regulated activity are ‘permissible’). These rules include:

- Having a system in place for authorising the incurring of expenditure on and payments for regulated activity
- Timeframes in which invoices relating to regulated activity must be received and paid
- Retaining invoices for all spending over £200
- Reporting on donations received for regulated activity ahead of the election and after it
- Reporting on spending on regulated activity in a detailed spending return after the election (which will need to be audited if you spend over £250,000)

See also the rules that apply to ‘imprints’ on [page 13](#).

While most charities may not need to, charities are allowed to register – it is possible for a charity to be in compliance with charity law and guidance on campaigning and political activity and still undertake regulated activity under election law, due to the wide nature of the purpose test that does not turn on your organisation's (non-partisan) intention.

However, the charity law prohibition on party political activity by charities does mean that most campaigning by charities will not be regulated by election law, because it will not pass the 'purpose test' of regulated activity. As explained above, the **Electoral Commission's guidance** states that *"if you are a charity and abide by charity law and guidance from the relevant charity regulator, in most circumstances your campaign activity is unlikely to meet the purpose test"*.

Joint working or campaigning

Where an organisation plans to undertake regulated activity together with others, under a common 'plan or arrangement', then all regulated expenditure incurred under that common plan will be attributed to everyone involved. Even if each coalition member is individually under the spending limits for registration or reporting, all coalition members could be required to register with the Electoral Commission or start reporting if the joint spending exceeds the relevant spending threshold.

So, if three campaigners each incur £7,000 of regulated expenditure (so that, individually, their regulated spending is below the registration threshold) and all of that spending is incurred under a 'joint plan or arrangement' between the three campaigners, then all three will be deemed to have incurred £21,000 of regulated expenditure. All three would then be deemed to have exceeded the registration and reporting threshold and would need to register with the Electoral Commission (and have committed an offence).

The Electoral Commission's code of practice says that for there to be joint campaigning there must be an agreed understanding between a number of non-party campaigners that they will each incur controlled expenditure to achieve a common purpose. There must also be an agreed understanding as to the scope and purpose of the campaign.

The code of practice gives the following examples of activities likely to count as joint campaigning:

- **A joint advertising campaign**, whether digital, electronic or via other means, involving joint leaflets or joint events
- **A co-ordinated campaign**; for example where it is agreed which areas are to be covered, which issues raised or which voters targeted
- **Joint working** where one party can veto or must approve another party's material

The following examples are given of activities unlikely to count as joint campaigning:

- Endorsing another campaign by allowing your logo/brand to be used without any financial commitment or further involvement
- Adding your signature to a letter alongside other non-party campaigners without any financial commitment
- Speaking freely at an event organised by another non-party campaigner without any financial commitment
- Holding discussions about areas of common interest without coordinating campaign activity

Charities often try to avoid regulated joint campaigning, because having to account for the regulated spending of coalition partners makes it more likely that they will exceed one of the relevant spending limits. It can also be difficult to keep track of the spending of other organisations, in case that spending needs to be reported to the Electoral Commission.

It is possible to avoid regulated joint campaigning, for example by:

- Ensuring that where you agree campaign plans with others, your plans do not involve any regulated spending – this could be achieved by agreeing that the campaign does not pass the ‘purpose test’ or that any campaign material will be made available only to people who have asked to receive information from you
- Agreeing ‘guidelines’ or ‘terms of reference’ for your engagement with other members of your coalition, which make clear that you are only intending to share information (for example), and will not be reaching any collective agreement as to the scope and purpose of your campaigning
- Forming a new organisation to carry out the joint campaign and incur any regulated expenditure relating to the campaign³

2. Local campaigning rules

When: Again, the rules apply at different times depending on the election in question, but a much shorter ‘regulated period’ applies to local campaigning than to general campaigning. Ahead of a general election, these rules apply only after dissolution of parliament – this is usually 5 weeks before the election.

What: The local campaign rules are set out in a different law called the Representation of the People Act (RPA). For general elections, the rules prohibit spending over £700 in a constituency incurred ‘with a view to promoting or procuring the election of a candidate’ (either by promoting some candidates or running negative campaigns against others).

Most charities should not have to worry about the local campaigning rules under these rules as only activity that is actually intended to help or hinder local candidates will be regulated. A charity cannot actually intend to affect an election result in this way, as that would be party political activity which is not allowed under charity law. As such, charities shouldn’t have to worry about the local campaigning rules provided they are complying with charity law requirements, but you should seek advice if you do wish to focus a campaign on a local area ahead of an election as this can be a complicated area and separate constituency level spending limits can also apply under the general rules.

³ The Electoral Commission code of practice also says that “Forming a new organisation that constitutes a group of other organisations and then spending money is not joint campaigning.” Similarly, it says that “An existing umbrella organisation that makes decisions about their campaign activity independently will not be joint campaigning unless they enter into a plan or arrangement with another non-party campaigner in which they both intend to incur controlled expenditure.”

3. Imprints

When: These rules always apply (not just in a regulated period) but are more likely to affect organisations ahead of elections.

What: UK electoral law requires that some types of content must contain what is known as an ‘imprint’ – this is essentially a transparency statement about who is responsible for, and who has paid for, content that might influence various electoral events. Generally, imprints will be required when engaging in regulated activity, although the regime applies regardless of whether or not the content is published during a regulated period ahead of an election. The rules apply all year round.

From Autumn 2023, this regime will be extended from only applying to hard copy printed materials to also applying to digital content (including audio-only content), due to changes under the Elections Act 2022.

To understand the digital imprints regime there are two key concepts:

‘Election material’: Content that can be ‘reasonably regarded’ as intended to influence voters to vote for or against candidates (including future candidates) or political parties, including those that are linked by their support for or opposition to particular policies or because they hold particular opinions (e.g. parties or candidates that support migration policy reform), or other categorisations (e.g. candidates who did not receive private education). ‘Reasonably regarded’ means that the test is about what a third party would think your material was trying to achieve. This is very similar to the test for ‘regulated activity’ for general campaigning.

‘Political material’: Content where the sole or primary purpose can reasonably be regarded as intended to influence the public to give support or withhold support from the categories of party and candidate set out above, but also some wider

categories such as a particular elected office-holder (e.g. an MP or a councillor).

Imprints may be required in the following instances (from Autumn 2023):

- **Situation 1: You are publishing hard copy ‘election’ material**
- **Situation 2: You are publishing digital ‘political’ material which you have paid to advertise** (e.g. a promoted social media post (such as boosting a post on Facebook))
- **Situation 3: You are publishing digital ‘election’ material which you have not paid to advertise** (i.e. organic, unpaid posts on social media) and you have a formal status under electoral law (e.g. as a registered non-party campaigner, regardless of whether you will exceed the reporting threshold or not). If you have not paid to advertise your digital content, then you will only need an imprint if you have a formal status under electoral law, such as a registered non-party campaigner, an elected office-holder or a candidate. If an organisation is a registered non-party campaigner, it will need to consider whether its organic content (content it has not paid to advertise) is ‘election material’ – if so, it will need an imprint

There are rules about how and where the imprint appears. For example, for digital content, the imprint must be included as part of the content unless it is ‘not reasonably practicable to do so’. So, for example, this might involve reading out the imprint during a podcast or including it within a graphic shared on social media. If it is not reasonably practicable to include the imprint as a part of the material, then the imprint must appear somewhere directly accessible from the material. Imprints must always continue to be accessible if the material is shared.

See this [factsheet](#) where we explain more about this regime, in partnership with the Electoral Commission.

Statutory guidance on the imprint regime is currently subject to parliamentary approval and will come into force soon – it is available [here](#).

Don't forget company law if you are a charitable company!

- Company law provides that companies cannot incur 'political expenditure' without the authorisation of their members. There is a specific definition of political expenditure within the Companies Act 2006 which is similar to 'regulated activity' under election law. Broadly it applies to material or activities by a company that is capable of being reasonably regarded as intended to affect public support for a political party, or other political organisation or independent election candidate.
- The requirement also applies if a company wants to make political donations. Note that whilst a charity cannot make party political donations, it could find that a grant or other donation of support to an organisation falls within this company law requirement, where that organisation carries on, or proposes to carry on, activities that are capable of being reasonably regarded as intended to affect public support for a political party or independent election candidate (or to influence voters in relation to any national or regional referendum held under the law of the UK).

Common charity and election law myths

“My charity cannot campaign or speak out before the election because of the Lobbying Act”

Election law does not stop organisations from campaigning and the Electoral Commission does not regulate the content of your campaigns. Election law is only concerned with ensuring transparency of spending on activities deemed intended to impact elections and referendums, and donations provided to fund that spending.

During a regulated period before an election (or referendum), the financial limits on activities that pass the test for regulation could restrict your campaigning, as you might decide to alter your campaigning activities to avoid exceeding a spending limit (e.g. by changing planned activities to avoiding passing the purpose test). But election law is unlikely to affect you outside of a regulated period.

The Charity Commission, on the other hand, will always have an interest in ensuring that charities do not breach charity law by being party political (which is different to 'political activity', which is allowed, as explained in [section 1](#)).

Some charities – such as those with government or local authority⁴ contracts – may also be subject to specific contractual restrictions or grant conditions around their campaigning activity.

“My organisation needs to stop speaking out close to elections because of Purdah”

'Purdah' is an outdated term which is sometimes still used to refer to the period before elections in

⁴ Note that there are restrictions under law that applies to local authorities and some other associated public bodies which restrict them from giving publicity to a political party or publishing material that appears to be designed to influence public support for or against a political party (regardless of whether there is an election coming up or not). Authorities that are subject to this restriction must ensure that they do not give assistance to an organisation to carry out activity which it would itself be prohibited from undertaking under that law. This can have a consequential effect on charities that receive funding or assistance from such an authority.

which public bodies and government departments are subject to Cabinet Office guidance calling for particular efforts to avoid appearing politically partisan. This period is now referred to more appropriately as the ‘**pre-election period of sensitivity**’ or more simply the ‘**pre-election period**’.

The pre-election period does not have a direct impact on private individuals or organisations which are not public bodies. However:

- The time period in which purdah applies often aligns with the application of the Charity Commission’s guidance on elections and referendums, calling for extra care by charities ahead of a vote
- Public bodies or government departments funding other organisations will also expect them to ensure that they do not do anything with their funds which would cause the funder to be in breach of the pre-election guidance

Campaign groups may also find their objectives delayed as a result of the restrictions that apply to others during the pre-election period, for example because a particularly politically controversial but strategically key announcement or appointment might be delayed until after the pre-election period.

“I need to register with the Electoral Commission if I want to do any campaigning ahead of the election”

Individuals and organisations can incur spending on regulated activity up to a specified limit without having to register with the Electoral Commission, though they will then have to be careful not to undertake any further regulated activity.

As explained above, ahead of a general election you may be able to spend up to £10,000 before needing to make a notification to the Electoral Commission.

If you do not register but are engaging in some regulated activity, you should still ensure that you keep track of your spending and donations so you can justify your decision not to register and in case you do decide to register later down the line.

“I need to make sure that my organisation doesn’t work with any other organisations ahead of an election”

The Charity Commission’s guidance (CC9) makes clear that “*a charity may work with other organisations to further or support its own charitable purposes*” and that “*Sometimes alliances will consist of representatives from a number of charities, non-charitable organisations, individuals and perhaps representatives of a political party.*” When working with others, the trustees should be confident that the risks of participating in the joint activity are outweighed by the benefits and how to manage any risks to its reputation and its work.

‘Joint working’ is a difficult area of election law but the rules do not stop you from engaging with other organisations or campaigning coalitions. However, if you wish to do so within a regulated pre-election period and any of the proposed joint campaign activities are regulated by election law, then all of the campaigners in the group may have to count the total cost of the group’s activities towards each campaigner’s spending limit, unless the joint working is carefully managed.

Having informal discussions with other campaigners that does not involve co-ordination of your campaigns will not generally engage the joint campaign rules under election law. There should be lots of ways to work with other organisations ahead of an election without engaging the ‘joint working’ spending rules under election law (as explained above).

The Electoral Commission produces resources on joint campaigning, see [here](#) for more information.

“I need to make sure that my charity doesn’t use emotive or controversial material when campaigning ahead of the election”

The Charity Commission’s guidance (CC9) makes clear that *“charities’ campaign materials will frequently have an emotive content, and this is perfectly acceptable so long as it has a well-founded evidence base and is factually accurate.”*

The Commission suggests that trustees will need to consider the risks of using emotive or controversial materials and weigh them up against the potential benefits. It recognises that such benefits might include enhanced public understanding, a change in attitudes towards an issue and perhaps also increased donations.

Typically, the key risk of pursuing emotive or controversial campaigns will be to the public perception and reputation of the charity. In the Charity Commission’s [shorter 5-minute guide](#) for charity trustees on political activity and campaigning by charities, the Commission suggests that trustees should *“regularly consider the impact of your political activity on the charity’s assets including its reputation, especially when it might attract significant public interest or criticism. The potential for criticism can be mitigated by the charity ensuring that it conducts its activity with respect and tolerance.”*

The desirability of acting with “respect and tolerance” has become a hallmark of the leadership of Orlando Fraser KC, since he became Chair of the Charity Commission in 2022. In new [social media guidance](#) released in September 2023, the Commission suggests that *“Using social media in riskier contexts can attract significant public interest or criticism. The potential for criticism can be mitigated by the trustees ensuring that the charity conducts its activity with respect and tolerance.”*

Ultimately, it’s for the charity trustees to decide the charity’s approach to external communications, and the extent to which it is appropriate for the charity to use emotive or controversial campaign materials and techniques. Some charities which are dependent on fundraising from across the general public will be concerned to mitigate reputational risk as far as possible. Some others will know from their own stakeholder research that their supporters respond best to messaging that pulls no punches, and refuses to show respect or tolerance to arguments which directly contradict their charitable mission. Charities which are privately endowed, and do not rely on public fundraising, might reasonably place less weight on reputational considerations in determining their approach.

In each case, the key issue is that the trustees make decisions that are within the range of decisions that a reasonable trustee body could make in the circumstances, acting in good faith and in the interests of the charity (as explained in more detail in the Charity Commission’s [decision-making guidance CC27](#)).

2. Planning campaigns

In planning any campaign (including in the run-up to the general election), you need to ensure that the key legal areas discussed in section 1 have been considered, to give you the freedom to create an effective and lawful campaign.

You should:

1. Identify whether your campaign idea is political activity or campaigning (and ensure it isn't party political) – this is so that you can make sure you are complying with charity law as set out in section 1 of this note
2. Check that your charity's governing document or the terms of the funding you want to use do not restrict the type of campaign or activities you want to pursue
3. Consider when the next election is expected to be
4. Ensure that your campaign supports your charity's purposes and that the amount of resource you'll need to put into the campaign is reasonable given the expected outcome
5. Assess the key risks of your campaign and document what the charity is going to do to manage those risks
6. Follow your charity's authorisation procedures for the campaign, including direct trustee authority where appropriate for more risky and political campaigns

The Charity Commission's annual return process now asks the charity to confirm whether it has a campaigns and political activity policy and procedures in place. Whilst this does not mean that there is a requirement to have such a policy, it does indicate the Commission's expectations that charities have processes in place for managing political activity and its risks, which can be addressed clearly in a political activity policy. On the next page, we have included a **checklist** of what you may wish to include in such a policy to help you manage these risks.

We have also included a **template campaign assessment tool** which takes you through the key questions you need to consider in planning and authorising the campaign. It covers the key charity law and regulation considerations for campaigning and political activity. Where you have identified that an election is coming up (such as the general election anticipated over the next year or so) then you should also consider and answer the section on elections within the table. The trustees of the charity should participate in the risk assessment and approve the final version (at least for riskier campaigns). You should make sure you keep a copy of it so you can demonstrate the steps you took to manage the risks of your campaign.



Checklist: what to include in a political activity and campaigns policy

Your charity’s purposes: your policy should focus on demonstrating a clear understanding of your charity’s purposes and the need for any campaigning or advocacy activity to support those purposes

An outline of the key legal principles applying to campaigning and political activity and the need for the charity to be politically independent

How your charity manages any risks associated with personal political or campaign activities and affiliations of staff and trustees (noting that the level of risk will be different both within and between these categories), whilst protecting their personal rights to freedom of expression and association (and in accordance with employment law and any contractual terms for employees) – e.g.:

- Your charity’s approach to identifying and managing risks associated with political activity and campaigns – e.g. using the compliance assessment tool we have included on the next page
- Explaining in what circumstances it might be reasonable to expect personal social media posts to have a reputational impact on the charity and what steps might be taken to manage those risks – you might link here to applicable principles in a separate social media policy or include some key principles within this policy

The framework within which your charity can engage in campaigning and political activity – e.g:

- The types of campaigning and political activities your charity can undertake and any which it should avoid
- How you manage risks associated with staff or trustees standing for public office
- Authorisation and approval processes for any campaigning or political activities – including when there should be direct trustee engagement with the sign-off and approval process
- How social media use should be managed – by linking to your separate social media policy (see [the Commission’s guidance on social media](#)) or including some key principles within this policy



Template: Campaign legal compliance assessment tool

[Charity name]

[Date signed off] by [trustee board] [senior management team] [other]

[Date updated/revisited]

Question	Response
Key charity law considerations	
1	What is/are the objective(s) of this campaign? <i>Explain the objectives of the campaign including short and longer-term goals or likely successes</i>
2	How would this campaign or political activity further or support the purposes of the charity? <i>Clearly link the objectives identified above to their impact on your charitable purposes – there might be various ways in which a campaign will do this. For example, in seeking to change the law you will also raise awareness about the issue. You may also generate fundraising income which can also be applied to the charity's purposes</i>
3	Are the links between the charity's purposes and the activity sufficiently clear? <i>Explain why you are comfortable that there is a clear link between the campaign and your purposes, e.g. on the basis of credible evidence</i>
4	Are any of the objectives of this campaign outside the purposes of the charity? <i>The objectives should not fall outside of the purposes of the charity – some may be ancillary to your purposes, such as increased donations during the campaign period, in which case you should explain that here</i>
5	Are any of the campaign activities party political? <i>The answer to this question should always be no but you should explain how any risks relating to party-political perception have been managed – e.g. reminding staff of your policy in this area</i>
6	How likely is it that the campaign would achieve its objective(s)? <i>Explain here why you believe there is a good/reasonable/proportionate likelihood of the campaign achieving its objectives. For example, if you have undertaken any focus groups or tested appetite for policy change with any key influencers, etc. The likelihood that the campaign will meet its objectives should be monitored as the campaign progresses (and that intention should be recorded here)</i>
7	Is all campaign material factually accurate? <i>Explain here why you are confident that the campaign material will be factually accurate – e.g. because it is based on a credible evidence base</i>
8	What evidence is there to support the answers to questions 2-7 (e.g. beneficiary consultation, a credible evidence base)? <i>For example, point to relevant statistics, the results of research, supporter testing, briefing papers, etc.</i>

Question	Response
Alternative activities to achieve the same objective/s	
9	<p>What other activities could the charity undertake that would achieve the same objectives?</p> <p><i>Here you should explore whether there are other ways you could achieve the campaign's objectives, and then explain below at Q10 why the current campaign is a better use of resources (assuming that is the case)</i></p>
10	<p>In what ways would these other activities be more or less effective than campaigning?</p> <p><i>For example, treating the cause rather than the effects of a policy by seeking policy change for beneficiaries</i></p>
Duration and financial implications of the campaign	
11	<p>What would be the duration and financial cost of the campaign?</p> <p><i>Include appropriate details</i></p>
12	<p>Can the trustees justify the resources applied to the activity?</p> <p><i>For example, explain why the resources being applied are reasonable and proportionate given the anticipated outcome of the campaign and the scale of charitable impact it will deliver if successful, and how it is, e.g., in line with your budget</i></p>
13	<p>Would campaigning become the charity's only activity, and if so, for how long?</p> <p><i>If the campaign is 'political activity' then it is important that it is not the charity's sole and continuing way of furthering its charitable purposes – you should note here the other non-political ways in which you will support your purposes</i></p>
Partnerships	
14	<p>Would the campaign be undertaken in partnership with other organisations?</p> <p><i>Include details of any partnership working as part of the campaign</i></p> <p>If no, move on to question 15.</p>
15	<p>If yes, how would financial and partnership arrangements be managed?</p> <p><i>Set out details of the arrangements which should demonstrate (at a high level) how the charity will ensure that risks arising from the partnership will be managed (such as guarding against the charity's resources being used for non-charitable purposes)</i></p>
Risk management	
16	<p>Have the trustees considered the impact of the proposed activity on the charity's reputation?</p> <p><i>Consider including here a summary of the charity's risk tolerance and how its specific context affects its tolerance for reputational risk, in particular. For example, if the charity's key audiences are expected to respond positively to the campaign (and why)</i></p>
17	<p>Have the trustees considered potential conflicts of interests ?</p> <p><i>You should demonstrate here how any conflicts will be managed, e.g. by noting your conflicts of interest policy or process set out in your governing document and that will be complied with</i></p>

Question		Response
Risk management		
18	What other risks would the charity be exposed to in undertaking this campaign?	<p><i>For example, consider:</i></p> <ul style="list-style-type: none"> • Risk of acting outside the charity’s purposes/misuse of charity funds? • Breach of legal/good practice requirements on campaigning? • Costs and benefits? • Risk of failure to meet objectives? • Financial risk? • Risk to independence? • Unintended consequences? • Other?
19	How could these risks be mitigated?	<p><i>For example, through compliance with key policies, outline the steps taken to protect the charity’s reputation such as press lines, etc.</i></p>
Monitoring and evaluation		
20	How would the charity monitor and evaluate the effectiveness of the campaign?	<p><i>For example, any milestones that will be used to assess development of the campaign, who at the charity will have oversight of the activity and who will monitor risks</i></p>
Activities ahead of elections and referendums		
21	<p>Is the campaign going to be held in the run-up to an election?</p> <p>If no, you do not need to answer the questions below.</p>	<p><i>Outline the specific dates of your campaign here and highlight whether this timeline coincides with the run-up to an election</i></p>
22	Has the charity read the Charity Commission’s guidance on elections and referendums?	<p><i>The answer to this question should be yes</i></p>
Election law considerations		
23	Are key staff and the trustees aware of the requirements in an election period?	<p><i>E.g. you should refer to the fact that the board and key staff are aware of the requirements for non-party campaigning under election law and if you have, for example, taken advice on whether the campaign is regulated, etc.</i></p>
24	Will the charity’s campaign activities above be accessible to the public?	<p><i>Note for example if the activities will be accessible only to members and supporters who have signed up to receive campaign comms from you, in which case they are unlikely to be regulated by election law unless you then also made the comms publicly accessible</i></p>

Question	Response
Election law considerations	
<p>25 Could any of the activities above be reasonably 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? (often known as ‘the purpose test’)</p>	<p><i>Explain why you consider the activities are not caught by this test, where applicable (or explain why you think there is a risk that they may be and whether you have taken advice to clarify this, etc.)</i></p>
<p>26 Could this campaign cause the total value of the charity’s activities that meet the purpose test to exceed £10,000?</p>	<p><i>Remember that you need to include a proportion of staff time in valuing activity regulated by election law</i></p>
<p>27 If the answer to question 26 is yes, has the charity registered (or will it register) as a non-party campaigner with the Electoral Commission and put in place a system to comply with the spending and donation rules?</p>	<p><i>The answer to this question should be yes if you have answered yes to Q29 – explain whether you will register fully or will make a declaration that you will not spend above the reporting threshold/avoid spending above the reporting threshold, etc.</i></p>

3. Campaigning techniques: FAQs



FAQs: What can my charity do ahead of an election?

Below we have set out a list of campaigning tactics or activities that your charity might wish to undertake and offer some practical tips for how to comply with the law when pursuing them. All of the tips below assume your charity has already followed the ‘planning your campaign’ steps in section 2 of this guide.

Can my charity continue to campaign on a policy position that has been adopted by or is similar to that of a political party or candidate?

Your charity can do this – it might have a range of long-standing policy positions or issues it campaigns upon which a political party decides to support or take on as a manifesto commitment. This should not prevent the charity continuing to campaign, as long as the charity continues to campaign as previously planned, and emphasises its independence from the political party that supports or criticises its campaign position. If it decides to react to the issue becoming politicised and change its campaign strategy, then it may need to count the expense of the campaign as regulated activity under election law. However, it is unlikely that reacting in a minor way to a political party or candidate adopting or supporting your campaign would be regulated under election law or prohibited by charity law, provided it’s clear you would welcome the same from any party or candidate – e.g. simply welcoming the party’s decision to adopt the policy and calling on others to do the same.

Can my charity encourage politicians or parties to adopt the charity’s policy ideas and aims?

Your charity can do this and it is a common and effective campaigning tactic. You might try to influence politicians to vote for or against legislation or policy decisions that affect the charity’s purposes (though note that there are separate rules around paid-for, ‘consultant’ lobbying of senior civil servants and ministers⁵). Ahead of the general election you might seek to get the charity’s policy asks on each party’s manifesto or a candidate’s agenda. Bear in mind that the Charity Commission warns that persistent interaction with only one political party might lead to questions over the charity’s independence. So you should ensure that you interact with parties across the political spectrum, or be able to show willingness to do so, even if you might engage more with one party at times (and only then with clear objective reasoning). For example, an objective reason to interact more with politicians from one party might be that they are the party in government, and so doing so is the most effective way to influence policy of the day. This type of activity shouldn’t be caught by election law, particularly if your influencing work is ‘insider influencing’ privately with politicians – but you may need to consider lobbying law if your charity has direct communication with government ministers or senior civil servants (you should seek further advice if this is the case).

Can my charity set out political parties or candidates’ positions on issues that are important to us?

You can do this, as long as you don’t frame the material in a way that suggests the charity disapproves of one particular party or approves of another, and do not explicitly compare how much the party’s views align with the charity’s views, and provided doing so furthers your charitable purposes.

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⁵ There are also separate rules in Scotland and for some governmental and public bodies that set their own lobbying rules

For example, you should not create a score card of how well a political party's or local candidate's election promises align with your charity's campaign as this may be indirectly telling your supporters who to vote for – this would not be possible under charity law (it would also likely be regulated by election law). It will be possible to undertake this type of activity without it being regulated by election law if the intention of the activity can be clearly seen to be to provide information to the public rather than to influence them to vote for certain parties whose positions you set out in the material and there is no call to action or other negative/positive framing of certain parties over others.

Can my charity talk to the press about the charity's views on a policy or decision by the Government or a political party?

Your charity can do this. A charity can welcome or criticise a government policy in the press or respond to requests for comment from the media on a political issue, if doing so supports its purposes. During the regulated period before the election, press releases to the media will not be regulated, unless the charity publicises them in some other way (i.e. posting them on their website), even if the content of the briefing meets the purpose test.

Can my charity campaign for or encourage a company to change its practices?

Your charity can do this, and it will not be political activity, meaning that it could be a core ongoing element of your charity's work if it supports your purposes. An environmental charity might lobby or petition a multinational company to reduce its use of plastic, for example, or you might participate in shareholder activism to change company practises from the inside. This type of activity is unlikely to be regulated by election law provided that it clearly targets non-political actors or consumer behaviour, etc.

Can my charity invite a politician or candidate to speak at a charity event or visit our charity's work?

Your charity can do this, provided it either invites a spectrum of politicians to the event (or to a series of events) to show that the charity isn't supporting any particular party or be able to show an objective reason why this is impractical. For example, a charity working in a specific local area might choose to invite its local MP to an event, because they are the local office holder and not because of their party affiliation. Or it may decide that ahead of an election, due to resourcing constraints, it will only invite the three main candidates (on an objective evidence base like polling data or the results of the last election). The charity should be aware of the risk of a politician or candidate using the event for their personal gain and take steps to ensure the politician or candidate does not use the invitation to promote their own party-political purposes – and should be ready to react appropriately if they do so. This activity should not be regulated by election law by virtue of a politician or candidate attending (if the charity is following these guidelines), but the content of the actual event itself could be depending on the nature of the campaign.

Can my charity attend an event organised by a political party or candidate?

Your charity can do this, if the purpose is to highlight the charity's issues or policy positions. The charity should be willing to participate in a range of political parties' events and it may be problematic if the charity were to only engage with one party over time. Particularly as an election grows nearer, the charity should take active steps to engage with a range of parties, and take care not to allow the charity's brand to be used by parties or candidates for their own purposes.

Can my charity hire out its premises to a MP, candidate or political party?

Your charity can do this. If your charitable purposes include provision of premises to the community, then this may include local political groups (though you should ensure that they can use the premises on the same terms as any other organisation or other political group). If your purposes do not include provision of premises then you can hire out space to a political group or candidate to raise funds to be spent on the charity's purposes. Unless required by election law (this applies to some schools, for example), then you should not allow political groups to use your premises for free because this could be seen as a donation. You should ensure you apply the same hire terms to a political party as to any other non-commercial organisation you would hire out space to.

Whilst you should be able to demonstrate that you would allow any political party/politician to hire out the premises on the same terms to avoid accusations of bias, this does not extend to organisations if you have a reasonable evidence base to suggest it would cause a security risk or if its aims directly conflict with the charity's purposes or would alienate the charity's supporters (though you should seek advice if you want to exclude a party/candidate on this basis prior to the election, as it can have some implications under election law).

Can my charity establish or take part in a coalition?

As explained above, your charity can do this but should undertake some due diligence on the organisations it will be working with to ensure that the benefits of the coalition outweigh any reputational risks. You will also need to ensure that none of the charity's resources are used for activities that do not support its purposes. Some partners in a coalition might not be charities and will not be subject to the same restrictions as your charity.

Working with other organisations ahead of an election can give rise to joint working rules under election law, if any of the coalition's activity is regulated, as explained above.

Can my charity run a debate or hustings with political candidates ahead of an election?

You can do this if it would support your charity's purposes, for example if a charity set up to relieve poverty organised a debate on how to address social inequality. To avoid the debate breaching charity law or being regulated activity under election law, the charity will need to ensure that it has objective reasons for its choice of invited (and excluded) party representatives, such as by inviting all of those who have seats in the current parliament, and be able to show that it has made equal efforts to secure representation of those parties at the event. The debate will need to be impartially chaired and questions put equally to all participants.

Can my charity produce a charity manifesto ahead of an election?

Your charity can do this – you can set out the charity's issues and key priorities for the next government, provided that it is expressed as aimed at influencing policy of whichever party comes into power, rather than supporting the prospects of any particular party. You should take care once all the party manifestos have been published if your charity's manifesto is closely aligned with one particular party, as this may be seen as indirect support and regulated activity under election law.

Key terms used in this guidance

Articles of Association – A company's Articles of Association are its governing document, which will set out rules about how the company is run and who runs it.

Beneficiaries – A charity's beneficiaries are those the charity seeks to benefit/help. They might be service users if your charity runs a service or those whose rights you campaign to protect (such as asylum seekers).

Charity Commission – The Charity Commission is what is known as a 'regulator'. Regulators generally supervise a particular profession or sector. The Charity Commission registers eligible organisations as charities, provides help and guidance to charities and has powers to investigate them and enforce the rules.

Charity law – Charity law refers to a range of legal obligations that apply to charities, deriving from various sources (including statutes and common law). Charities also have to comply with other laws, such as company law if they are a company, or defamation law.

Company law – Company law will only be relevant to charities that are set up as companies. Charitable companies need to comply with charity law and make certain filings with the UK's regulator of companies, Companies House. The main source of company law is the Companies Act 2006.

Electoral Commission – The Electoral Commission is another regulator, which regulates most elections in the UK and those who it deems to have influence in those elections. The Electoral Commission offers much guidance on the main rules, see the resources cited in this guide.

Election law – Election law in the UK comes from a range of sources, including various statutes, orders and cases. It is quite an old legal framework and, as a result, can sometimes be difficult to understand and apply to a modern context. The Electoral Commission offers much guidance on the main rules, available in the resources section of this guidance.

Purposes – A charity's 'purposes' will sometimes be referred to as their aims or objects, but technically there is a slight legal difference between those words. A charity's purposes are what it is set up to achieve at its core, and have to fall within one of thirteen categories of charitable purpose. You can check what your charitable purposes are by going on the Charity Commission website, searching your charity's name and clicking on the 'charity framework' button.

Public body – Charity Commission guidance defines public bodies as 'all ministries, departments and agencies of government, whether local, regional, national, in the UK or overseas' including the UN and their agencies, the EU and associated bodies, the World Bank, NHS trustees, development agencies, non-departmental public bodies (apart from those registered as charities and similar bodies in other countries).

Trustees – A charity's trustees are the individuals ultimately responsible for the charity and its legal compliance. They have a range of duties under charity law. If your charity is a company, the trustees will also be known as 'directors' under company law.

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