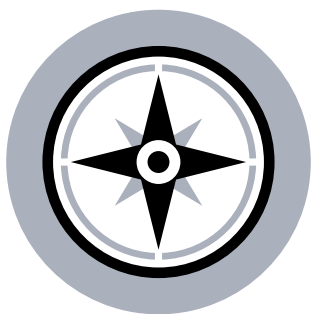
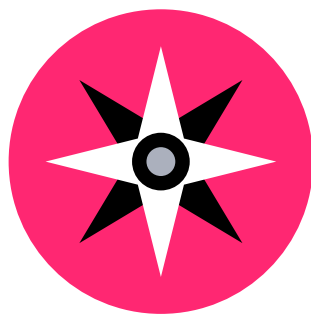


# Navigating charity campaigning

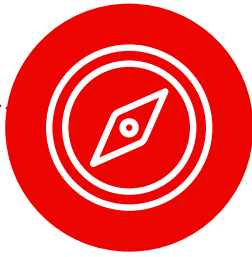


**A brief guide for trustees**

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# Introduction

There are many ways to make change, just as there are many definitions of what campaigning is. There is no single or 'right' way to do it. As a trustee, your role is to support your charity to campaign with confidence, within the law, and within regulatory requirements. Yet, because it is a complex area – and one that has been contested in recent years – it can be hard to navigate.

In 2023, our [survey of trustees](#) in partnership with Governance & Leadership magazine found that support for campaigning is high, but levels of confidence do not match. This guide is a response to the findings of that survey. It is framed as a set of questions that will help you support your organisation to campaign with confidence. It is not legal advice but is intended to work alongside more detailed legal and strategic guidance we have signposted to.

Few boards are actively discussing campaigning – but it's vital that you are clear and confident about your organisation's approach. Your leadership is crucial to helping staff take the best campaigning decisions.

# 1

## Do we campaign? If so, why and how?

There are many ways to campaign and make change – loudly or quietly, alone or in partnership, whether you are pursuing national policy change or ensuring that the experience of the people you work with is heard. The important thing is to be clear about how it helps you deliver your charitable purposes.

You are allowed to campaign, even in the run-up to an election. In 2023, Charity Commission Chair Orlando Fraser said, “I will robustly defend charities’ right to campaign lawfully, even where such campaigning covers sensitive or politically divisive ground.” There is certainly demand for charities to speak up more, as we outlined in the Charity Reform Group’s Speak up, we need you! report.

For the purposes of this document, we focus on the Charity Commission’s definition of campaigning and political activity. So, first, ask whether any of the work you do comes under this definition. The Charity Commission’s ‘at a glance’ guidance lays it out. Does this sound like you?



## ● **What do we campaign about and why?**

A clear answer to this, outlining what your objectives are in campaigning and why this aligns with your purpose and values, will prove a valuable foundation for further decisions.

It could be especially useful if you campaign on the causes of, or matters that affect, your 'core' issue but that are, nevertheless, crucial to the problems you are working on. Join the dots so you can explain the connection to your supporters, donors, the public and, potentially, critics.

## ● **Is campaigning the best way to achieve our objectives?**

The Charity Commission suggests that trustees should ask two questions about campaigning, to ensure it's in the organisation's best interests:

- Will this further or support the work of the charity?
- Is it worth the effort and resources involved?

If you can answer yes to both questions, it says you can 'confidently go ahead.'



# 2



## Does our activity comply with Charity Commission guidance?

- **Do trustees and staff have a good understanding of charity regulation around campaigning and political activity?**

All trustees should be aware of the fundamentals, but we suggest that at least one board member leads on staying up to date with the rules relating to charity campaigning. Charity Commission [guidance on campaigning & political activity \(CC9\)](#) is a core document. You should also be aware of its [guidance on social media](#).

- **Is our political activity political or party political?**

Political activity, such as calling for a specific policy or commenting on a social issue, is fine. Party political (or 'partisan') activity, which could reasonably be perceived as attempting to influence how people vote, is not – charities should be party politically neutral.

## ● **Can we show that we have considered key governance issues around campaigning?**

Like any other governance questions, your considerations and decisions should be recorded in some way. The Charity Commission says:

**There are a range of ways which trustees might consider using to satisfy themselves [that campaigning and political activity are right for their organisation], and to demonstrate that they have done so; for example by keeping a risk register, a business plan, and the minuting of meetings where such issues have been considered.**

## ● **Do we need any specific internal policies?**

It seems odd to think added bureaucracy might be liberating. But having clear policies in place can actually free charities up to speak with greater confidence. They also allow staff to be clearer on the parameters within which they are acting.

It's worth noting that latest [Annual Return guidance](#) asks if your organisation has policy and procedures in place on campaigns and political activity. If you campaign, you may want to consider it, but it's not a requirement.



# 3

## Are we likely to campaign in the run up to an election?

### • Does someone on the board have a good understanding of election law around campaigning?

In the twelve months before an election, additional laws and regulation become relevant. All trustees should be aware of the basics, and you may want to appoint one board member to take a lead on staying up to date with election law relating to charity campaigning. Key pieces of legislation are:

- [Lobbying Act 2014](#) – Part Two on non-party campaigning
- [Elections Act 2022](#) – Part Six on digital imprints
- [Political Parties, Elections and Referendums Act 2000](#) (PPERA) – which the Lobbying Act and Elections Act amended.



Don't panic – you don't need to know every word by heart. There is guidance that will take you through the key areas, including [General Election 2024: Charity Campaigning](#) from Bates Wells and SMK, and from the [Legal Education Foundation](#) and Stone King.

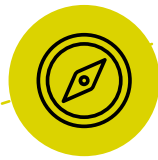
## ● **Are we happy to register with the Electoral Commission if our activity requires it?**

For the purposes of charity campaigning, the Lobbying Act is purely a transparency measure. It requires the amount spent on certain types of activity to be declared. The Electoral Commission, which is the enforcement body, has no role in regulating what charities do.

Most charities will not need to register. If you do, it's not an indicator that you are contravening Charity Commission guidance on campaigning and political activity. The two regimes use different definitions for different reasons.

It's a woolly area of law and the Electoral Commission has made great efforts to provide some clarity [through its own guidance](#). The good news is that, by all accounts, they are genuinely willing to talk things through, even discuss specific plans you may have. You may want to encourage staff to take up that offer.





## ● **Are we alert to the shifting political context?**

The context for your issue can change over time. A message that you planned a few months ago can suddenly land very differently if the subject has become particularly high-profile or contested. That doesn't mean you should stop – just reassure yourself about how decisions are being made in these circumstances and that they are documented.

Holding a policy position similar to one or more political party is a common concern, but not one you should worry about unduly. In its [guidance on elections and referendums](#), the Charity Commission says:

**In this case it is entirely acceptable for the charity to continue to campaign on that issue and to advocate its policy as long as it makes clear its independence from any political party advocating the same policy, and does nothing to encourage support for any political party.**

Should your issue already be, or become, politically divisive during an election period, extra care should be taken when starting a brand-new campaign. Recording key decisions as you go can help ensure that, if you are challenged about attempting to influence voter decisions (which will not be your intention if you are following Charity Commission guidance), it will be easier to show your reasoning.

# 4

## Who will be speaking for us? On what? And how?

It's important that your spokespeople and campaigners are guided and supported when they speak into the public domain. A spokesperson doesn't have to be your CEO, and, in many cases, it will be better if they are not.

Whoever is speaking for you, make sure they have internal guidance, so that they can be confident about what they have the authority to speak publicly on, and personal support available should things escalate or become abusive.

### ● **What are our red lines / how far are we willing to speak out on an issue?**

Our survey showed that trustees were quite comfortable about their charity speaking out about its 'core' issue. Fewer felt comfortable about discussing underlying causes (e.g. social security levels driving food poverty). Less than 50% were happy about the prospect of their CEO speaking to 'issues of the day', e.g. on Question Time. Regardless of your media objectives, discussing now what kinds of issues you should speak on could avoid potential pitfalls further down the line.



## • **What will be our broad approach and tone?**

Encourage staff to think about the organisation's approach and tone. How you speak publicly will shape different people's views of you and the issues you are tackling, as well as their responses. Some issues or situations may demand an expression of outrage, others a cooler approach. There are no right answers, but being clear about some of this early on, and agreeing how trustees should raise any concerns, could help avoid unnecessary difficulties.

- Will you prioritise a strong evidence base, so that your audiences know where your expertise comes from?
- Will you insist on 'playing the ball, not the player', so that you address any criticism at an issue rather than a person?
- Will your messaging err towards a positive future vision or focus on the urgency of the immediate situation?

## • **How do we use social media?**

Social media can be a source of both support and abuse – professionally and personally. Charity Commission [guidance](#) says that, if your organisation or staff use social media, you should have a policy to clarify what is and is not appropriate. It doesn't treat professional and personal social media accounts as entirely separate and, though this is only likely to affect people who are relatively high profile, it's worth discussing with appropriate staff.



# 5

## What is our appetite for risk?

The Charity Commission does not ask charities to avoid all risk. It says:

**As with any activity, campaigning and political activity will carry some opportunities and risks which trustees will need to identify and plan to manage.**

Campaigning risk takes many forms – financial, reputational, legal – but similar risks are present if you decide not to speak up. It could be more expensive, less effective, or even impossible to pursue your objectives without recourse to campaigning or political activity. Reputationally, the people you work with and for, your donors, and your supporters may regard failure to campaign as a significant problem.



In today's world, no public-facing activity is risk-free.  
Ask yourselves:

- What levels of risk are we prepared to accept in pursuit of our objectives?
- Who needs to be part of those conversations within our organisation?
- Do we need any mitigation to keep potential risk within the levels we find acceptable?

## • **Keep on campaigning!**

The worst of all worlds is that, without guidance, people may err so far on the side of caution that they effectively self-censor. The people and places you stand for need your support, your voice, and your platform. So, please, keep on campaigning!



# Useful resources

## ● Political activity & campaigning

[Campaigning and political activity guidance for charities, CC9](#)  
(Charity Commission)

[Charities & social media](#) (Charity Commission)

## ● Election periods

[Charities, Elections & Referendums](#)  
(Charity Commission guidance)

[Lobbying Act 2014 – Part Two on non-party campaigning](#)

[Elections Act 2022 – Part Six on digital imprints](#)

[Political Parties, Elections and Referendums Act 2000 \(PPERA\)](#) –  
which the Lobbying Act and Elections Act amended

[Non-party campaigner guidance](#) (Electoral Commission)

[Non-party campaigner Code of Practice](#)  
(issued by the Secretary of State)

[Charity Commission and Electoral Commission chairs share advice for charities engaging in public debate](#) (blog)

## ● Guides by legal firms

[General Election 2024: Charity Campaigning](#)  
(Bates Wells and SMK)

[Guidance on charity campaigns & political activity](#)  
(Legal Education Foundation and Stone King)

## About SMK

At the Sheila McKechnie Foundation (SMK), we believe campaigning is vital to a healthy society. We help campaigners to thrive. In a free and hopeful society, people need to know they have the power to make a difference: that they can envisage change and push for that change to happen.

For nearly two decades, we have helped all sorts of individuals, causes and charities to find their power as changemakers – as campaigners. We support, connect and champion these campaigners, equipping them to go after the social change they seek.

May 2024

Sheila McKechnie Foundation  
88 Old Street  
London EC1V 9HU

020 3687 3182  
info@smk.org.uk

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