

The information in this document was collected in 2011 and may therefore be out of date. As this document refers to several pieces of legislation please ensure that you seek up to date information on the topics in this guide.

Charity law and campaigning

This section outlines the key things you need to know if you are a charity, or are thinking of applying for charity registration, and want to campaign.

Charities and campaigning

Despite misconceptions, charities can campaign. Learn more about the guidelines.

The law concerning charities in Northern Ireland is the Charities Act (Northern Ireland) 2008.

In 2011, the Charity Commission for Northern Ireland commenced the registration of charities. All organisations previously granted charitable status by the Inland Revenue have been issued with a pre-registration letter. The Charity Commission for NI can be found at: www.charitycommissionni.org.uk.

In Northern Ireland the Charity Commission advises that:

Being a charity is not the same as being an organisation that does 'good things'. Charity has an outward, inclusive nature: it is not inward-looking, for private benefit. Only organisations with aims ('purposes') that are charitable for public benefit are accorded the charity label.

Organisations, whose main function is campaigning, would be best placed to take advice from the Charity Commission on their status, as a different legal status may be more appropriate – e.g. as a constituted lobby group.

Charity law is very different in Scotland. You can find more information on the [Office of the Scottish Charity Regulator](#) website.

There is widespread confusion about the extent to which charities are allowed to campaign. The relevant legislation in this area is the Charity Commission's CC9 guidance. This page outlines the key things you need to know if you are a charity, or are thinking of applying for charity registration, and want to campaign.

As the Charity Commission's remit does not cover Scotland, CC9 does not apply. Instead read OSCR's guide to [Meeting the Charitable Purposes Test](#). See in particular section 5.3 on page 14 which states that '...a charity would be able to engage in advocacy, campaigning or other political activity in order to further its charitable purposes without jeopardising its charitable status. The Scottish charity test therefore does not prevent charities from campaigning or lobbying to change the law or the policy of public bodies where this is in furtherance of their charitable purposes. Nor would it prevent such campaigning being a charity's main activity.'

Charity Commission guidelines about charities' rights to campaign can be summarised as follows:

- To become a registered charity, an organisation's main activities must be 'for charitable purposes, which are for the public benefit'. If an organisation's purposes are political then it cannot be considered charitable.
- Of course, many charities do undertake work that is 'political'. Such political activity, or political campaigning can be done if it supports an organisation's charitable activities. So basically, charities can undertake campaigning work, as long as it's not their main activity.
- It gets more complicated because a Charity's Board might decide that the best way to achieve its charitable purposes (for example, to reduce rough sleeping) is to undertake political campaigning (for example, to broaden statutory responsibilities to house all rough sleepers). If this is the case, the charity must ensure that this campaigning activity does not become the reason for why the charity exists.

So, charities can campaign to change, or indeed preserve, legislation. But only if this campaigning work supports its wider objectives as a charity. Charities cannot work for a 'political purpose' – this means they cannot work to further the interest of any political party. Charities must remain independent, and be balanced in its involvement with different political parties.

But what do you do if your charity agrees with the policies of one particular political party? Well, you can give your support to a political party in this situation, if it can be demonstrated that doing so would enable you to achieve your charitable objectives. But charities have to ensure that they do not become mouthpieces for political parties' policies.

Visit the Charity Commission website for a more comprehensive explanation of the legalities. In 2010, The Charity Commission also published ['Speaking Out'](#), a very detailed guide about campaigning and political activity by charities. Former Chief Executive of the Charity Commission, Andrew Hind, commented:

"Campaigning, advocacy and political activities can all be legitimate and valuable activities for charities to undertake. In fact the strong links charities have into their local communities, the high levels of public trust and confidence they command, and the diversity of causes they represent, mean that charities are often uniquely placed to campaign and advocate on behalf of their beneficiaries. "

Case study

In 2010 [Oxfam](#) was cleared by the Advertising Standards Agency for a climate change campaign they ran for which the ASA received complaints about the validity of the statement: 'You're right. People dying thanks to climate change is a long way off. About 5000 miles, give or take'.

The campaign was allowed by the ASA to continue, as the link between people dying as a result of climate change was deemed to be fairly accepted by scientists. There was a "robust consensus" that there was "extremely strong evidence for human-induced climate change." However, this is a lesson to make sure you research and check your campaign facts thoroughly so that you can back up all the statements you make.

The right legal structure

Charities ARE allowed to campaign. But there are some restrictions, so you might want to consider another legal structure.

As discussed in charities and campaigning if you are a registered charity, while you definitely have the right to campaign, there are restrictions.

If your primary and ongoing activity is going to be campaigning, however, registering as a charity is probably not the right legal structure for you.

In Scotland in [Meeting the Charitable Purpose Test](#) section 5.3 states that you can be a charity even if your main purpose is campaigning towards your charitable purpose.

The [Scottish Council for Voluntary Organisation's](#) website is a useful to reference about governance and structures for charities in Scotland. The [Govan Law Centre's website](#) also offers a range of useful information.

In fact, a fundamental consideration is whether your campaign requires any legal structure at all, whether it is becoming a company, a social enterprise or some other 'vehicle'.

Why you might want to become a registered charity

- Charities enjoy a favourable public perception. That is, your potential supporters will recognise that you are will not be profiting from your campaign.
- Charities are able to potentially access funding from a wide range of trusts and Government sources that are not always accessible to anyone else. There is considerable variation on this – for example:
 - The [Baring Foundation](#) was set up in 1969 to give money to charities and voluntary organisations pursuing charitable purposes”.
 - [Tudor Trust - Funding Guidelines 2008-09](#) - “The groups we fund don't have to be registered charities; we can also make grants to other groups as long as they have established charitable objectives.”

- [Trust for London](#) - “We fund registered charities, industrial and provident societies and friendly societies. In exceptional cases we will fund other types of organisations undertaking charitable activities.”
- [Joseph Rowntree Charitable Trust](#) - “It is not necessary to be a registered charity to apply to the Trust. However, the Trust can only support work which is legally charitable as defined in UK law.”
- [Esmee Fairbairn Charitable Trust](#) - “The purpose for which you are applying to us must be legally charitable and your constitution must allow you to carry out the work that you propose. If your organisation is not a registered charity, we will need to see a copy of your constitution or set of rules”

So it's not a black and white issue – being a charity might make it easier to get funding, but it might not make a difference. What the funders above have in common, and presumably have in common with most trust funders, is that if you are not a charity BUT are still undertaking activity that could be described as ‘charitable’, you can often still access funding.

Why you might want to opt for a different structure

Some campaigning organisations decide against charitable status, precisely so they can pursue political purposes.

Such organisations can be set up as ‘non-profit distributing’, for example as a company limited by guarantee.

Or you can set up as a non-charitable Industrial and Provident Society – which basically allows you to conduct any legal business activity that does not involve investment for profit.

[The London Voluntary Service Council](#) have a good summary of some of the different legal structures you might want to consider in relation to organisations in England and Wales.

And while there are fewer opportunities, there are funders that specifically fund bodies that are ineligible for charitable funding. An example of this is the [Joseph Rowntree Reform Trust](#) who:

“...give grants for political, campaigning or lobbying purposes; support projects which are ineligible for charitable funding. It does so to promote

political and democratic reform and defend civil liberties. It does not make grants for work outside the UK, research or projects eligible for charitable funding”.

Scotland will have a new, unique structure called a 'Scottish Charitable Incorporated Organisation'. It is anticipated that it will be possible to become a SCIO at some point in 2010. For more info visit the [SCVO website](#).