

# Charities, Elections and Referendums

Guidance update – January 2011



This guidance is for use by charities during the period between the announcement of an election, and the date on which an election is held. It applies to both national and local elections. There is also a section that deals with national referendums. The purpose of this section is to aid charities in deciding what activities are and are not appropriate in the run-up to a referendum, and during the referendum campaign itself. This brief guidance should be read in conjunction with our more detailed guidance on the wider subject of *Speaking Out: Guidance on campaigning and political activities by charities* (CC9). The principles described in *Speaking Out* continue to apply during an election period.

This guidance sits alongside other requirements, such as electoral law, which apply to charities and non-charities alike.

The key Acts of Parliament are listed below under Further Reference.

The independent nature of the charitable sector is of fundamental importance to society, and is greatly valued by the public. The guiding principle of charity law in terms of elections is that charities should be, and be seen to be, independent from party politics. This guidance contains legal and good practice advice to charities to help ensure that they are able both to:

- retain the essential quality of independence
- use their voice effectively at election times

There are a number of ways in which a charity may be at risk of becoming embroiled in party politics, albeit unintentionally. These are set out under the following headings:

- Policies
- Publicity
- Parties
- Candidates
- Facilities
- Referendums

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## Policies

- A charity's policy position on a particular issue may coincide with, or be more or less similar to, that of one of the political parties. 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.

## Publicity

- In any publicity material (including printed material, media interviews, and websites) a charity may promote its views on issues which related to its objects and activities. However the charity must steer clear of explicitly comparing its views (favourably or otherwise) with those of the political parties or candidates taking part in the election. For example, if a housing charity supports the building of 100,000 new homes, it can outline the housing policies of each party, including how many new homes each party is committed to building, but it must not explicitly call on people to vote for one party or another. The key point is that whilst charities can attempt to influence public opinion on a particular issue if it furthers or supports their objects, they must leave it to the electorate to make their own decisions about how to vote.

- A charity may publish the views of candidates in local and national elections where these views relate to the charity's purposes and publishing them will raise public interest and debate about the underlying issues. The charity must not encourage support for any particular parties or candidates.
- Some charities publish a manifesto in order to publicise the issues which they campaign on, and in particular the changes they are calling for on behalf of their beneficiaries. Again, this is acceptable where the charity is trying to persuade the political parties to adopt the policies which it advocates, or is simply trying to raise the public profile of those issues. It is not acceptable where the intention is to influence voter behaviour. If a charity is approached by a political party for permission to refer to the charity in their manifesto, whether in relation to a political party or generally, the charity must refuse the request. This is because of the risk that the charity will be appearing to endorse the political party itself.
- Local authorities must not, under the Local Government Act 1986, give publicity to any political party or publish any material that appears to be designed to influence public support for or against a political party. These restrictions extend to any organisations, including charities, which receive local authority funding. Charities which act in this way may therefore breach both charity and local

government legal requirements, and may put their funding at risk. (The definition of published material includes all or part of any text in any printed or electronic media, and TV and radio broadcasts, including interviews.)

Electoral law also has rules about activity that may be seen as election related campaigning by all organisations, including charities. Therefore, even if you are following the guidelines set out in this document and in *Speaking Out: Guidance on campaigning and political activity by charities (CC9)*, if you use material that could be seen as indicating to the public that particular candidates or parties support or oppose your policies, it is possible that you may need to register as a third party with the Electoral Commission. This will depend on how you are planning to campaign and how much you are spending. The Electoral Commission's guidance on the rules affecting non-party campaigners is on its website, and it is happy to give advice on particular cases, on 020 7272 0616.

### Parties

- Charities must not support or oppose a political party or candidate. Charities must not donate funds to political parties.
- Charities are free to invite candidates and political party representatives to public meetings about issues on which the charity is campaigning, for example by inviting candidates to debate those issues, or to speak at a reception to launch the charity's campaign. Trustees must not encourage support for any political party. One way of making sure that their charity does not do that may be to invite representatives from as wide a political spectrum as possible.
- However, inviting candidates from a wide spectrum can be difficult to achieve in practice. It does not mean that all parties have to be represented every time a charity does any work which engages with political parties. The trustees should make a decision based on whether such engagement would further or hinder the interests of the charity. For example, an event may be more manageable and more focused if all minority parties are excluded. If the charity is advised (for example by the police) that the presence of a particular candidate at an event will create a risk of disorder, that would be a good reason for not inviting them. It is also open to charities to decide not to invite a representative from a political party which advocates policies which are in contravention of the charity's objects, or whose presence or views are likely to alienate the charity's supporters. However a charity would have to have very strong reasons for deciding not to invite a mainstream political party.

### Candidates

- Charities are free to approach the candidates in an election, setting out the charity's concerns and asking for the candidates' opinions on them, with a view to promoting debate.
- However, charities should be especially wary of associating or becoming associated in the minds of the public, with a particular candidate or political party. Where the charity supports a popular cause, candidates may see a benefit to themselves in being seen to support the charity, but the charity should be careful to ensure that it is not seen as reciprocating that support.

- Charities must not support particular candidates even if those candidates belong to a range of political parties.
- If your charity works across the UK, there are additional issues to consider. For example, if you are in contact with a member of the Scottish Parliament (MSP) during an election period in England and Wales, you should be aware of, and take steps to mitigate, any risk that your involvement with the MSP might be seen as an endorsement of the political party that they represent, even if they are not themselves standing as a candidate.
- Charities must not assist candidates with their election campaigns, financially or otherwise. Individual members of a charity may of course choose to assist any candidate in a personal capacity, but officers and employees of a charity should not use their position in any campaigning activities in such a way as to suggest that the charity endorses any candidate.
- If an employee is directly engaged in a charity's campaigning activity, and also has personal involvement with one particular political party, for example they are standing as a candidate, they should declare this to their employer. The trustees should then consider this potential conflict of interest and assess the risks for the charity in terms of both reputation and legal liability of the person taking on both roles simultaneously.

### Facilities

- Some charities (eg some schools) may be required by electoral law to make their premises available to candidates to hold public meetings free of charge.
- Where this is not the case, but a candidate wishes to use facilities within a charity's premises (eg a village hall or community centre) for a public meeting, then it should be treated as a normal commercial hire, and charged for at a rate decided by the trustees. There are no restrictions on what this rate may be, but it should be both reasonable and applied equally to bookings by all candidates.
- It is open to a charity to refuse to hire facilities to a candidate, party or other group if the charity trustees have good reason to believe that to hire the facilities would alienate the charity's beneficiaries, users or supporters, or are advised by the police that to do so would create a risk of public disorder.

### Referendums

- A referendum is held when electors are asked to vote on a particular issue or proposal (in the form of a question). National or UK-wide referendums are regulated by the Electoral Commission under the Political, Parties, Elections and Referendums Act 2000 (PPERA).
- The principles that govern political activity by charities also apply to referendums. This means that, depending on the nature of the referendum issue or question, there may be some circumstances in which it is appropriate for a charity to set out the pros and cons of a yes or no vote for their beneficiaries.

- For example, if the outcome of a referendum will have a particular impact on older people, it would be appropriate for a charity that works with older people to explain the effects of the different outcomes to its beneficiaries. A charity which exists to promote good citizenship might want to encourage people to participate in the process.
- In doing so, the trustees must consider carefully how such activity fits with their charitable purpose, and how they will ensure that they maintain their independence and neutrality.
- However, this is distinct from the charity actively campaigning for a 'yes' or 'no' vote.
- Where charities wish to campaign for a 'yes' or 'no' vote in a referendum, they should consider carefully the Commission's guidance (both this guidance and *Speaking Out: Guidance on campaigning and political activity by charities (CC9)*). In exceptional cases charities may consider that the outcome of a referendum is likely to directly affect, positively or negatively, the delivery of their charitable objects. Where the impact on the work of the charity is very indirect or uncertain, the trustees will find it difficult to justify campaigning for a particular outcome.
- Charities must also consider carefully what the justification is for campaigning where there is a significant party political dimension to the referendum, or where the aims of the charity are narrower than the potential impact of the referendum. This is because there is a risk of the charity being engaged in party political or inappropriate political activity.
- Having considered the guidance and these issues, if the charity remains uncertain about whether it is appropriate activity for their charity to engage in, they should seek guidance from the Commission.
- The key question for the trustees is exactly how such activity would be an effective way of promoting the objects of the charity.

The Electoral Commission's responsibilities for national or UK-wide referendums include registering campaigners, regulating campaign spending and donations, and designating lead campaign groups. If you publish material that could indicate to the public that the outcome of a 'yes' or a 'no' vote in a referendum is likely to have either a positive or a negative effect on the work of your charity, you may need to register with the Electoral Commission as a campaigner.

Charities that are wholly or mainly funded by certain public funds are also subject to section 125 of PPERA which bans publicity in the 28 days before a referendum is held. This ban applies to the publishing of any general information about the referendum as well as any referendum related campaigning activity.

Further guidance is available from the Electoral Commission's website, or you can telephone for advice, 020 7271 0616.

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## Further Reference

*Speaking Out: Guidance on campaigning and political activities by charities (CC9)*

Acts of Parliament [www.legislation.hmsso.gov.uk](http://www.legislation.hmsso.gov.uk)

- Representation of the People Acts, 1983, 1985 and 2000
- Political Parties, Elections and Referendums Act, 2000
- Local Government Act, 1986

## Useful websites

The Electoral Commission [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk) (or by telephone on 020 7271 0616)

The Advertising Standards Authority [www.asa.org.uk](http://www.asa.org.uk)

The Local Government Association [www.lga.gov.uk](http://www.lga.gov.uk)

National Council for Voluntary Organisations [www.ncvo-vol.org.uk](http://www.ncvo-vol.org.uk)