

# Charities and campaigning on political issues

## Frequently asked questions

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# 1. What does Scottish charity law say about campaigning on political issues?

Under Scottish charity law, your charity can campaign if:

- it is advancing your charitable purposes
- your governing document does not prevent the activity
- you are not advancing a political party, and
- you can show you are acting in the charity's interests

Scottish charity law says that an organisation set up to be a political party or to advance a political party cannot be a charity.

Our position is that charities can campaign on political issues to advance their charitable purposes, including during election periods, as long as the requirements of charity law and, where necessary, electoral law are met.

Political campaigning – for example taking a position for or against a change in policy or legislation – is a legitimate way for some charities to achieve what they were set up for, their charitable purposes.

# 2. What does this mean in practice?

This means that Scottish charities can, where it advances their purposes, carry out activities that seek to:

- influence government, both central and local
- respond to, promote, oppose or support legislation
- petition and otherwise seek to change public policy
- support or oppose a policy advocated by a political party (but not support or oppose the party itself)

Charities can distribute information or engage in debate about the policies of political parties or candidates where these activities are ways of achieving their charitable purposes.

While charities may choose to engage in political debate, as a charity trustee you must make sure that this activity is in pursuit of the charitable purposes. You must also bear in mind a charity trustee's general duty to act in the interests of the charity. Among other things this means that you must consider any potential reputational impact on your charity.

### 3. What about joint campaigning with another organisation?

If you are campaigning with other charities, you should make sure that the joint activities are consistent with each charity's purposes.

If you are campaigning with non-charities, you must make sure that they do not compromise your charity's independence by being associated with any political parties, politicians or candidates standing in an election. You should think carefully before campaigning with non-charities about how this might look to the public and how you can justify the campaigning activity as advancing your charity's purposes.

There are specific rules about joint campaigning under electoral law that will apply to charities in some circumstances. If you are considering campaigning jointly with others you should consult the [Electoral Commission guidance](#) on this matter. You can read more about how electoral law affects political campaigning by charities in question 7 below.

### 4. Can we engage with political parties and politicians?

Local, regional and national politicians are often supporters of, and advocates for charities. All charities must be, and be seen to be, independent of, party politics. This applies to political parties and politicians anywhere in the world. Any activity that a charity carries out must be in support of its charitable purposes.

Charities must be especially alert during election periods to ensure that support for particular parties or candidates cannot be inferred from association with them. Trustees should be aware of any conditions attached to a politician's support, for example being photographed for campaign leaflets or having election material displayed on the premises.

Raising political awareness and encouraging debate can be important ways of helping a charity to advance its purposes. If you are organising hustings the general rule is to invite all the candidates unless there is a clear and objective reason not to. The Electoral Commission [guidance on hustings](#) sets out more points to consider.

Encouraging people to register and assisting their ability to vote can also be legitimate ways for charities to advance democracy and civic

responsibility. But you must avoid influencing voters over how to use their vote in ways that might suggest political bias.

Some charity trustees are also politicians and they should also read our guidance [Who's in Charge – Control and Independence in Scottish Charities](#).

## 5. What about local campaigns?

Community based charities may seek to promote, lead or participate in campaigns about issues that affect their local community. For example, a campaign might aim to:

- safeguard a local service or facility threatened with closure
- enhance or protect the local environment
- develop a new service or activity to address an unmet local need

Commonly local politicians will play key roles in such campaigns and they can be important allies. The issue may be a significant focus during local council elections and Parliamentary elections in the constituency.

Before engaging with a local campaign you should ensure that the aims of the campaign are consistent with your charity's purposes. You should consider how the campaign might affect your charity's reputation and standing in the community, especially if the issue is divided on party political grounds.

You should take particular care during election periods where your charity's support for, or opposition to, a local campaign may be viewed as aligning with a particular political party or a candidate seeking election. During this period you should ensure that any public events you promote and any material you circulate focuses on the aims of the campaign and not on the positions of politicians or political parties in respect of the issues.

## 6. What about the Lobbying (Scotland) Act 2016 (the 2016 Act)?

Charities that engage in regulated lobbying must ensure that it is recorded in the Lobbying Register to provide information on who they have lobbied, when and where it happened and what the purpose of the lobbying was.

What constitutes regulated lobbying is set out in law. Guidance on how to register your charity and how to use the Lobbying Register is available from the [Scottish Parliament's Lobbying Register Team](#).

In short, regulated lobbying includes any oral and face-to-face communications about Scottish Government or Scottish Parliamentary functions with:

- members of the Scottish Parliament (MSPs)
- Scottish Government Ministers, junior ministers and Scottish Law Officers
- The Scottish Government's Permanent Secretary; or
- Scottish Government special advisers

'Oral' communication includes video conferencing and using sign language.

There are a number of exceptions set out in the 2016 Act. You should read the [lobbying guidance](#) to decide if the requirements apply to your charity.

## 7. When does electoral law apply to charities?

The principal law regulating political campaigning activity is the amended Political Parties, Elections and Referendum Act 2000 (PPERA).

In many cases, PPERA will not apply to the campaigning activities of charities in Scotland, but sometimes it will. It applies to spending on 'regulated campaign activity' (some aimed at the public) during the 'regulated period'.

Your charity must register with the [Electoral Commission](#) as a non-party campaigner if it spends (or plans to spend) more than £10,000 on 'regulated campaign activity' that counts as 'qualifying expense', including staff costs.

The Electoral Commission maintains a public register of non-party campaigners in the lead-up to an election. They do not publish personal details such as names, addresses and phone numbers.

### Regulated campaign activity and qualifying expense

PPERA lists a number of activities that may be regarded as 'regulated campaign activities'. To assess whether the activity is a 'qualifying expense' the Electoral Commission looks at two factors:

- the 'purpose test'
- whether the activity is 'made available to the public'

Some activities only need to meet the 'purpose test' to be regulated, while others will only be regulated if they are made available to the public in addition to meeting the 'purpose test'.

Activities that may be regulated include:

- producing or publishing material in any form (such as leaflets, adverts, websites) which is made available to public at large or any section of the public
- canvassing and market research seeking views or information from members of the public
- press conferences and other media events organised by or on behalf of your charity
- public rallies and other public events
- transport in connection with publicising your charity's campaign

## The purpose test

The 'purpose test' means it is reasonable to think that the activity is intended to influence voters to vote for or against political parties or categories of candidates, including political parties or candidates who support or do not support particular policies or issues.

When considering whether an activity meets the 'purpose test' it may be helpful to think in terms of:

- whether it includes a call to action to voters – does it encourage voters (explicitly or by implication) to vote for or against a particular candidate or party?
- tone – are you negative or positive towards a policy closely associated with a party or category of candidates?
- context – are you campaigning on an issue that is particularly associated with a particular party (whether you name the party or not)?
- timing – did your campaign start before or during the election period?
- how would a reasonable person see your activity – would they think your actions are intended to influence their vote?

## Are the activities aimed at the public?

'The public' is not defined in the law and has its ordinary meaning. The test is whether the activities are aimed at, seen, heard by or involve members of the public, or a section of the public. The public does not include members or committed supporters of charities. For example, a meeting held only for your charity's members or a leaflet sent only to people who are already signed-up as supporters of your charity would not be considered to be aimed at the public.

## The regulated period

UK Parliament general elections usually have a regulated period of 365 days, ending on the day of the election. All other elections have a regulated period of four months, ending on the day of the election. You should read the [Electoral Commission guidance](#) for further details.

## 8. What does my charity need to do to comply with electoral law?

If your charity spends (or plans to spend) over £10,000 on regulated campaign activities, then before doing so you will need to register with the Electoral Commission and follow their rules.

If your charity produces printed or digital campaign material, including emails and social media posts, which meet the 'purpose test' and will be made available to the public, you must include an imprint. This means it must contain details showing who is responsible for the material. See the [Electoral Commission guidance on imprints](#) for more information.

## 9. Do we have to comply with electoral law and charity law?

Yes. You always have to comply with charity law and if your activities are regulated under electoral law, you must comply with that too.



## 10. What happens if someone thinks my charity has broken the law?

If someone raises a concern with us about your charity campaigning on political issues we will assess and deal with it in line with our [Inquiry Policy](#).

The Electoral Commission has advice on its website about what happens if it receives a complaint about a breach of electoral law.

The Lobbying (Scotland) Act 2016 places a duty on the Commissioner for Ethical Standards in Public Life in Scotland to investigate and report on admissible complaints into non-compliance. More information can be found at the Lobbying Register and from the Scottish Parliament's Lobbying Register Team.

## 11. Where can I get more information?

From the Lobbying Register Team at the Scottish Parliament. The Team is responsible for maintaining the Register and producing [lobbying guidance](#).

From the Electoral Commission. It has a range of [guidance on electoral law and non-party campaigners](#), which includes charities. Each year the Commission publishes specific guidance for elections happening that year.

From a charity law specialist. If you plan to campaign during an election period, you may wish to get independent legal advice. Lawyers specialising in charity law can be found from the [Law Society of Scotland](#).