

Frequently Asked Questions: Charities and campaigning on political issues

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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 best interests.

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

Our position is that charities can campaign on political issues to advance their charitable purposes, including during electoral 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 many 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 have purposes and 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 a policy advocated by a political party (but not 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, trustees must make sure that this activity is in pursuit of the charitable purposes; and bear in mind the charity trustee duties to act in the best interests of the charity. This means that you must consider any potential reputational impact to the charity.

3. What about joint campaigning with another organisation?

If you are campaigning with other charities, you will all need to make sure that the activities are consistent with each charity's purpose(s).

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 or politicians. You should think carefully about any campaigning with non-charities, how this might look to the public and how you can justify the activity as advancing your purposes.

4. Can we engage with political parties and politicians?

Any activity a charity carries out should be in support of their charitable purposes and engaging with political parties and politicians is no different. The main point for charities to bear in mind is that they must be **independent** of party politics and should be seen to be independent as well. This applies to political parties and politicians anywhere in the world.

Engagement with political parties and politicians is a decision for the charity trustees, bearing in mind any potential reputational impact on the charity. Trustees should be aware of any conditions attached, for example being photographed for election leaflets or having election material displayed on the premises.

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](#) sets out more points to consider if you are planning a hustings event.

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

5. When does electoral law ¹ apply to charities?

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

If your charity spends or plans to spend more than £10,000 on **regulated campaign activity** in Scotland (or £20,000 in England, or £10,000 in either Wales or Northern Ireland) during the **regulated period**, your charity must register with the [Electoral Commission](#) as a non-party campaigner. Your spending includes your staff costs.

A. **Regulated campaign activity means:** an activity will be regulated if it is one of the activities listed in the table below and it meets either the **purpose test**, or the **purpose** and **public tests** depending on the activity.

Purpose Test only	Purpose and public tests
<ul style="list-style-type: none"> - press conferences or other media events that your charity organises - transport in connection with publicising your charity's campaign 	<ul style="list-style-type: none"> - the production or publication of election material (such as leaflets, adverts and websites) - canvassing and market research (including the use of phone banks) - public rallies and public events
<p>Spending includes staff costs for these activities.</p>	

¹ The rules under the Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Act 2014 started on 19 September 2014. This adds to the existing law the Political Parties, Elections and Referendum Act 2000 ("PPERA").

- B. **The purpose test means:** it's 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 categories of candidates who support or do not support particular policies or issues.
- C. **The public test means:** the activities are aimed at, seen, heard by or involves the public, or a section of the public. The public does not include members or committed supporters of charities.
- D. **The regulated period means:** UK Parliamentary 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.

Your campaign activity to achieve something else, such as raising awareness of an issue, may meet the **purpose test** even if it does not name a particular party or candidate. For example, if you are campaigning on a policy that is closely and publicly associated with one or more political parties.

You should read the [Electoral Commission guidance](#) to find out if the rules apply to your charity.

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

If your charity spends (or plans to spend) over £10,000 in Scotland or £20,000 in England on **regulated campaign activities** then you will need to register with the Electoral Commission and follow their rules.

If your charity produces printed election material, such as leaflets and posters, which meet the **purpose** and **public** tests, you must include an imprint. The Electoral Commission recommends that you also put an imprint on electronic election material, such as websites and emails. See the [Electoral Commission guidance on imprints](#) for more information.

7. Do I have to comply with electoral law and charity law?

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

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

If someone raises a concern about your charity and campaigning on political issues we will look at it in line with our [Inquiry policy](#).

The Electoral Commission has advice on their [website about what happens if they receive a complaint](#) about a breach of electoral laws.

9. Where can I get more information?

From the Electoral Commission:

They have a range of guidance on electoral law and non-party campaigners, which includes charities. Every year, they publish specific guidance for elections happening that year: [non-party campaigner's guidance page](#).

From the Scottish Council for Voluntary Organisations (SCVO):

They have been analysing Electoral law and the potential affects on the third sector: www.scvo.org.uk.

From a charity law specialist:

If you plan to do a significant amount of campaigning in an election period then you might want to get independent legal advice: [The Law Society of Scotland](#).