



Charities and campaigning on political issues: FAQs

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Frequently Asked Questions

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, and seen to be independent of, party politics. 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 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. What about the Lobbying (Scotland) Act 2016?

Those engage in **regulated lobbying** use 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 and detailed in the guidance at the **Lobbying Register** and the Scottish Parliament's **Lobbying Register Team**.

In short, regulated lobbying covers any oral, face-to-face communications about Scottish Government or Scottish parliamentary functions with:

- MSPs
- Scottish Government Ministers
- the Scottish Government's Permanent Secretary; or
- Special Advisers.

It also applies to any oral communications where you can hear and see the person, such as video conferencing. The term 'oral' includes communication made using British Sign Language (or otherwise made by signs).

There are a number of exemptions set out in the Lobbying (Scotland) Act 2016. You should read the guidance at the **Lobbying Register** and the Scottish Parliament's **Lobbying Register Team** to decide if the requirements apply to your charity.

6. When does electoral law* 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.

Your charity must register with the **Electoral Commission** as a non-party campaigner if it spends (or plans to spend):

- £10,000 in Scotland, Wales or Northern Ireland
- £20,000 in England.

Your spending includes your staff costs.

A. Regulated campaign activity

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
Spending includes staff costs for these activities.	

* 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

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 categories of 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 implicitly) to vote for or against a particular candidate?
- Tone – are you negative or positive towards a policy closely associated with a party or category of candidates?
- Context and timing – are you campaigning on an issue that is particularly associated with a particular party (whether you name that party or not)? Did your campaign start before the election period or after?
- How would a reasonable person see your activity – would a reasonable person think your actions are intended to influence their vote?

If the answer to most of these questions is 'yes' then it is likely that the activity in question meets the purpose test. If you are unsure, then the **Electoral Commission** are happy to consider individual cases and provide a decision.

C. The public test

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

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.

You should read the **Electoral Commission guidance** for further details.

7. 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 or digital election material, including emails and social media posts, which meet the **purpose and public tests**, you must include an imprint. See the **Electoral Commission guidance on imprints** for more information.

8. 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.

9. 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.

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 the Scottish Parliament's **Lobbying Register Team**.

10. Where can I get more information?

From the Lobbying Register Team at the Scottish Parliament:

The Lobbying Register Team is responsible for maintaining the Register and producing guidance: **Lobbying Register** and **Lobbying Register Team**.

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 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**.



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