

# Charity Campaigning

Using your charity's voice effectively in compliance with the law

**Produced in partnership with Unbound Philanthropy**



# Using this guidance

Charities can campaign; there are just a few legal principles to follow to ensure your campaign is both lawful and effective.

This guide is intended to help you navigate charity law, election law and other relevant rules, whilst recognising that campaigning will often be a lawful, legitimate and appropriate way for a charity to achieve its purposes. This guidance is split into four parts:

## 1. Understanding the law

*An overview of the key legal principles which might affect your campaign*

## 2. Planning campaigns

*Steps to take when planning campaign activity to ensure you are on the right track legally*

## 3. Campaigning techniques

*A list of common campaigning techniques and activities that a charity can legitimately undertake in compliance with the law*

## 4. Toolkit

*Practical documents to help you comply with the law when planning your campaigns*

# 1. Understanding the law

*Even a little knowledge of the legal principles that apply to your charity and its campaigns can help ensure that you use its voice as effectively as possible. This section offers an overview of the main legal areas that affect charity campaigns. Whilst not covered in this guidance, there are other legal areas that need to be complied with by charities when campaigning, such as defamation, intellectual property, data privacy and advertising law.*

## Charity law

Charities must act in a way that supports their purposes (the charitable aims the charity was set up to achieve), for the public benefit.

A charity's trustees are responsible for its compliance with charity law. They must act with reasonable care and skill and in the charity's interests.

The trustees must ensure the charity complies with its governing document and uses its resources effectively and responsibly.

Often, campaigning will be an effective way of supporting a charity's purposes. The Charity Commission (in England and Wales) produces guidance to help charities comply with the law and best practice in relation to campaigning, available [here](#). The Charity Commission might also check that their guidance and the law is being complied with when charities campaign.

Key to understanding how to comply with relevant charity law and Charity Commission's guidance is understanding the three different 'types' of charity campaigning:

### Campaigning

The Charity Commission's guidance uses the word 'campaigning' to refer to non-political campaigning activities. In practice, it covers any campaigns or activities intended either to change the views or behaviour of the public or of private companies, or to ensure compliance with existing laws.

For example, a campaign to emphasise the health benefits of consuming less alcohol or to encourage the UK to comply with its legal obligations to protect the human rights of asylum seekers would be 'campaigning'.

Charities can do as much of this type of campaigning as they wish, provided it is a reasonable way of supporting their purposes.

### Political activity

The Commission uses the phrase 'political activity' to refer to activities and campaigns intended to bring about or prevent a change in the law, policies or decisions of politicians and public bodies in the UK or abroad.

For example, if your campaign to raise awareness of the health benefits of consuming less alcohol called for the government to pass a law criminalising the sale of larger volume bottles of alcohol, then this would become political activity. Similarly, if you decided to start campaigning for the Government to introduce a new policy to detain asylum seekers for a maximum of 5 days, then you would be undertaking political activity.

There is nothing wrong with undertaking political activity, you just need to ensure that it supports delivery of your charity's objects, any risk to the charity's independence is managed and it is not the

sole and continuing activity of the charity.

### Party political activity

Charities can never engage in party political activity and they will need to take steps to manage any perception that a campaign is party political. Party political activity would include direct support of a party, politician or candidate, such as donating money or resources to a party's campaign or calling on your supporter's to vote for or against any party or candidate.

So, if you called on your supporters to vote against a particular political party because it has refused to support your campaign to introduce a law limiting alcohol bottle sizes, then that would be prohibited party political activity.

## Election law

If an election or referendum is anticipated, your charity might have to consider some additional principles when it is planning or undertaking campaigning activities.

There are a lot of myths around election law, or what you may have heard described as the 'Lobbying Act'. The key thing to remember is that election law **does not stop charities from campaigning**.

Election law crops up in three different ways:

### 1. Charity Commission election-specific guidance

*When:* usually from the formal announcement of an election until it is held

*What:* The Commission's additional guidance stresses the need for charities to take extra care to maintain their independence in the run up to elections and to ensure they are not perceived as supporting any parties or candidates.

### 2. General campaigning rules

*When:* the 'regulated period' before an election depends on what type of election is coming up. For general elections, it is usually 12 months.

*What:* The general campaign rules are set out in the Political Parties, Elections and Referendums Act (PPERA). Some of the rules apply to individuals and groups which aren't standing in the election or which are not otherwise obviously 'political' campaigners. This is because the law is designed to provide transparency in the election process for the general public in showing them who spent significant sums of money to influence election results, and setting financial limits so that no one can have excessive influence.

The general campaign rules apply three tests to determine whether activities during an election period are regulated. Generally, if you engage in particular activities (the 'activity' test), which will be made available to the public (the 'public' test) and which might reasonably be perceived as intended to influence the electoral success of a party or candidates either negatively or positively (the 'purpose test'), then spending on that activity is likely to be regulated.

### The Activity Test:

- Material (electronic or hard copy such as social media posts, leaflets, adverts, reports, web pages)
- Canvassing or polling of members of the public
- Press conferences or media events

- Transport with a view to obtaining publicity for your campaign
- Public rallies or other public events (other than annual conferences)
- Expenses in respect of events (such as premises, hire costs and catering)
- The cost of staff time relating to regulated activities will count ahead of a general election but the value of volunteer time does not. There are some other limited exceptions.

#### The Public Test:

- Expenditure generally will not be regulated if it is not directed towards the public.
- Electoral Commission guidance states that a charity's 'members' or 'committed supporters' are not the public, including:-
  - Regular donors by direct debit
  - People 'actively involved' in the charity
- Signing up to mailing lists or social networking sites does not constitute active involvement
- Influencing activities that exclusively target MPs, national press offices of political parties or private meetings with key influencers are not caught

#### The Purpose Test:

- Activity that can reasonably be regarded as 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.

#### Spending limits

Generally, organisations can only spend up to £20,000 in England, £10,000 in Northern Ireland, Scotland or Wales, or £7,500 in any single constituency on regulated activities. To be able to spend more than that they have to register with the Electoral Commission, after which they will have a higher spending limit that depends on the election in question, but can be as much as £390,000 (for a general election) - though you will still only be able to spend up to £7,500 in a single constituency. Once you are registered with the Electoral Commission you have to comply with rules concerning your spending and the donations you receive. The Electoral Commission offers a lot of guidance on the law and practical ways to comply with it, available [here](#).

You do not have to register with the Electoral Commission in the run up to an election if you are not going to spend over the registration threshold, and many organisations choose not to do so due to the additional administrative burden it can create – this is both reasonable and legal, but you should keep a record of your decision not to register and an overview of your spending so that you can justify your decision to the Commission should there be any complaints. There are ways in which you can have impact without incurring lots of regulated spending in the run up to an election, such as utilising staff time ahead of referendums (as staff time only counts towards your spending in the run up to elections) and making use of private communications with candidates/MPs (and, of course, avoiding structuring your activities in a way that will pass the purpose test – but again you should keep a note of how you have decided an activity is not regulated if there may be an argument that it could be).

### 3. Local campaigning rules

*When:* again, the rules apply at different times depending on the election in question, but a much shorter 'regulated period' applies to local campaigning than to general campaigning. Ahead of a general election, these rules apply only after dissolution of parliament.

*What:* The local campaign rules are mostly contained in the Representation of the People Act (RPA). The rules set a much lower limit for regulated spending by non-party campaigners in local constituencies.

Most charities should not have to worry about the local campaigning rules under those rules only activity that is actually intended to help or hinder local candidates will be regulated. A charity cannot actually intend to affect an election result in this way, as that would be party political activity which is not allowed under charity law. As such, charities shouldn't have to worry about the local campaigning rules, but you should seek advice if you do wish to focus a campaign on a local area ahead of an election as this can be a complicated area and separate constituency level restrictions might apply under the general rules.

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## Common election law myths

### **“I cannot campaign because of the Lobbying Act”**

Election law does not stop organisations from campaigning and the Electoral Commission does not regulate the content of your campaigns. Electoral law is only concerned with ensuring transparency of spending on activities deemed intended to impact elections and referendums, and donations provided to fund that spending.

During a regulated period before an election or referendum, the financial limits on activities that pass the test for regulation could restrict your campaigning, as you might have to alter your campaigning activities to avoid exceeding a spending limit (e.g. by changing planned activities to avoiding passing the purpose test of regulated spending). But outside of a regulated period, election law does not have a bearing on an organisation's activities (unless the organisation is an unincorporated association making political donations or is a 'members association', which generally means that a majority of its members are members of a specific political party).

The Charity Commission, on the other hand, will always have an interest in ensuring that charities do not breach charity law by being party political (which is different to 'political activity', which is allowed, as explained in section 1).

### **“My organisation needs to stop speaking out close to elections because of Purdah”**

Purdah refers to the period before elections in which public bodies and government departments are subject to Cabinet Office guidance calling for particular efforts to avoid appearing politically partisan.

Purdah does not have a direct impact on private individuals or organisations which are not public bodies. However, the time period in which purdah applies often aligns with the application of the Charity Commission's guidance on elections and referendums, calling for extra care by charities ahead of a vote, and public bodies or government departments funding other organisations may also expect them to ensure that they do not do anything with their funds which would cause the funder to be in breach of the purdah guidance.

Campaign groups may also find their objectives delayed as a result of the restrictions that apply to others during the pre-election period, for example because a particularly politically controversial but strategically key announcement or appointment might be delayed until after the purdah period.

### **“I need to register with the Electoral Commission if I want to do any campaigning ahead of an election/referendum”**

Individuals and organisations can incur spending on regulated activities up to a specified limit without having to register with the Electoral Commission (and without the reporting/administrative requirements that come with registration), though they will then have to be careful not to undertake any further regulated activity.

Ahead of a general election, you can spend £20,000 on regulated activities in England or £10,000 in the other regions of the UK, without having to register with the Electoral Commission. You should still ensure that you keep track of your spending and donations so you can justify your decision not to register and in case you do decide to register later down the line.

### **“I need to make sure that my organisation doesn’t work with any other organisations ahead of elections”**

‘Joint working’ is a difficult area of election law but the rules do not stop you from engaging with other organisations or campaigning coalitions. However, if you wish to do so within a regulated pre-election period **and** any of the proposed joint campaign activities are regulated by election law, then all of the campaigners in the group may have to count the total cost of the group’s activities towards each campaigner’s spending limit.

Having informal discussions with other campaigners that does not involve co-ordination of your campaigns will not generally engage the joint campaign rules under election law.

The Electoral Commission produces resources on joint campaigning including a flow chart to help you understand whether your interaction counts as joint campaigning under election law:

<https://www.electoralcommission.org.uk/i-am-a/party-or-campaigner/non-party-campaigners/am-i-part-of-a-joint-campaign>

### **“It is illegal for foreign organisations to get involved in elections”**

The main restriction on non-UK organisations and individuals is that they are not eligible to register with the Electoral Commission and so cannot incur spending above the registration limit on regulated activity. There is not an outright ‘ban’ on non-UK persons having involvement in UK-based political campaigns, but there may be reputational issues associated with prominent involvement from non-UK organisations and individuals in election campaigns. It also is not possible under election law for non-UK organisations and individuals to make donations to UK campaigners for regulated activities.

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## Company law

If your charity is a company, then it might need to comply with some little known company law requirements before undertaking political activity.

Company law provides that companies cannot incur ‘political expenditure’ without the authorisation of their members. There is a specific definition of political expenditure within the Companies Act 2006, but most campaigns that fall within the Charity Commission’s definition of ‘political activity’ are likely to be caught. The requirement also applies if a company wants to make political donations.

The members’ authorisation must take the form of a resolution in a specific format, as set out in the Companies Act. It must set out a maximum amount of money to be spent on political expenditure generally (i.e. you can’t authorise spending on one specific activity or campaign). Unless your charity’s governing document specifies a higher threshold for this type of resolution, it can be passed as an ordinary resolution, which means that it needs a simple majority of members’ votes to pass.



We have included a template written resolution if you do not already have a resolution authorising political expenditure in place, within the 'toolkit' section of this guidance. The resolution won't be appropriate for all organisations and you will need to make sure you comply with any specific requirements of your charity's governing document, such relating to circulating and passing the resolution. You should not add any wording to the resolution other than where indicated, or delete anything other than the resolution to authorise donations (if this is not required) – otherwise the resolution might be invalid. Seek advice if you're unsure!



## 2. Planning campaigns

In planning any campaign, you need to ensure that the key legal areas discussed above have been considered, to give you the freedom to create an effective and lawful campaign.

You should:

1. Identify whether your campaign idea is political activity or campaigning (and ensure it isn't party political);
2. If your campaign idea is political activity and your charity is a company, check whether the charity has passed a company resolution authorising political activity and pass one if necessary, an example of which is set out below.
3. Check that your charity's governing document doesn't restrict the type of campaign you want to pursue.
4. Check whether any elections are coming up.
5. Ensure that your campaign supports your charity's purposes and that the amount of resource you'll need to put into the campaign is reasonable given the expected outcome.
6. Assess the key risks of your campaign and document what the charity is going to do to manage those risks (a document you can use for this is set out in the toolkit at the end of this guidance).
7. Follow your charity's authorisation procedures for the campaign, including direct trustee authority for more risky and political campaigns.

We have included with this guidance an example risk matrix which takes you through the key questions you need to consider in planning and authorising the campaign and provides example answers. It covers the key issues contained in the Charity Commission's guidance on campaigning. If you have identified that an election is coming up then you should also consider and answer the section on elections within the table. The trustees of the charity should participate in the risk assessment and approve the final version. You should make sure you keep a copy of it so you can demonstrate the steps you took to manage the risks of your campaign.

## 3. Campaigning techniques

### What can my charity do as part of a campaign?

Below we have set out a list of campaigning tactics or activities that your charity might wish to undertake and offer some practical tips for how to comply with the law when pursuing them. All of the tips below assume your charity has already followed the 'planning your campaign' steps above.

#### Keep on campaigning on an issue once an election has been called

Your charity can do this - it might have a range of long standing policy positions or issues it campaigns upon which a political party decides to support or take on as a manifesto commitment. This should not prevent the charity continuing to campaign, as long as the charity continues to campaign as previously planned, and emphasises its independence from the political party that supports or criticises its campaign position. If it decides to react to the issue becoming politicised and change its campaign strategy, then it may need to count the expense of the campaign as regulated activity under election law.

#### Explore the charity's aims and policy ideas with politicians or parties

Your charity can do this and it is a common feature of campaigning. You might try to influence politicians to vote for or against legislation or policy decisions that affect the charity's purposes (though note that there are rules around paid lobbying of senior civil servants and ministers). The Charity Commission warns that persistent interaction with only one political party might lead to questions over the charity's independence. So, whilst you may naturally end up speaking more with the party in government, you should ensure that you interact with parties across the spectrum, or be able to show willingness to do so. If you can provide very clear objective reasons for your interaction with politicians from one party only then that might still be justifiable. This activity shouldn't be caught by election law, particularly if the discussions are held in private with the politicians, but you may need to consider lobbying law if your charity has direct communication with government ministers or senior civil servants and you should seek further advice if this is the case.

#### Explain each political party's position in relation to the charity's issues

You can do this, as long as you don't frame the material in a way that suggests the charity disapproves of one particular party or approves of another, and do not explicitly compare how much the party's views align with the charity's views. For example, you should not create a score card of how well a political party's election promises align with your charity's campaign as this may be indirectly telling your supporters who to vote for. Due to the objective nature of the purpose test under election law, ahead of an election the costs of materials setting out party positions in relation to charity issues could be regulated.

#### Put together or encourage supporters to join a demonstration/protest against a government decision

Your charity can organise a demonstration against a public body's decision in the UK or abroad, if it supports the charity's purposes. This can be an effective way of demonstrating the strength of public support against a decision that the Charity deems to negatively impact its beneficiaries or ability to further its purposes – for example, an animal welfare charity might organise a demonstration against a decision to reintroduce cosmetic animal testing in the UK. You may need to consider public order and other laws that apply to protesting, and should seek further advice. There are some restrictions on where you can protest, for example.

## Brief the press on the charity's views on a policy or decision by the Government

Your charity can do this. Whilst it will be political activity, a charity can welcome or criticise a government policy in the press or respond to requests for comment from the media on a political issue, if doing so supports its objects. During an election period, press releases to the media will not be regulated, unless the charity publicises them in some other way (i.e. posting them on their website), even if the content of the briefing meets the purpose test.

## Encourage a company to change its practices

Your charity can do this, and it will not be political activity, meaning that it could be a core element of your charity's work if it supports your purposes. An environmental charity might lobby or petition a multinational company to reduce its use of plastic, for example, or you might participate in shareholder activism to change company practises from the inside.

## Invite a politician to speak at a campaign launch

Your charity can do this, provided it either invites a spectrum of politicians to the event (or to a series of events) to show that the charity isn't supporting any particular party or be able to show an objective reason why this is impractical. For example, a charity working in a specific local area might choose to invite its local MP to an event, because they are the local office holder and not because of their party affiliation. It may be more difficult ahead of an election, as the MP will have become one candidate amongst many, and the charity should take extra care to avoid the perception of party political bias.

## Note the impact of a government policy or law on the charity's beneficiaries

Your charity is free to explain the impact of a law or policy on your beneficiaries, provided it does so on the basis of a reasonable body of evidence. It should avoid doing so in a way which might be perceived as supporting any party or candidate, and should be particularly careful in the run up to an election.

## Go to an event organised by a political party or candidate

Your charity can do this, if the purpose is to highlight the charity's issues or policy positions. The charity should be willing to participate in a range of political parties' events and it may be problematic if the charity were to only engage with one party over time. Ahead of an election, the charity should take active steps to engage with a range of parties.

## Hire out your premises to a MP, candidate or political party

Your charity can do this. If your charitable purposes include provision of premises to the community, then this may include local political groups (though you should ensure that they can use the premises on the same terms as any other organisation or other political group). If your purposes do not include provision of premises then you can hire out space to a political group or candidate to raise funds to be spent on the charity's purposes. Unless required by election law (this applies to some schools, for example), then you should not allow political groups to use your premises for free because this could be seen as a donation. You should ensure you apply the same hire terms to a political party as to any other non-commercial organisation you would hire out space to.

Whilst you should be able to demonstrate that you would allow any political party/politician to hire out the premises on the same terms to avoid accusations of bias, this does not extend to organisations if you have a reasonable evidence base to suggest it would cause a security risk or if its aims directly conflict with the charity's purposes or would alienate the charity's supporters (though you should seek advice if you want to exclude a party/candidate on this basis and there is an election coming up, as it can have some implications under election law).

### Establish a coalition to support an initiative

Your charity can do this but should undertake some due diligence on the organisations it will be working with to ensure that the benefits of the coalition outweigh any reputational risks. You will also need to ensure that none of the charity's resources are used for activities that do not support its purposes. Some partners in a coalition might not be charities and will not be subject to the same restrictions as your charity.

Working with other organisations ahead of an election can give rise to joint spending rules under election law, if any of the coalition's activity is regulated. You should take advice if you want to work in a coalition on the charity's issues/campaigning in an election period.

### Argue for or against a change in the law, policies or decisions of government

Your charity can argue against legislation going through parliament in support of its charitable purposes. It could influence politicians to table amendments against the bill or brief them on the charity's views to inform parliamentary debate. For example, an international development charity might campaign against a bill going through parliament to reduce the UK's financial commitment to foreign aid, or a human rights charity might oppose a law introduced in another country that restricts women's rights. However, your charity should take care to manage any perception of political bias in doing so. If there is an election coming up then, to avoid regulation, the campaign will need to be clearly targeted towards the law/decisions of the government of the day, and not to support or prejudice the electoral prospects of the party in power.

### Run a debate with political candidates ahead of an election

You can do this if it would support your charity's purposes, for example if a charity set up to relieve poverty organised a debate on how to address social inequality. To avoid the debate breaching charity law or being regulated activity under election law, the charity will need to ensure that it has objective reasons for its choice of invited (and excluded) party representatives, such as by inviting all of those who have seats in the current parliament, and be able to show that it has made equal efforts to secure representation of those parties at the event. The debate will need to be impartially chaired and questions put equally to all participants.

### Design a charity manifesto ahead of an election

Your charity can do this – you can set out the charity's issues and key priorities for the next government, provided that it is expressed as aimed at influencing policy of whichever party comes into power, rather than supporting the prospects of any particular party. You should take care once all the party manifestos have been published if your charity's manifesto is closely aligned with one particular party, as this may be seen as indirect support and regulated activity under election law.

## 4. Practical Toolkit

Within this section, we have included a number of practical template documents your charity can use to help navigate the legal requirements around campaigning discussed in this guidance.

This toolkit includes:

1. A template risk matrix which you can use to comply with charity law when planning campaigns;
2. A template company law resolution to authorise political expenditure
3. Template text that you can send to your charity's staff/volunteers ahead of an election period, explaining at a high level what the election means for the charity and its activities. This is based on a charity that has taken the decision not to register with the Electoral Commission and is designed for use ahead of a General Election. It can be adjusted to suit your charity's own procedures/activities but you might need to take advice to make sure it remains accurate.

### 1. Example campaign planning risk matrix

On the next page we have included a table you can use to make sure that your campaign complies with the main legal principles discussed in this guidance. Your answers and analysis will also be a useful tool in showing the Charity Commission your charity's approach to compliance, should you ever need to, so you should keep a record of your analysis. Ideally, your trustees should undertake this analysis, or at least review that analysis and formally approve the table.

We have included example answers to give you an idea of one way to approach this analysis – you don't need to use comparable wording or a similar level of detail when you use this tool for your own campaign.

#### Example Scenario

We have used the following fictional scenario to fill out the table:

We are the trustees of a charity set up with the purpose of relieving hardship amongst migrants, asylum seekers and refugees in the UK. The charity has planned a campaign against a new bill currently progressing through parliament - the English Language Proficiency Act 2019.

The law, if passed, would require primary school students to attend a specialist school if their first language is not English and they do not satisfy a strict spoken English language proficiency requirement.

We have undertaken some research and we believe that this law will introduce a two-tier state schooling system with a disproportionately negative impact on our beneficiaries, exacerbating lack of assimilation of migrants, asylum seekers and refugees, in the wider community.

Campaign legal compliance assessment tool

[Charity name]

[Date signed off by trustee board]

[Date updated/revisited]

Question	Response
Key charity law considerations	
1	<p>What is/are the objective(s) of this campaign?</p> <p><i>The campaign will have three objectives. The short term aim is to get people talking about the English Language Proficiency Act 2019 and to try to raise public support for our beneficiaries by telling them about the negative way in which the law will affect young migrant, asylum seekers and refugees in the UK, who are already often struggling to feel part of our society. In the medium term, the goal is to influence key politicians to get them to support the charity's opposition to the bill and show their support for our beneficiaries, showing the politicians our research about the disproportionate impact the act will have on our beneficiaries.</i></p> <p><i>Ultimately the objective of our campaign is to have the Act amended to include the charity's proposed revisions, so that, instead of insisting on specialist schooling, additional classes be offered at students' existing schools to improve the language proficiency of those students, thus removing the requirement for a two-tier system.</i></p>
2	<p>How would this campaign or political activity further or support the purposes of the charity?</p> <p><i>The trustees are satisfied that all of the goals of the campaign support the charity's purpose to relieve hardship of migrants, asylum seekers and refugees.</i></p> <p><i>The short term goal to raise awareness amongst the public will provide the charity with the opportunity to raise the profile of its issues generally and increase public giving; allowing us to improve our fundraising for this quarter and apply funds to our direct beneficiary support schemes. Our campaign testing suggests an increase of 3% in giving, which we will use to further fund the charity's language lesson fund for young asylum seekers and refugees new to the UK.</i></p> <p><i>By campaigning to change the law, the trustees are satisfied that the charity will be directly aiding its beneficiary group by working to avoid the introduction of a law that would disproportionately impact them. This will ultimately help to</i></p>

		<i>relieve hardship for that beneficiary group and raise awareness of the hardship migrants, asylum seekers and refugees face in feeling part of UK society.</i>
3	Are the links between the charity's purposes and the activity sufficiently clear?	<i>Yes, the trustees are confident that there are clear links between the charity's purpose and opposing a law which our research shows will have a disproportionate impact on our beneficiaries.</i>
4	Are any of the objectives of this campaign outside the purposes of the charity?	<i>No, none of the aims of the campaign fall outside of the charity's purpose and the trustees are comfortable that all of the objectives directly support the charity's purpose, both in (a) securing long-term policy/legislative change which the charity is confident, based on a credible evidence base, will relieve hardship for immigrants, asylum seekers and refugees, and (b) providing additional income for direct beneficiary support schemes.</i>
5	Are any of the campaign activities party political?	<i>No, the trustees have been briefed by campaign staff about the various party positions on the issue and have reviewed the charity's political impartiality policy. All staff working on the campaign will be asked to read and confirm they have understood our policy.  As the passage of the bill is a political issue, we have put some measures in place to manage the risk of party political associations with the campaign, such as avoiding direct use of terminology which has been employed by some political parties in commenting on the Act and ensuring that a wide spectrum of political representation is approached in any engagement with politicians during the campaign.</i>
6	How likely is it that the campaign would achieve its objective(s)?	<i>Our campaigns team have undertaken some testing with small focus groups, which has shown a positive increase in people's support for migrants, asylum seekers and refugees in the UK. As such we are confident that our campaign will be effective in its short term goal of raising awareness and building support for our beneficiary group amongst the public, but we will keep the effectiveness of campaign materials under review.  We have strong relationships with many politicians across the major political parties and have already made good headway in building cross-party support for our opposition to the bill and our campaign messaging, Whilst we are likely to gain fewer</i>

		<p><i>commitments to opposing the bill from the party with the most seats in the parliament, which does make achieving our long term objective less definite, we believe we have a strong campaign and could get more support over the coming weeks. In addition, the campaign will not necessitate use of a large amount of our charity's resources, so we believe that the limited resources that will be used on the campaign are reasonable given the likelihood of success in our first two objectives and the chance of success in our long term objective (and the very substantial impact that we believe such success would have on our charitable purposes).</i></p>
7	<p>Is all campaign material factually accurate?</p>	<p><i>The charity commissioned independent research for this campaign and undertook due diligence into the credibility of that independent research organisation. As such, we are confident that our research and campaign assertions are accurate. We will provide links to our sources on our website which our campaign materials will link to.</i></p>
8	<p>What evidence is there to support the answers to questions 2-7 (e.g. beneficiary consultation, a credible evidence base)?</p>	<p><i>[point to/annex statistics/results of research/supporter testing/briefing paper]</i></p>
<p><i>Alternative activities to achieve the same objective/s</i></p>		
9	<p>What other activities could the charity undertake that would achieve the same objectives?</p>	<p><i>The charity could work on extending its English language teaching scheme to a wider range of its beneficiaries and offer more classes to lessen the impact of the bill, if passed, on immigrants, asylum seekers and refugees in need.</i></p>
10	<p>In what ways would these other activities be more or less effective than campaigning?</p>	<p><i>The trustees are satisfied that the English Language Proficiency Bill presents a real threat to its work and beneficiaries, on the basis of a credible evidence base we have commissioned. As such, we are confident that expending resources on opposing the bill will provide, if successfully opposed, a long term and sustainable solution to the negative impact of the bill. Rather than expending the charity's resources indefinitely in trying to stop the law affecting our beneficiaries by providing more English language classes for them, stopping the bill being passed would have an immediate impact.</i></p>



		<i>The charity is also concerned that in recent years it has seen a dip in its traditional fundraising income, which has made it more difficult to resource its English language direct support schemes. As such, we are concerned that this would not be a sustainable means of relieving hardship for our beneficiaries and could leave those we support in this way vulnerable if we were no longer able to provide this service.</i>
<i>Duration and financial implications of the campaign</i>		
11	What would be the duration and financial cost of the campaign?	<i>The bill will move through parliament quite quickly now and as such our campaign will be time limited (we have already undertaken some preliminary work directly with politicians). The campaign will end with the final vote on the bill, due to be in four weeks time. We have committed £10,000 to opposing the bill and £1,000 to work on raising the profile of the bill's negative impact on our beneficiaries to the public.</i>
12	Can the trustees justify the resources applied to the activity?	<i>We believe that the resources being applied are reasonable given the likely outcome of the campaign being a material positive impact on our beneficiaries and the fact that we will be using a small amount of the expendable income in our budget this year which is in line with our campaign spending projection for 2019.</i>
13	Would campaigning become the charity's only activity, and if so, for how long?	<i>The charity will continue its two services for beneficiaries being its 'being in the UK' helpline and its English language classes. We will also continue our schools programme throughout this period. As such the campaign will not be our only activity and the campaign is time limited to approximately four weeks.</i>
<i>Partnerships</i>		
14	Would the campaign be undertaken in partnership with other organisations? If no, move on to question 15.	<i>The campaign itself will not be undertaken in partnership with other organisations but some of the research behind our campaign has involved other organisations. We undertook appropriate due diligence into the organisations and will credit them in our campaign materials.</i>
15	If yes, how would financial and partnership arrangements be managed?	<i>Our partnerships have now ended with the completion of the research we commissioned.</i>
<i>Risk management</i>		
16	Have the trustees considered the impact of the proposed	<i>The trustees have discussed the risks of the campaign, particularly in terms of protecting the charity's independence</i>

	<p>activity on the charity's reputation?</p>	<p><i>when dealing with a politicised issue such as this, as explained above. The charity has put in place measures to mitigate the risk of a perception that it is supporting particular parties who support its campaign, which is the primary risk identified, as outlined above. Most of our engagement with politicians to encourage opposition to the bill will be private and whilst we will be open about the extent of our political work with our supporters, the fact that most of that element of our campaign will not be public facing was an active decision to address the risk of a public perception of political bias.</i></p>
17	<p>Have the trustees considered potential conflicts of interests?</p>	<p><i>The charity has a conflicts of interest policy in place and we have already asked key staff and trustees to consider whether they may have any interest in this campaign. We do not anticipate any conflicts arising but we will keep this under review.</i></p>
18	<p>Have the trustees considered the risk that the charity may be used as a vehicle for the expression of personal political views of trustees or staff?</p>	<p><i>The charity always considers this to be a live risk given the emotive nature of its work and the passion of its staff (which we consider to be an asset). As such, the charity has a communications policy which requires our trustees, staff and volunteers to make sure that they separate their personal and professional commentary, particular in the case of social media, and take caution to make sure they are not using charity branding, materials or platforms when expressing personal views.</i></p>
19	<p>What other risks would the charity be exposed to in undertaking this campaign?</p> <ul style="list-style-type: none"> <li>• Risk of acting outside charity's purposes/misuse of charity funds?</li> <li>• Breach of legal/good practice requirements on campaigning?</li> <li>• Costs and benefits?</li> <li>• Risk of failure to meet objectives?</li> </ul>	<p><i>The trustees together with the campaigns staff have undertaken a full risk and benefit analysis of the campaign. The main risks identified, as stated above, are that the campaign will not stop the bill being passed (e.g. failure of our ultimate campaign objective) and risks that come with the political nature of the campaign, especially with an election coming up.</i></p>

	<ul style="list-style-type: none"> <li>• Financial risk?</li> <li>• Risk to independence?</li> <li>• Unintended consequences?</li> <li>• Other?</li> </ul>	
19	How could these risks be mitigated?	<p><i>We have taken legal advice about whether we need to worry about election law in undertaking this campaign and are satisfied that we can continue without breaching the rules, with safeguards in place. For example, we have introduced a committee of trustees to sign off on any campaign messaging until the election period is over, which is above our usual authorisation procedure, and those trustees have been briefed on election rules.</i></p> <p><i>The steps we have taken to ensure that the charity's political independence is maintained are set out above, such as reminding staff of our political impartiality policy and undertaking the core work with politicians in a private, lobbying capacity rather than in a way that could be seen to influence our supporters.</i></p> <p><i>We have gained enough informal indications of support for our campaign from a spectrum of politicians to feel that the resources being committed are worth the risk of failing to achieve the ultimate goal of the campaign, and feel that our first two goals being met, of which we are confident, would still comprise an effective campaign even if the ultimate goal failed.</i></p>
<i>Monitoring and evaluation</i>		
20	How would the charity monitor and evaluate the effectiveness of the campaign?	<p><i>Because the campaign is quite short we have arranged for a bi-weekly update from the campaigns team to the trustee board as to the performance of the campaign against specific milestones we have agreed. For example, our week 1 goal is to increase our website traffic by 10%. This will be measured through google analytics, an existing programme the charity uses. A senior member of the campaign team will have oversight of the campaign and will supervise two team members who will be specifically tasked with press monitoring to ensure that political debate around the bill doesn't change our campaign or heighten the risks.</i></p>

Key charity law considerations ahead of elections and referendums		
21	<p>Is the campaign going to be held in the period between the announcement of a national or local election, and the date on which the election is due to be held?</p> <p>If no, you do not need to answer the questions below.</p>	<p><i>Yes, the campaign is going to be held ahead of a general election, which is set to take place in 4 months' time.</i></p>
22	<p>Has the charity read the Charity Commission's guidance on elections and referendums?</p>	<p><i>Yes, all trustees were asked to read this guidance and confirmed they had done so. Senior communications and campaign staff have also reviewed the guidance.</i></p>
23	<p>Will the charity be campaigning on an issue that is aligned with one or more political parties or against others?</p>	<p><i>Yes, the charity is aware that the Green Party also wants to stop the bill becoming law, but for different reasons than the charity. The charity is aware of cross-party support for aspects of the charity's campaign and has had positive interactions from key individuals across all major political parties. The legislation hasn't formed a key part of any party manifestos or election promises as yet, so the trustees are satisfied that the campaign will be about a law passing through parliament at the moment and not about electoral issues. However, the charity will keep this under review and will ensure that it maintains its independence from political parties.</i></p>
24	<p>Will the charity engage with a spectrum of parties/politicians, only excluding any if it has objective, impartial reasons to do so?</p>	<p><i>Yes, the charity is seeking to engage with a spectrum of political parties to gain their support, although it will only actively reach out to parties who have MPs in parliament as it is their votes that are key to achieving our primary objective. We are confident that this is a reasonable and objective reason for excluding engagement with other parties.</i></p>
Key Election Law/Electoral Commission guidance considerations		
25	<p>Are the trustees aware of the requirements in an election period?</p>	<p><i>Yes, the charity has taken legal advice as to how election law might affect the charity, which has confirmed the campaign will not be regulated activity on the basis of our current campaign plans and materials.</i></p>
26	<p>Will the charity be engaging in any of the following activities (the 'activity' test):</p>	<p><i>Yes, it will be publishing material and advertising and has canvassed members of the public.</i></p>

	<p>Material (electronic or hard copy)</p> <p>Canvassing members of the public</p> <p>Press conferences or media events</p> <p>Transport with a view to obtaining publicity for your campaign</p> <p>Public rallies or other public events (other than annual conferences)</p>	
27	Will the activities above be available to the public (the 'public' test)	Yes, stage one of the campaign is public facing.
28	Could any of the activities above be reasonably regarded as 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?	No, the trustees have taken legal advice which has confirmed that the campaign is unlikely to pass the purpose test and we will keep this under review in light of developing political/election debate.
29	Will the total value of the charity's activities that meet all the tests above exceed £20,000 in England or £10,000 in the other regions of the UK?	No
30	If the answer to question 29 is yes, has or will the charity	The charity does not plan to spend more than a minimal amount of money on regulated activity ahead of the election, but will

	<p>register as a non-party campaigner with the Electoral Commission and put in place a system to comply with the spending and donation rules?</p>	<p>keep this under review and will be retaining detailed records of any spending that staff believe could be regulated.</p>
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## 2. Example text to staff and campaigners in the run up to an election

Dear [insert]

As you will likely be aware, we, as charity, need to make sure that we are complying with the law when we are campaigning. There is quite a lot of confusion about what the law actually allows charities to do; whilst charities can't act in a party political way, we can campaign – even on controversial political issues - and there is no law that says that we can't.

You might have heard of something called the 'Lobbying Act' and you might have heard that it stops charities from campaigning ahead of elections. It's true that the law sometimes referred to as the Lobbying Act might have an impact on what we do, now that an election is on the horizon, but there are things we can do to make sure we can keep campaigning on the issues that are important to us. In order for you to continue the great work you do whilst protecting the charity's reputation, political independence and helping us stay within the law, we thought it would be useful briefly to set out the kinds of things we need to think about now an election is coming up.

Please take the time to read this and do get in touch should you have any queries or doubts.

### **Election law**

The period running up to an election is regulated by a few different legal regimes. This email does not (and cannot) cover all relevant considerations, but seeks to provide you with some practical steps to help ensure that you are aware of the legal principles that may apply to your work during an election period.

During the run up to an election, one of the key considerations for organisations, including charities, operating within a campaigning environment is compliance with the 'non-party campaigning rules' under a piece of legislation called PPERA, or the Political Parties, Elections and Referendums Act (sometimes referred to as the 'Lobbying Act').

In the period of 365 days prior to a general election (known as the 'regulated period'), the value of certain activities and materials will be subject to controls under PPERA (known as 'regulated activities').

The rules apply three tests to determine whether activities during an election period are regulated. Generally, if you engage in particular activities (the 'activity' test), which will be made available to the public (the 'public' test) and which might reasonably be perceived as intended to influence the electoral success of a party or candidates either negatively or positively (the 'purpose test'), then spending on that activity is likely to be regulated.

So, where an organisation spends money campaigning on an issue which divides political opinion in the run up to an election, it may be incurring '*controlled expenditure*' under electoral law, even if it has no intention to support or oppose a particular party. This means that even though we can't act in a party political way and would never tell our supporters who they should or shouldn't vote for, some of our campaigns might be caught by election law.

We can't carry out more than £20,000 worth of regulated activity before the election in England (or £10,000 in the other regions of the UK), or we will have to register with an organisation called the Electoral Commission and will have to comply with detailed rules about donations and spending. We want to spend as much of our resources as possible on our work, and not on administration, so we have taken the decision not to register with the Electoral Commission, which means we need to make sure we do not undertake lots of regulated activity between now and the election.

This means we need to be careful about the perception of our work and what we put into the public domain. The key question to ask is - *is it possible that this activity/material could reasonably be seen as intended to influence voter behaviour or to promote/prejudice a political party or candidate, or parties or candidates that hold certain policy positions?*

### **Social media**

Social media can be a particular risk area during the run up to an election. Here are some tips to avoid any issues:

- We need to be careful about engaging with social media posts by parties or candidates. Whilst it can be good for the profile of our campaigns, we need to manage the risk that a candidate or party might pick up or associate themselves with any of our content/positions in part because they see it as beneficial to their profile to publicly support us.
- If we share a post or tweet by a party or candidate supporting our campaign or policy goals then that may give the impression that we are endorsing that candidate or party – check with your team leader before doing this.
- We need to be careful about our personal social media profiles during the election period. We should make sure that our personal social media account is clearly separated from our work capacity.
- We shouldn't use any charity branding, content or platforms to express support for, or criticism of, political parties or candidates, including those who do or do not promote particular policies. We should check what account we are posting from in case we are accidentally using our work account!

### **Media contact**

During an election period, we might get queries from the media about our views on election issues and campaigns. Please pass any queries on to us before speaking with the media, unless you are doing so in your personal capacity.

If you have any questions, do get in touch.





**4. Company law template resolution to authorise political expenditure**

Company number: [insert company number]

Written resolution of  
[Insert company name]

(the 'Charity')

Circulation Date: .....

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the Directors of the Company propose that the following resolution is passed as an ordinary resolution:

*That, in accordance with sections 366 and 367 of the Companies Act 2006, the company is authorised to:*

1. *[make political donations to political organisations other than political parties not exceeding £..... in total; and]*
2. *incur political expenditure not exceeding £..... in total,*

*(in each case such terms having the meanings given by sections 363 to 365 of the Companies Act 2006), for a period of four years beginning with the date on which this resolution is passed, in accordance with section 368 of the Companies Act 2006.*

The undersigned, a person entitled to vote on the following resolution on the Circulation Date hereby irrevocably agrees to the resolution.

Signed: .....

Name: .....

Date: .....

## Key terms used in this guidance

Articles of Association	A company's Articles of Association are its governing document, which will set out rules about how the company is run and who runs it.
Beneficiaries	A charity's beneficiaries are those the charity seeks to benefit/help. They might be service users if your charity runs a service or those whose rights you campaign to protect (such as asylum seekers).
Charity Commission	The Charity Commission is what is known a 'regulator'. Regulators generally supervise a particular profession or sector. The Charity Commission registers eligible organisations as charities, provides help and guidance to charities and has powers to investigate them and enforce the rules.
Charity law	Charity law refers to a range of legal obligations that apply to charities, deriving from various sources (including statutes and common law). Charities also have to comply with other laws, such as company law if they are a company, or defamation law.
Company law	Company law will only be relevant to charities that are set up as companies. Charitable companies need to comply with charity law and make certain filings with the UK's regulator of companies, Companies House. The main source of company law is the Companies Act 2006.
Electoral Commission	The Electoral Commission is another regulator, which regulates most elections in the UK and those who it deems to have influence in those elections. The Electoral Commission also has powers to register organisations as political parties or campaigners and to enforce election law rules.
Election law	Election law in the UK comes from a range of sources, including various statutes, orders and case. It is quite an old legal framework and, as a result, can sometimes be difficult to understand and apply to a modern context. The Electoral Commission offers much guidance on the main rules, available in the resources section of this guidance.
Members	'Members' refer to those who are either shareholders or guarantors of a company. Charitable companies will usually be companies limited by guarantee. In which case their 'members' will be the people who initially guaranteed the company or anyone who has been admitted to company membership since then (your Articles will tell you how to make people members of your company). It is a legal term and doesn't refer to your charity's general supporters.
Purposes	A charity's 'purposes' will sometimes be referred to as their aims or objects, but technically there is a slight legal difference between those words. A charity's purposes are what it is set up to achieve at its core, and have to fall within one of thirteen categories of charitable purpose. You can check what your charitable purposes are by going on the Charity Commission website, searching your charity's name and clicking on the 'charity framework' button.
Public body	Charity Commission guidance defines public bodies as 'all ministries, departments and agencies of government, whether local, regional, national, in the UK or overseas' including the UN and their agencies, the EU and associated bodies, the World Bank, NHS trustees, development

agencies, non-departmental public bodies (apart from those registered as charities and similar bodies in other countries).

Ordinary Resolution

A resolution is the name given to a formal decision/agreement of a company's members. An ordinary resolution means that more than half of the votes of the members of the company must be in favour of the decision (sometimes members might have more than one vote – your company's Articles of Association will tell you).

Secretary of State

A Secretary of State is the head of a government department. You can find a list of the current secretaries of state under the 'cabinet ministers' section [here](#).

Trustees

A charity's trustees are the individuals ultimately responsible for the charity and its legal compliance. They have a range of duties under charity law. If your charity is a company, the trustees will also be known as 'directors' under company law.

## Further Resources

Charity Commission guidance on campaigning and political activity:

<https://www.gov.uk/government/publications/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9/speaking-out-guidance-on-campaigning-and-political-activity-by-charities>

Charity Commission guidance on campaigning ahead of an election or referendum:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/591355/Charities Elections and Referendums\\_new.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/591355/Charities_Elections_and_Referendums_new.pdf)

Charity Commission guidance on trustee decision making:

<https://www.gov.uk/government/publications/its-your-decision-charity-trustees-and-decision-making/its-your-decision-charity-trustees-and-decision-making>

Companies House guidance on passing and voting on resolutions (see section 7):

<https://www.gov.uk/government/publications/life-of-a-company-event-driven-filings/life-of-a-company-part-2-event-driven-filings#resolutions>

Electoral Commission guidance on non-party campaigning (updated for each election – most recently the 2017 snap general election): <https://www.electoralcommission.org.uk/i-am-a/party-or-campaigner/non-party-campaigners/2017-elections>

Electoral Commission list of upcoming elections (updated regularly):

<https://www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/upcoming-elections-and-referendums>