

# **CLAS CIRCULAR**

## **2017/13 (8 May 2017)**

### **Disclaimer**

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## UPDATED GENERAL ELECTION CAMPAIGNING GUIDANCE

For information

### Introduction

We included a fairly brief note in Circular 2017/11 on campaigning in advance of the General Election on 8 June; however, we thought it might be helpful to produce a more extended note including links to the material on the Internet posted by the various regulatory bodies and religious organisations. This is it.

### The relevant legislation

Campaigning by charities during elections and referendums is governed by [Part VI \(Controls relating to third party national election campaigns\)](#) of the Political Parties, Elections and Referendums Act 2000, which must be read in conjunction with [Part 2 \(Non-party campaigning etc\)](#) of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014. We have been told that the Quakers are in the process of registering with the Electoral Commission under the legislation.

The Charity Commission for England & Wales has published [Guidance on Charities, Elections and Referendums](#): similar considerations apply in the other jurisdictions.

### Hustings

The principal issue for churches is holding hustings that satisfy the terms of the 2000 Act: we covered the issue in previous Circulars, most recently in Circular 2014/17, revised 9 October 2014. The Electoral Commission has posted [Hustings for elections being held in 2017](#), which the Commission describes as for "non-party campaigners who want to know good practice for holding hustings and when hustings may be regulated." If you propose to hold hustings in advance of the Election, *read the Electoral Commission's guidance* before anything else.

In addition, however, various Church bodies are beginning to put material on the web for their own members' information, and we thought it might be helpful to bring them together:

- Cytûn/Churches Together in Wales published its [Guide to Planning an Election Hustings Meeting](#) in 2016 - but the rules have not changed and the advice is well worth reading.
- The Evangelical Alliance published [How to organise election hustings](#) in 2015 but, like Cytûn's guidance, it still remains valid.

- Quakers in Britain has posted an extremely helpful briefing on [elections and hustings](#) which includes the salutary reminder that "a hustings is an opportunity for voters to hear from the candidates, not to promote any particular point of view. Make sure that all candidates get an equal chance to put their point of view across."
- The Scottish Churches Parliamentary Office published [guidance](#) in advance of the General Election in 2015.

### **Chairing**

The person who is to chair the event needs to be scrupulously fair and impartial and should certainly have no connexion with any political party or candidate.

The Chair needs to conduct the meeting firmly and impartially and must be properly briefed about how the event will be run (on such matters as ensuring that each election candidate gets the same speaking-time).

### **Regulated hustings**

In principle, a church that is holding a regulated hustings should invite every political party or independent candidate. In practice, however, it can decide not to invite particular candidates – but if it does, *it must have a clear objective reason which it is prepared to make public and, if necessary, defend*. Possible reasons are as follows:

- that the individuals not invited are likely to obtain very few votes;
- that those invited are the candidates most likely to win in the constituency;
- that there are a very large number of candidates and it is impracticable to invite all of them;
- that a particular candidate or candidates present a public order risk.

In such a case:

- you should be able to give impartial reasons why you have not invited particular candidates or parties;
- you should be prepared to explain your reasons to candidates or parties that you have not invited;
- you should make sure that the candidates or parties you invite represent a reasonable variety of views from different parts of the political spectrum;

- you should give each candidate or party representative attending a fair chance to answer questions and, where appropriate, a reasonable opportunity to respond to points made against them by other candidates or party representative; and
- you should tell the audience at the meeting about any other candidates or parties standing that have not been invited.

If you decide not to invite all candidates, you will need to be able to show that you are not promoting or opposing a particular candidate more than others. *Mere disagreement with the political views of one or other of the parties or candidates (however repulsive) is not a sufficient reason not to invite them to your hustings.*

Moreover, if you do not invite every political party or independent candidate and you cannot demonstrate what the Electoral Commission judges to be “an objective reason for not doing so”, your event may count as a donation towards those parties or candidates who *were* invited. If the cost is above £50 it would then need to be recorded by the invited candidates as a political donation – *and you would then have fallen foul of charity law because it is axiomatic that charities may not make political donations.*

In short: *before arranging a hustings, think very carefully about whom you are inviting and why.*

### **Selective hustings**

It is also possible lawfully to hold a selective hustings outside the terms of the regulation, even though the candidates invited are chosen for reasons which are not objective as described by the Electoral Commission, *provided that the cost of such a meeting was less than £50.* However, though such a meeting would fall outside of the PPERA regulation it would not be lawful where, under Charity Commission guidance, the party advocates policies in contravention of the charity's objects. To assess whether a hustings is regulated or not and whether it gives rise to a donation, you therefore need to take into account:

- the cost of the venue (the church itself would not, presumably, be hired to outside organisations – but do you make a letting charge for the church hall?);
- costs of any advertising or flyers;
- staff costs (if any); and
- refreshment costs (if any).

### **Generally**

We concluded Circular 2014/17 with the statement that the Electoral Commission seemed to unlikely to take a tough approach about breaches that were a genuine oversight and, so far as

we are aware, there were no problems reported in relation to charities during the last General Election – though, so far as we are aware, the Commission is still investigating complaints that some of the national campaign spending should have been apportioned to individual constituencies and included in their returns.

But as we said in 2014, *ignorance of the law is no excuse*; and CLAS members need to read the various bits of guidance very carefully and proceed with caution.

### **Charity law**

Quite apart from the specific rules around campaigning at election time, church congregations are bound *as charities* by the terms of their domestic charities legislation – in England & Wales, the Charities Act 2011 – *and those restrictions apply whether or not they are registered as charities with their territorial regulator*. Registration is about the degree of regulation to which the charity is subject, *not* about charitable status.

Crucially, a charity must not support or oppose a specific political party, because purely partisan political activity is not a charitable purpose – though that bar does not prevent charities from supporting or opposing specific policies. The Charity Commission for England & Wales says this in [Campaigning and political activity guidance for charities](#) (similar considerations apply in Scotland and Northern Ireland):

"a charity must not give its support to any one political party. It may express support for particular policies which will contribute to the delivery of its own charitable purposes so long as its independence is maintained, and perceptions of its independence are not adversely affected."

[CLAS summary]