

CLAS CIRCULAR

2024/08 (28 May)

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It would be very helpful if members could let us know of anything that appears to indicate developments of policy or practice on the part of Government or other matters of general concern that should be pursued.

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CHARITIES & CHARITY LAW

General Election 2024: campaigning and political activity by charities

For information **and possibly for action**

Introduction

As everyone knows, there is to be a General Election on 4 July. We published a guide to third-party campaigning in advance of the previous Election: this is what we hope will be a helpful update.

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](#).

Further, 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, in Scotland the Charities and Trustee Investment (Scotland) Act 2005 and the Charities (Regulation and Administration) (Scotland) Act 2023, and in Northern Ireland the Charities Acts (Northern Ireland) 2008 & 2013 – *and those restrictions apply to charities 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, emphatically *not* about charitable status itself.

In the words of the Charity Commission for England & Wales, “Charities must remain independent and must not give their support to a political party” – and that is the basic rule in all three jurisdictions because *purely partisan political activity is not a charitable purpose*. However, that bar does not prevent charities from supporting or opposing specific *policies*. The National Council for Voluntary Organisations also [reminds trustees](#) that they should make sure that their charity is not used to express the political views of individual trustees or staff members.

Charity Commission guidance

The Charity Commission for England & Wales has issued brief updated [Guidance on Charity campaigning in a general election period](#) and has also published a brief piece on its blog by the Chair, Orlando Fraser KC: [Campaigning and political activity – what do charities need to consider ahead of a general election?](#). His key points are as follows:

“Charities may give support to or raise concerns about specific policies advocated by political parties but as trustees and leaders of charities, you have an important

responsibility to ensure that everything you do, and every decision you make, helps you further your charity's purposes and is in the best interests of your charity.

Charities are required to be independent and cannot have political purposes, and this is important for public trust in charities. As such, charities must never stray into party politics – they must never promote, or be seen to promote, a political party or candidate.

As trustees and charity leaders you must protect your charity's reputation and not allow your organisation to be used as a vehicle for the expression of the party-political views of any individual trustee, employee, political party, or candidate."

Unsurprisingly, the Electoral Commission [agrees](#):

"Charities must remain independent of party politics and must not support a political party or candidate or create a perception of support as a result of their actions or participation."

Non-party campaigning

The [regulated period for non-party campaigners](#) started on **6 July 2023** and runs to polling day on **4 July 2024**. Briefly, under the provisions of the Transparency of Lobbying, Non-Party Campaigning (etc) Act *you must register as a non-party campaigner with the Commission if you spend, or plan to spend, more than £20,000 in England or £10,000 in any of Scotland, Wales or Northern Ireland on "regulated campaign activity" during a regulated period*. During the regulated period, there are rules about how much non-party campaigners can spend on "regulated campaign activity".

Spending on the following activities can be regulated:

- election material;
- canvassing and market research;
- public rallies or public events;
- press conferences or other media events; and
- transport in connection with publicising your campaign.

The *purpose test* applies to any of the five campaign activities and is met if the activity can reasonably be regarded as intended to influence voters to vote for or against:

- one or more political parties;
- political parties or candidates that support or do not support particular policies; and/or
- other categories of candidates, for example, candidates who went to a state school, or independent candidates who are not standing in the name of a political party.

The *public test* applies to election material, canvassing and market research, and public rallies or public events. It is met if the activity is aimed at the public or a section of the public: a charity's members and committed supporters do not count as "members of the public".

For spending to be regulated, it must meet the purpose test: in addition, for the three types of activity covered by it, the public test must also be met.

For small groups, parishes etc. that are only going to put on a hustings, registration is almost certainly not going to be necessary because it is extremely unlikely that any individual congregation will exceed the expenditure triggers under the Act. That said, however, Quakers in Britain registered as non-party campaigners for the General Election in 2017.

Hustings

A hustings is a meeting at which election candidates or parties debate policies and answer questions from the audience; they provide voters with an opportunity to hear the views of candidates or parties. The Electoral Commission has published general guidance, [Are you holding a hustings?](#)

Churches Together in Britain and Ireland has published a helpful [hustings resource](#) for churches who are thinking of holding local meetings at which electors may meet and question the candidates – post-COVID, it includes advice on holding a hustings via video-conference. On the issue of whether you have to invite all candidates (or what has to be done if you hold a "selective" hustings) the answer is that you do not – but *if* you do not, you must have an objective, impartial reason for not including all candidates.

The simplest approach is to invite all the relevant candidates in the area or all political parties campaigning in the election and allow all those attending an equal opportunity to participate. However, this may not always be practical. For example, there may be so many candidates or parties standing that a meeting would be hard to manage. If you decide not to invite all candidates, there are some good-practice recommendations you should follow to ensure that your hustings is genuinely not promoting particular candidates or parties more than others.

Not inviting a particular candidate because you do not agree with his or her policies is not an impartial reason.

Registration and Voter ID

It might be helpful to remind congregations that to cast a vote at the polling station it is necessary both to be registered and to have valid identification. Anyone who has not registered to vote must do so by **23:59 on Tuesday 18 June**.

The General Election on 4 July will be the first at which photo ID has been required.

The [Electoral Commission](#) has details on its website of the forms of ID which are acceptable, and how voters who do not possess it can apply for a [Voter Authority Certificate](#) – for which the deadline is **17:00 on Wednesday 26 June**.

Useful links

- Churches Together in Britain and Ireland: [General Election website](#).
- Catholic Bishops' Conference of England & Wales: [General Election 2024](#).
- Cytûn/Churches together in Wales: [Election 2024](#).
- Electoral Commission: [Guidance: non-party campaigner](#).
- Quakers in Britain: [UK general election 2024: Guidance for Quaker communities](#).
- NCVO: [Political campaigning as a charity](#).

[Source, CLAS, 27 May]

ODDS & ENDS

The General Election and the legislative programme

For information and possibly for action

In advance of the General Election on 4 July and the prorogation of Parliament on 24 May, there was a flurry of legislative business by agreement between the two front benches. The following were given Royal Assent:

- British Nationality (Irish Citizens) Act.
- Building Societies Act 1986 (Amendment) Act.
- Digital Markets, Competition and Consumers Act.
- Finance (No. 2) Act.
- Leasehold and Freehold Reform Act.
- Media Act.
- Paternity Leave (Bereavement) Act.
- Pet Abduction Act.
- Post Office (Horizon System) Offences Act.
- Victims and Prisoners Act.
- Zoological Society of London (Leases) Act.

One of the main purposes of the Leasehold and Freehold Reform Act is to end leasehold tenancy. The Church Commissioners, along with seven other charities including the London Diocesan Fund, has been seeking compensation for the loss of Marriage and Hope Value because they fear that the loss of income will have a drastic effect on their operating ability. The issue is not thought to affect Wales and, except for a single technical provision, the Act does not extend to Northern Ireland or Scotland. The matter was raised repeatedly in the Lords, but without success; the Bishop of Southwell and Nottingham pointed out that some of the affected charities stand to lose as much as £3 million each year in distributable funds.

Among the bills that failed to reach the statute book was the Criminal Justice Bill. In February, the Government had announced that it would be introducing amendments to the Bill to make it a legal requirement for anyone in regulated activity relating to children in England, including teachers or healthcare professionals, to report child sexual abuse. The [amendments](#) had been published in advance of the Commons Report Stage.

The Special Envoy for Freedom of Religion or Belief Bill, a private Member's bill sponsored by Fiona Bruce MP which had completed its Commons stages on 17 May also fell by the wayside. It would have put the role of Special Envoy on a formal footing and require every Prime Minister to appoint one, as recommended by the Bishop of Truro in his report on International Religious Freedom.

PROPERTY & PLANNING

Social Tenant Access to Information Requirements: consultation

For information **and possibly for action**

The [Social Housing White Paper](#) included a commitment to introduce an access to information scheme for the social housing tenants of private registered providers (PRPs). The Social Tenant Access to Information Requirements (STAIRs) will allow social housing tenants and their designated representatives to request access to information related to the management of their housing. The proposed new rules could include rights to access to information on the prevalence of damp and mould, health and safety issues and time taken by landlords to complete repairs.

The Secretary of State has the power to direct the Regulator on certain aspects of its regulatory standards and proposes to use this power to direct the Regulator to introduce requirements for PRPs to comply with the requirements in the STAIRs policy statement. The [consultation](#) seeks views on the content of the policy statement, which outlines the requirements that providers will need to meet under STAIRs.

The consultation also seeks views on a proposed direction from the Secretary of State to the Regulator of Social Housing, using powers under section 197 of the Housing and Regeneration Act 2008 as amended.

The consultation ends on **15 July**.

[Source, DLUHC, 20 May]

NORTHERN IRELAND

A registration threshold for charities in Northern Ireland?

For information **and possibly for action**

On 20 May, the Northern Ireland Executive launched a [public consultation](#) on a threshold below which charities would not be required to register with the Charity Commission for Northern Ireland or to provide an annual report and accounts. The consultation follows provision in the Charities Act (Northern Ireland) 2022 that allows the Department for Communities to introduce a registration threshold to remove the requirement for low-income charities to register with the Commission.

The Department suggests that a registration threshold could reduce the administrative burden for small charities and remove barriers to volunteering. The suggested threshold is an annual income of below £20,000. This has obvious implications for small charities and places of worship. The consultation closes on **11 August**.

The Department is holding a series of consultation information sessions to assist charities in responding to the questionnaire: advance booking is required – links [here](#).

[Source: Northern Ireland Department for Communities, 20 May]