

# Campaigning and political activities by Charities in Northern Ireland



The **Charity**  
**Commission**  
for Northern Ireland

# **Campaigning and political activities by Charities in Northern Ireland**

## **A. Introduction**

### **A1. What this guidance covers**

All charities are united by having a vision of a better society. They have many different purposes, and are focused on different needs. But in the main they are united by a desire to achieve change, whether for a particular group of people in need, or for the wider common good. It is not surprising then that many charities wish to speak out. Campaigning, advocacy and political activity are all legitimate and valuable activities for charities to undertake.

Charities in Northern Ireland have strong links to their beneficiaries, and more generally to their local communities, commanding high levels of public trust and confidence, and representing a myriad of diverse causes. This means that charities are uniquely placed to campaign and advocate on behalf of their beneficiaries. When charities seek to change the law or government policy, certain rules apply. In this guidance we explain these rules in plain terms that provide clarification.

This publication gives guidance on the legal and regulatory framework for charities wishing to engage in campaigning and political activity. It describes the activities that charities can properly undertake under the existing law and outlines the factors charities should assess as part of their planning for campaigning and political activity.

The guidance is intended for all organisations falling under the jurisdiction of the Charity Commission for Northern Ireland. Whilst many of the factors for consideration also apply to other areas of charitable activity, we have

included them here in order to support good governance in this important area of the work of charities. It is our aim that all charities are confident about what they can legitimately do if they decide to become involved in political activity. Therefore, this guidance focuses first on the freedoms and possibilities for charities to campaign, and only then on the restrictions and risks that trustees must bear in mind.

Whilst reading this guidance it should be noted that at the date of publication, there is no official register of charities in Northern Ireland under the Charities Act (Northern Ireland) 2008 (the "Act"). Therefore not all organisations calling themselves charities in Northern Ireland currently fall under the jurisdiction of the Charity Commission for Northern Ireland. However, under the Charities Act 2008 (Transitional Provisions) Order (2011), those organisations which have been recognised as being eligible for the exemptions from tax provided by Part 10 of the Income Tax Act 2007<sup>(1)</sup> or Part 11 of the Corporation Tax Act 2010, are treated as charities for the purpose of those parts of the Act which are in operation. For a detailed view of the parts of the Act currently commenced in Northern Ireland, please visit our website

[http://www.charitycommissionni.org.uk/Charity\\_requirements\\_guidance/Legislation.aspx](http://www.charitycommissionni.org.uk/Charity_requirements_guidance/Legislation.aspx)

## **B. Campaigning and political activity by charities - at a glance**

This section summarises the main points for charity trustees to consider. They are based on relevant case law from appropriate jurisdictions, statute, and good practice, and are covered in more detail further in the guidance.

### **B1.Key points about campaigning and political activity**

- Campaigning and political activity can be legitimate and valuable activities for charities to undertake.
- However, political campaigning, or political activity, as defined in this guidance, must be undertaken by a charity only in the context of supporting the delivery of its charitable purposes. Unlike other forms of campaigning, political campaigning must not be the continuing and sole activity of the charity.
- There may be situations where carrying out political activity is the best way for trustees to support the charity's purposes. A charity may choose to focus most, or all, of its resources on political activity for a period. The key issue for charity trustees is the need to ensure that this activity is not, and does not become, the reason for the charity's existence.
- Charities can campaign for a change in the law, policy or decisions where such change would support the charity's purposes. Charities can also campaign to ensure that existing laws are observed.
- However, a charity cannot exist for a political purpose, which is any purpose directed at furthering the interests of any political party, or securing or opposing a change in the law, policy or decisions.
- In the political arena, a charity must stress its independence and ensure that any involvement it has with political parties is balanced. A charity must not give support or funding to a political party, nor to a candidate or politician.
- A charity may give its support to specific policies advocated by political parties if it would help achieve its charitable purposes. However, trustees

must not allow the charity to be used as a vehicle for the expression of the political views of any individual trustee or staff member (in this context we mean personal or party political views).

- As with any decision they make, when considering campaigning and political activity, charity trustees must carefully weigh up the possible benefits against the costs and risks in deciding whether the campaign is likely to be an effective way of furthering or supporting the charity's purposes.
- When campaigning, charity trustees must comply not only with charity law, but other civil and criminal laws that may apply. Where applicable they should also comply with the Code of the Advertising Standards Authority.
- A charity can campaign using emotive or controversial material, where this is lawful and justifiable in the context of the campaign. Such material must be factually accurate and have a legitimate evidence base.

## C. Glossary of Terms

### C1. What do we mean by 'campaigning' and 'political activity'?

Everyday use and understanding of the terms 'campaigning' and 'political activity' can be quite wide in scope. For example, the term 'political activity' may be associated in people's minds with party political activity; this is not how it is used in this guidance. For the purpose of this guidance our definitions, based on charity law, are set out below:

**Campaigning:** We use this word to refer to awareness-raising and to efforts to educate or involve the public by mobilising their support on a particular issue, or to influence or change public attitudes. We also use it to refer to campaigning activity which aims to ensure that existing laws are observed. We distinguish this from an activity which involves trying to secure support for, or oppose, a change in the law or in the policy or decisions of central government, local authorities or other public bodies, whether in this country or abroad, and which we refer to in this guidance as 'political activity'. Examples of campaigning might include:

- A children's charity, drawing attention to the dangers of domestic violence and child abuse;
- A health charity promoting the benefits of a balanced diet in reducing heart problems;
- A human rights charity calling on a government to observe certain fundamental human rights, and for the practice of torture to be abolished;
- A disability charity calling for existing legislation to be adhered to in order to ensure that all children with special educational needs receive the support they are entitled to in order to access learning.

*It should be noted that sometimes fundraising activity is referred to as a fundraising 'campaign' – this is not campaigning as defined in this guidance.*

**Political activity:** Political activity, as defined in this guidance, must only be undertaken by a charity in the context of supporting the delivery of its charitable purposes. We use this term to refer to activity by a charity which is aimed at securing, or opposing, any change in the law or in the policy or decisions of government or other elected or public bodies, whether in this country or abroad. It includes activity to preserve an existing piece of legislation, where a charity opposes it being repealed or amended. This differs from activity aimed at ensuring that an existing law is observed, which falls under (1), Campaigning.

Political activity might include some or all of:

- Raising public support for a change
- Seeking to influence political parties or independent candidates, decision-makers, politicians or public servants on the charity's position in various ways in support of a desired change; and responding to consultations carried out by political parties.

**Political purpose:** A political purpose means any purpose directed at furthering the interests of any political party; or securing, or opposing, any change in the law or in the policy or decisions of government or other elected or public bodies, whether in this country or abroad. There is not always a clear demarcation between campaigning and political activity, and a charity might well undertake a phase of activity which has various elements. This guidance is focused on the factors that trustees will need to consider in deciding what it is right for them to do. It also makes clear that supporting a political party is not an acceptable form of political activity for a charity.

## **C2 .Meaning of other words and expressions used**

**Charitable Purposes:** A charity's purposes are set out in its governing document. They are the purposes which the law regards as charitable. To be a charity, all purposes must be exclusively charitable. However, recent

questions surrounding the public benefit test element set out at s3 of the Charities (Northern Ireland) Act 2008 have meant that the statutory test could be open to criticism. This has been discussed by the Northern Ireland Executive and we would hope for some resolution to this matter very soon.

**Governing document:** A governing document sets out the charity's purposes and, usually, how it is to be administered. It may be a trust deed, constitution, memorandum and articles of association, will, conveyance or Royal Charter.

**Trustees** means **charity trustees**. Charity trustees are the people who are responsible for the general control and management of the administration of the charity. They may be called trustees, managing trustees, committee members, governors, directors or they may be referred to by some other title. In the case of an unincorporated association, the members of the executive or management committee are its charity trustees; in the case of a charitable company, it is the directors.

**Public body:** Includes all ministries, departments and agencies of government, whether local, regional, national, in the UK or overseas. Examples include:

- The twelve government departments e.g. The Department for Social Development.
- Health Service Trusts.
- Development agencies and corporations.
- Similar bodies and agencies in other countries.
- The European Union and its associated bodies.
- The UN, other international bodies, and their agencies.

The term is not intended to include charities, private companies or corporations, or other independent and private bodies.

## **D. The key questions**

This section answers key questions about the fundamentals of what charities can and cannot do under charity law. It describes the different kinds of campaigning and political activity that exist, and how charities should approach the possibility of undertaking campaigning work. It stresses that charities are free to campaign, and that they can expect our support if they decide to do so. It also describes the limits of this activity – fundamentally that all campaigning and political activity must further or support charitable purposes and that such activity must never be party political.

## **D1. Can a charity carry out campaigning and political activity?**

### **The short answer**

Yes – any charity can become involved in campaigning and in political activity to further its charitable purposes, unless its governing document prohibits such involvement.

### **In more detail**

Engagement in campaigning is a means by which many charities work to further their purposes, and many charities also engage in political activity in support of those purposes.

So long as a charity is engaging in campaigning or political activity solely in order to further or support its charitable purposes, and there is a reasonable likelihood of it being effective, it may carry out campaigning and political activity, as set out in this guidance. The activities it undertakes must be a legitimate and reasonable way for the trustees to further those purposes, and must never be party political.

A charity can make public comment on social, economic and political issues if these relate to its purpose, or the way in which the charity is able to carry out its work.

These principles lie behind all of this guidance. Whilst there is no limit on the extent to which charities can engage in campaigning in furtherance of their charitable purposes, political activity can only be a means of supporting or contributing to the achievement of those purposes, although it may be a significant contribution. Hence, political activity cannot be the only way in which a charity pursues its charitable purposes.

There may be some charities which cannot campaign because of restrictions in their governing document.



## **D2. Must a charity campaign and engage in political activity?**

### **The short answer**

No - trustees have discretion to decide how best to use the resources of their charity to achieve its purposes. Trustees are not required to campaign, nor should they feel under external pressure to do so.

### **In more detail**

Whilst charities do not have to campaign, charity trustees should consider the best way of achieving their charitable purposes, and as part of this consideration they may need to think about the role that campaigning could play. Where they believe it would be in the interests of the beneficiaries of a charity to do so, trustees are entitled to engage in political activity. However, they are not under any obligation to engage in such activity.

Campaigning and engaging in political activity can be a highly effective means of pursuing a charitable purpose, even where the matters at issue are controversial. Charities have a vital role to play in society in promoting the interests of their beneficiaries and in contributing to public debate.

### **D3. Can a charity have a political purpose?**

#### **The short answer**

A charity cannot have a political purpose. Nor can a charity undertake political activity that is not relevant to, and does not have a reasonable likelihood of, supporting the charity's charitable purposes.

Whilst a charity cannot have political activity as a purpose, the range of charitable purposes means that, inevitably, there are some purposes (such as the promotion of human rights) which are more likely than others to lead trustees to want to engage in campaigning and political activity. (See section D4 for information on including campaigning and political activity in a governing document.)

#### **In more detail**

A charity cannot have political activity as any of its charitable purposes. This is because a charitable purpose should fall within the description of purposes set out in the Charities Act (Northern Ireland) 2008. However, political activity can be carried out by a charity to support the delivery of its charitable purposes. In order to be a charity, an organisation must have purposes which are exclusively charitable and for the public benefit. An organisation with a political purpose, such as promoting a change in the law, legally cannot be a charity. This applies even if the organisation has other purposes which are charitable. This would involve looking at 'political' questions, which neither we nor the courts are in a position to answer. Constitutionally, it is not possible for the Charity Commission for Northern Ireland or the Courts to make decisions about whether a change in the law or Government policy would be for the public benefit. However, organisations which are established to ensure that the law is observed, for example respecting certain fundamental human rights, will not automatically fall within this definition. This is a complex area and in future years we will explore with charities established for the advancement of human rights, the

boundaries of this particular charitable purpose in relation to campaigning and political activity.

#### **D4. Can a charity have campaigning or political activity in its governing document?**

##### **The short answer**

Yes – providing it is explained in its governing document that this campaigning or political activity will be a means of furthering or supporting its charitable purposes, not a purpose itself.

##### **In more detail**

**Need for a power to campaign:** It is not legally necessary for a charity to have an express power to campaign included in its governing document, in order to carry out campaigning activities (whether political or otherwise). This means that a charity will only need to amend its governing document to campaign if there is some restriction on its power to do so.

**Governing Document:** For a charity which has campaigning as a major part of its work, it may be sensible for it to spell out in its governing document what it can do, and any limitations.

## **D5. Can a charity carry out political activity?**

### **The short answer**

Although a political organisation cannot be a charity, a charity can, in support of its charitable purposes, undertake a range of political activities. However these cannot be the only activities that the charity carries out.

### **In more detail**

**The key principle:** Although organisations established to pursue political purposes cannot be charities, political activity may be carried out by charities, but only as a means of supporting their charitable purposes. For the same reason that a political purpose cannot be charitable, political activity can only support, or contribute to, the achievement of charitable purposes. This means that political activity cannot be the continuing and sole activity of the charity.

In deciding whether or not to undertake political activity, trustees must first decide whether there is a reasonable expectation that it will support the charity's purposes. (See section F1 for further factors that trustees should take into account.)

As with any activity, trustees must exercise their discretion properly in deciding to undertake political activity. Trustees should consider the range of other activities open to them, take appropriate factors into account, consider only the most relevant factors, and make decisions that reasonable trustees would make. As part of this decision-making process trustees need to think about how the decision fits with the charity's overall mission and aims, whether any claims they intend to make are well founded, and whether the likelihood of success is based on realistic expectations. Trustees should also regularly review the effectiveness and impact of the campaign, and their decision to engage in it.

**D6. Can an organisation that carries out political activity be a charity?**

**The short answer**

Yes – although this depends on the purposes for which the organisation is established, and the ways in which the organisation wishes to further those purposes, including through campaigning.

**In more detail**

A campaigning organisation can become a charity, so long as it has charitable purposes only, and the campaigning is entirely in support of those purposes. However, if the reason for its existence is to pursue a political purpose it cannot become a charity, because it is not possible to assess whether it is for the public benefit. Therefore an organisation which wishes to carry out its campaigning work primarily through political activity could not become a charity.

## **D7. Can a charity carry out political activity for a change in the law?**

### **The short answer**

Yes – charities may carry out political activity for a change in the law if it supports their own charitable purpose.

### **In more detail**

Political activity, including campaigning for a change in the law, is a legitimate activity and can be an effective means of supporting a charitable purpose. However, as previously set out, it is not a charitable purpose to campaign for changes to the law whether this applies across the UK or in Northern Ireland.

**Legislation going through the Assembly:** A charity can support or oppose the passage of a Northern Ireland Assembly Bill if this can reasonably be expected to support the delivery of its charitable purposes. A charity may provide and publish comments on possible or proposed changes in the law or government policy, whether contained in a draft Assembly Bill or elsewhere such as a departmental strategy or action plan. A charity may also supply Members of the Assembly with relevant information or briefing about the implications of a Parliamentary Bill, for use in debate.

**Promoting new legislation:** On the same basis a charity can also promote the need for a particular piece of legislation. Subject to their purposes, charities may be able to persuade government departments to introduce or adopt legislation.

**Acceptable methods:** A charity can do what any other body or person trying to change that law can do. For example, it can write to or meet the relevant government minister explaining its concerns, brief MLAs and MPs, and ask its supporters to help. However, it must not defame people or incite

people to violence. It must obey the civil and criminal law and any relevant regulations or codes of practice.

## **D8. Can a charity focus all its resources on political activity?**

### **The short answer**

A charity may choose to focus most, or all, of its resources on political activity for a period. The key issue for charity trustees is the need to ensure that this activity is not, and does not become, the reason for the charity's existence.

For any charity, political activity can only be a means of supporting or contributing to the achievement of its charitable purposes. It cannot be a charitable purpose in its own right, or the only means by which the charity pursues its purposes

### **In more detail**

Charity law requires that political activity must always support a charitable purpose. There could be particular situations where a charity may apply most, or even all, of its resources to political activity, in support of a charitable purpose. These situations should apply only for a period in the overall life of the charity. In such cases, the trustees should have looked carefully at the range of means open to them, and to have decided that for the time being the charity's purposes were most effectively pursued through political activity. Such a situation could arise where a charity had identified that political activity could bring major benefits to its beneficiaries, and that there was a good chance of success. It might then consider a campaign aimed at securing a change in the law or in significantly raising public awareness. It could lawfully commit all its resources in that way to such a campaign, for a period of time.

## **D9. Can a charity campaign or carry out political activity to influence government or other bodies?**

### **The short answer**

Yes – a charity can seek to influence government or other public bodies, providing it is in support of their charitable purposes. However trustees must take care to avoid an approach which is purely focused on political activity as this could call into question the propriety of their actions, or ultimately, their charitable status.

### **In more detail**

**Government:** A charity can seek to influence government or public opinion issues relating to the charity's purposes. A charity may also speak out on issues of relevance to the wider well-being of the charitable sector. These principles apply both to consideration of new and of existing public policy.

**Supporting existing legislation:** A charity can engage in campaigning activity which aims to ensure that existing laws are observed.

Just as opposing a government policy may further a charity's objects, supporting a policy may also be capable of contributing to the achievement of a charity's purposes. Legally, the same considerations apply.

**Other public bodies:** When a charity seeks to influence any public body, the issues are the same as for work directed at government departments - the activity is in our terms a political one. We take a wide view of what constitutes a public body. Examples include:

- Health Service bodies such as a Trust.
- The NI Assembly, the twelve government departments, development agencies and corporations.
- Non-departmental public bodies and agencies.
- Government bodies and agencies in other countries.

**Private companies:** If the target of a campaign is a private company then the activity is not regarded as political. For example, a campaign aimed at changing the policies or behaviour of a private company through shareholder

action, or a campaign to encourage a large multinational company to sell fair-trade products. Trustees must still ask themselves whether the campaign will further the purposes of the charity, and whether it will do so to an extent that justifies the resources devoted to it.

## **E. Working with political parties and politicians**

This section is about the relationship that charities may have with political parties, individual politicians or independent candidates. Charities will often wish to influence political decision-makers. Although charities cannot give their support to a political party, there are many ways in which they can lawfully work in the political arena.

### **E1. Can a charity support a political party?**

#### **The short answer**

No – 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.

#### **In more detail**

**Support for a political party:** To support a political party is not in itself a charitable purpose. However, a charity may give support to a specific policy which is advocated by a political party. A charity should not give general support to a political party, because all political parties have a range of policies. If a charity endorses a party because it agrees with one policy (for example on climate change), it is effectively supporting the party as a whole and will be endorsing the party's wider policies (for example on health, education, culture, etc), which are nothing to do with the charity's purposes. Whilst support for a specific policy may be an important way of contributing to a charity's purposes, support for a political party even when it advocates a

policy that the charity supports, is not open to a charity. ***A charity cannot support in kind or give financial support, to a political party.***

**Support for the policies of Government:** As set out below, a charity can advocate support for a particular policy advocated by a political party or candidate, provided that it supports the charity's policies. A charity can also advocate support for a policy which coincides with Government policy so long as it is clear about its reasons for doing so.

**Charity independence:** A charity must always guard its independence, and ensure it remains independent. In supporting a policy that a political party or Government also advocates, a charity should stress and make clear its independence, both to its supporters and to those people whose views it is seeking to influence.

**Further information:** We have separate guidance on Campaigning and Elections, which is for use by charities during the period between the announcement of an election, and the date on which an election is held.

[http://www.charitycommission.org.uk/Charity\\_requirements\\_guidance/Your\\_charity\\_activities/Campaigning/Charities\\_elections\\_and\\_referendums.aspx](http://www.charitycommission.org.uk/Charity_requirements_guidance/Your_charity_activities/Campaigning/Charities_elections_and_referendums.aspx)

## **E2 .Can a charity engage with a political party?**

### **The short answer**

Yes – a charity may engage with a political party in ways that supports its own charitable purposes. In doing so, it must remain politically neutral and should consider working with other parties to help ensure public perceptions of neutrality. Trustees should be as open and transparent as possible about any engagement their charity has with a political party.

### **In more detail**

**Contact with parties:** The principles which apply to the involvement of charities in campaigning apply equally to their contact with political parties and their representatives. Such contact is a natural part of some campaigns. Some caution is desirable. The public attach great importance to the independence of charities and have confidence in their work. To protect their reputation, charities need to pay particular consideration to the consequences of working with political parties and their representatives, and be open and transparent about any contact they have.

**Support for policies:** It is acceptable for a charity to advocate support for a particular policy advocated by a political party or candidate, provided that the policy supports the charity's purposes. However a charity must not support a political party or candidate.

**Policy debates:** Charities may be offered the opportunity to participate in policy discussions organised by political parties. The principle governing this sort of activity is that a charity can try to influence the policies of political parties (in the interests of its beneficiaries), but must not assist any political party to get elected. So, the charity could accept invitations from all the major political parties to explain the needs of its beneficiary group (for example, explaining the problems faced by parents when seeking employment). It might in fact want to contact all the major parties

proactively to set out those needs. If it were to accept invitations from or contact only one of the major political parties, and did so consistently over time, this could call into question whether the charity was in fact remaining politically neutral.

**Risk of 'exploitation':** A charity should be alert to the risk that a political party could exploit the charity's participation in policy discussions for its own benefit rather than that of the charity's beneficiaries. As part of managing this risk a charity should be open and transparent about any engagement it has with political parties.

### **E3. Can a charity engage with politicians?**

#### **The short answer**

Yes – there are a number of ways in which charities can engage with individual politicians. In doing so, they must remain politically neutral and should consider working with other parties to help ensure public perceptions of neutrality.

#### **In more detail**

**Speaking invitations:** A charity can invite a politician to speak in support of its aims, for example at a reception to launch a national campaign, or at an AGM. Whilst ideally a charity enlisting the support of politicians should, for reasons of independence and neutrality, seek cross party representation, some forms of campaign methods might make this impractical.

**The need for neutrality:** We would be concerned if a charity consistently enlisted the support of politicians from one political party only. Due consideration should be given by a charity to ensuring that the methods chosen for delivering a campaign are part of a well thought through strategy and do not inadvertently result in any form of partisan support.

**Publishing the views of politicians and of Government:** A charity may publish the views of local councillors, Northern Ireland Assembly Members, Executive Ministers, Members of Parliament, election candidates and party spokespersons, where these views relate to the charity's purposes, and publishing them will support the charity's work in some way. The charity should consider the impact of the range and scope of the views, and how they are expressed, on its overall work. As part of this consideration the trustees should assess whether the views expressed represent any risks to the charity's reputation.

**Single issues:** A charity may ask representatives of all the parties what their view is on a particular issue, and publicise their answers. So for example, the charity could organise a debate where all the parties were invited to discuss the issue – or it could print interviews with representatives from all the parties in its magazine or on its website.

**Providing information about politicians:** A charity can provide information to its supporters or to the public on how individual Members of Parliament, Northern Ireland Assembly Members, local councillors or parties have voted on an issue, in order to influence them to change their position. It must be able to explain its reasons for doing so if requested – the issue in question must be linked to the charity's purposes.

#### **E4. Do things change when an election has been called?**

##### **The short answer**

Yes – once an election has been called, charities that are campaigning will need to take special care to ensure their political neutrality. For example, a charity must not provide funds, or other resources, to a political candidate.

##### **In more detail**

A charity must never indicate to its supporters which candidate to support in an election. During an election period, the need for impartiality and balance intensifies, and charities must take particular care when undertaking any activities in the political arena.

**Further information:** We have published separate guidance on Campaigning and Elections, which is for use by charities during the period between the announcement of an election, and the date on which an election is held, at E1 above.

## **F. Questions for trustees**

This section is focused on the trustees of charities, and the issues they should consider before embarking on campaigning or political activity. Although campaigning is a legitimate activity for charities and the considerations that apply are similar to those for any other activity: trustees should be confident that the options, risks, costs and benefits have been carefully weighed up before starting a campaign.

### **F1. What factors should trustees take into account?**

#### **The short answer**

As with any activity, campaigning and political activity will carry some opportunities and risks which trustees will need to identify and plan to manage. Trustees must be satisfied on reasonable grounds that the activities are likely to be an effective means of furthering or supporting the purposes of the charity; and must be able to justify the resources applied. There are a range of ways which trustees might consider using to satisfy themselves of this, and to demonstrate that they have done so; for example by keeping a risk register, a business plan, and recording minutes of meetings where such issues have been considered.

#### **In more detail**

The nature of campaigning, and the changing nature of the environment within which it takes place, means that it is an area of activity where new and innovative approaches are often developed. Within the framework of this guidance, the Charity Commission for Northern Ireland supports charities in this area. It is important that the risks are identified and managed; it is also important that trustees are not overly cautious or risk averse.

**Agreeing objectives:** When planning or considering a campaign or political activity, trustees need to be clear about how the campaign or activity will further or support the work of the charity and, with that in mind, set clear

and measurable objectives. Certain political activity might be highly successful in achieving the objective of raising public awareness, or of encouraging the public to support the work of the charity, even if it does not lead to an immediate change of law or government policy. Not all political activity will be successful. It is therefore important for trustees to be able to explain their charity's decision to engage in campaigning or political activity, and to set objectives for the campaign which have a reasonable likelihood of success, as well as making sure that they have monitored progress towards them during the implementation phase of the campaign.

**Evaluating and managing risks:** Trustees are responsible for identifying and reviewing the major risks to which a charity is exposed, and for putting in place systems to mitigate these risks. Some types of campaigning and political activity, particularly those that have a high public profile, have the potential both to enhance and to damage the charity's reputation, and also to compromise its independence. This means that charities need to identify and manage the possible risks involved; it does not mean that they have to avoid all risks.

As part of its assessment of the overall risks and benefits of the activity, a charity should consider:

- the risk that the activity may not be effective, or that the charity will be drawn into activities that are outside its purposes;
- the costs and benefits of engaging in a particular campaign;
- ways of approaching the campaign;
- the risks attached to the campaign, and how these might best be managed; these include public perceptions of the charity's independence, for example if a charity is supporting or opposing a policy that is also advocated by a political party;
- the strategy for delivering the campaign; and
- how best to evaluate the campaign's success and impact.

Trustees must not allow the charity to be used as a vehicle for the expression of the political views of any individual trustee or staff member (in this context we mean personal or party political views).

Trustees should also ensure that they have an adequate level of knowledge about their donors. Trustees should be alert to the risk that, very occasionally, a donor may have an ulterior motive for giving money to their charity that could be unconnected with the charity's work, and which could adversely affect the charity's reputation. Ultimately, it is the responsibility of trustees to be satisfied that a donation is in the best interests of the charity.

**Reputational risk:** Trustees will also need to consider the impact of the proposed campaigning or political activity for the charity's reputation. A charity's independence and reputation must be protected, and trustees will need, as part of their overall campaign strategy, to consider arrangements to protect the charity's reputation.

**Balance of risks and benefits:** Overall, trustees need to be reasonably convinced that the likely benefits of campaigning outweigh the costs and risks. That involves assessing the likelihood of a successful outcome. The trustees must ask themselves:

- Will this really further or support the work of the charity?
- Is it worth the effort and resources involved?

If they can answer yes to both questions, they can confidently go ahead.

**Monitoring impact and success:** Monitoring and evaluating the success of a campaign should be built into a campaign strategy from the outset. They are a key means of ensuring that resources are being used wisely, and of contributing to the effectiveness of future campaigns.

**Consultation:** In seeking to influence legislation or public policy a charity may consider consulting with its key stakeholders, and possibly with members of the public. It might, for example, arrange consultative meetings in order to test the views of its beneficiaries before supporting changes to legislation and public policy. Such consultation is not, however, a formal requirement. The main consideration for charity trustees is that they have a clear understanding of the ways in which the activity will further or support the work of the charity.

Where political activity or linked campaign does not have a realistic end date, it has the potential to be viewed as a political purpose, and could call into question the propriety of the activity, or ultimately the charitable status of the charity.

The key decision for trustees is whether the political activity supports their charity's purpose to an extent that justifies the resources used. Trustees' knowledge of their charity means that they are well placed to decide whether a particular activity is likely to be an effective way of supporting the charity's purposes. As well as making an informed decision, trustees must be able to explain the reasoning behind it. They also need to be able to counter any criticisms that may arise – for instance that the change in the law which they sought to influence was too remote a possibility to have been achieved, or that the trustees were pursuing an agenda linked, or perceived to be linked, to their personal political views. Trustees must always have regard to their responsibility to use charitable funds and assets wisely, and only in furtherance or support of the charity's purposes.

## **G. Campaigning: getting it right**

This section is aimed at charities that have already decided to campaign or work in the political arena.

### **G1. What civil and criminal laws apply to charity campaign and political activity?**

#### **The short answer**

Where a charity engages in campaigning and political activity, trustees must be aware of and act in accordance with legal and regulatory requirements which have general application.

#### **In more detail**

**The Advertising Standards Authority:** Campaigning charities should be aware of the work of both the Advertising Standards Authority (ASA), and also the Broadcast Committee of Advertising Practice (BCAP). The ASA is the independent, self-regulatory body for both broadcast and non-broadcast advertisements, sales promotions and direct marketing in the UK. The ASA administers the British Code of Advertising, Sales Promotion and Direct Marketing (The CAP Code) to ensure that advertisements are legal, decent, honest and truthful. This Code applies to charities and pressure groups. As a matter of good practice, charities should take all reasonable steps to comply with the ASA Code. The BCAP administers the Radio Advertising Standards Code, and the TV Advertising Standards Code is jointly administered by the BCAP and the ASA.

**Breaches of the ASA or BCAP Codes:** A serious breach of the Codes, or persistent breaches, by a charity might be an indicator of underlying mismanagement or maladministration of the charity's affairs, and as such require us to take regulatory action.

Other legislation: As well as the general legal and regulatory requirements which we set out in our guidance for charities, trustees will also need to consider more general requirements. These include, for example:

- The Communications Act 2003, particularly for charities considering using broadcast advertising. The Act prohibits political advertising in the broadcast media. The definition of 'political advertising' includes advertising aimed at influencing public opinion on matters of 'public controversy'.
- Other legal requirements, including the law concerning defamation (slander and libel) and the law surrounding protests and public assemblies.

## **G2. What methods can a charity use to campaign?**

### **The short answer**

A charity may use any reasonable method to campaign, so long as it is lawful, and an effective use of charitable resources.

### **In more detail**

There are many forms of activity that charities use to deliver campaigns, and these are changing and developing all the time. This section covers some of the issues that charities should consider, and provides guidance on some of the methods used.

**Use of campaign materials:** Irrespective of whether a charity is engaging the support of the general public, or of a local community, it is free to use whatever lawful method of communication it believes to be appropriate to its campaign.

**Explaining the charity's position:** Sometimes a charity will choose to set out a full explanation of its position and reasons for the campaign, in order to gain support for it. There is no specific legal or regulatory requirement for the full position to be set out in all campaign materials. Many forms of communication used for campaigning work, for example, a newspaper advertisement limited by its size, or a restricted time slot on television or radio, will make this impractical.

**New technologies:** New and innovative techniques for effective campaigning are developing all the time. For example, internet campaigns are now commonplace and the use of mobile phone text messaging facilities is an increasingly popular means of engaging the support of campaigners. In this fast-changing environment, charities should seek specialist advice if they are in any doubt about the legality, propriety or indeed cost-effectiveness, of their proposed campaign or activity.

**Mobilising support:** A charity can provide its supporters, or members of the public, with material to send to Members of Parliament, Northern Ireland Assembly Members, councillors, central government, or the local authority, provided that, if requested, it can justify and demonstrate that a considered decision was made to engage in the activity and there is a rationale for using the chosen material.

### **G3. Can a charity use emotive or controversial material in its campaigns?**

#### **The short answer**

Yes – charities can use emotive material in their campaigns, but only where this is justified in the context of the aims of the campaign. Such material must be factually accurate and have a well-founded evidence base. Charities should observe the relevant Codes in this area.

#### **In more detail**

**Emotive campaigns:** Charities working in areas which rouse strong emotions in the public may decide that they are willing to accept the risks of undertaking a campaign which poses significant risks because of the potential benefits the campaign might bring, and which might include:

- greater public understanding (and perhaps increased donations);
- a change in behaviour; or
- a change in government attitudes towards the issue.

**Campaign material:** Many charities, by the nature of their work and the issues they deal with, will raise issues which some people find emotive. Campaign materials will frequently have an emotive content, and this is perfectly acceptable so long as it has a well-founded evidence base and is factually accurate. However, trustees will need to consider the particular risks

of using emotive or controversial materials, which may be significant because of the risk to public perception of the charity. These risks will need to be weighed up against the potential benefits which might include enhanced public understanding and a change in attitude towards an issue.

#### **G4. Should a charity carry out research to back up a campaign?**

##### **The short answer**

Sometimes charities choose to use research to support and strengthen a campaign or political activity, although there is no requirement to do so. The key point is that any claims made in support of a campaign should be well founded. Charities may use their resources to carry out or commission research, so long as trustees assure themselves of its quality and validity.

##### **In more detail**

As part of their campaigning and political activity, sometimes charities use research in order to inform and educate the public, or to support and inform a policy position and add weight to any influencing activities. The type of research used varies according to the nature of a campaign, for example, whether the research is to support an education and awareness-raising campaign, or to back up and add weight to a campaign to change law or policy.

In carrying out research, or endorsing research carried out by other organisations, charities should ensure that the research is properly conducted using robust and objective research methods. For some campaigns trustees might choose to commission independent research – say from an academic institution or a research company – to ensure that the figures and statistics they use in a campaign are verified, and therefore also perceived to be objective. There is no requirement to commission independent research, or to use research to support a campaign, and many smaller charities do not have the resources to do so. The key point for any charity is the need for any

campaign to be well founded and effective, and sometimes the use of research will be the best way of ensuring this.

## **G5. Can a charity use its premises for campaigning?**

### **The short answer**

Generally, a charity may use its own premises in support of any charitable activity, including its own campaigning. There are certain restrictions on the use of charity premises for political purposes.

### **In more detail**

**Village halls:** A local, regional or national charity whose purpose includes the provision of premises (such as a community association or town hall) to community groups can allow its premises to be used by local political or campaigning groups but only on the same terms as other non-commercial user organisations. Such charities should not generally discriminate between organisations on the basis of the views they hold. Although use of this kind is permitted in furtherance of the charity's purpose, it does not constitute political activity by the charity.

**Hiring out premises:** In order to raise funds, local charities of all types may permit non-charitable organisations to use their premises on commercial terms when the premises are not being used for the charity's charitable purposes. This could include local political and campaigning groups, candidates for election, and local MLAs or councilors who wish to hold surgeries with their constituents. Again, lettings of this kind do not constitute political activity by the charity.

**Turning down unsuitable organisations:** A charity may decline to allow a particular organisation or individual to use its premises because the organisation's aims or an individual's activities would conflict with the charity's purposes, or because of the risk of public disorder or of alienating the charity's beneficiaries or supporters.

**Election meetings:** Trustees of certain local charities (notably schools) may be required to allow election candidates to use the premises of their charities for the holding of election meetings free of charge. We have published separate guidance for charities to use during the period between the announcement of an election, and the date on which an election is held, set out at E1, above.

## **G6. Can a charity work with other organisations on a campaign?**

### **The short answer**

Yes – a charity may work with other organisations to further or support its own charitable purposes. There are certain risks to this, and trustees need to be aware of the risks and manage them.

### **In more detail**

**Lobbying coalitions:** It is open to charities to form coalitions, alliances and consortia for the purpose of lobbying MLAs and the Assembly for changes to the law. It is not realistic to expect that everything that a campaigning alliance does, particularly if it has a large membership, will fit with every one of its members' charitable purposes and there are, therefore, some important considerations.

**Factors to consider:** A charity wishing to participate in such an alliance should consider whether:

- there is a reasonable expectation that the arrangement will help to further or support the charity's purposes;
- any expenditure can be justified as being an effective use of resources; and
- the risks of participating are outweighed by the benefits; in particular, if some of the political activity that an alliance may engage in does not fit with a charity's own charitable purposes, the charity will need to consider how best to manage any risks to its reputation, and its work. The charity may also need to consider whether to withdraw, at least temporarily, from the alliance unless there is some way of isolating the charity from those activities.

There may also be times when a charity is not able to support an alliance on a particular issue, but does not want to damage its relations with the alliance. Here, the charity will need to consider the best means of managing this risk.

**Working with non-charities:** There may be some issues which generate interest and support from a range of different bodies, not all of them charitable. Sometimes alliances will consist of representatives from a number of charities, non-charitable organisations, individuals and perhaps representatives of a political party. In these circumstances, the considerations outlined above also apply.

**Leakage of funds:** A charity working with other organisations must guard against the possible 'leakage' of its charitable funds – meaning that the money it has contributed to a coalition or alliance should not be spent for purposes other than those of the charity.

## **G8. Can a charity organise demonstrations?**

### **The short answer**

Yes – a charity may in principle organise different kinds of direct action in support of charitable campaign activity. There are legal requirements, and there might also be particular risks that trustees need to take into account in doing so.

### **In more detail**

As part of a campaign, charities may wish to organise, promote or participate in some kind of demonstration or direct action. This might involve simply the provision of information in a public place, such as handing out leaflets in order to raise awareness. In this case, the guidance on the use of campaign materials outlined above will apply.

Further considerations apply if a charity wishes to participate in an event and do more than just provide information. Such events might include participation in marches, rallies, or peaceful picketing. Such participation might offer significant opportunities for publicising a charity's position on an issue, and further its purposes, or show the extent of public support for the issue.

**The risks:** Equally, a charity will also need to balance these potential benefits against any possible risks from engaging in the event. For example, there will always be some people who regard any involvement by a charity in events of this kind as inappropriate. This view could pose risks for the reputation of the charity. Therefore, at the outset it is important to assess the likelihood and scale of any risk of damaging public support for the charity.

**Public order:** Events such as demonstrations and rallies can also present real problems of control for a charity, because of the complexities of public order legislation. The nature of public demonstrations means that there is a

greater risk of an offence being committed by representatives of the charity, or others taking part, compared with other campaigning activities. For this reason the charity should consider carefully what steps it can take to minimise or mitigate the risk of these offences occurring, for example through careful preparation and good liaison with the police or other authorities.

**Working with other organisations:** Charities taking part in events involving a number of organisations should consider and manage the risks of participating alongside organisations who do not share the aims of the event organisers. A charity should also seek to ensure that any event is fully under the control of the organiser (whether or not this is the charity itself) and peaceful.

## **G9. Can a charity organise a public petition?**

### **The short answer**

Yes – a charity may organise a petition in support of its charitable campaign activity. There are some legal and good practice requirements that trustees must consider.

### **In more detail**

A charity may organise and present a petition to either House of Parliament, the Northern Ireland Assembly or to any body of national or local government. The petition, or supporting material provided by the charity, should make it clear what the purpose of the petition is, so that those individuals considering supporting it know what they are signing up to. For example, the Serious Organised Crime and Police Act 2005 will be relevant to charities carrying out this type of activity.

The charity should also be able to demonstrate, on request, that the petition's authenticity can be verified.

## **H. When problems arise ...**

This short section is about what happens when a charity, for whatever reason, becomes involved in campaigning or political activity that may not be compatible with its charitable status. We should stress that serious problems are rare, and that most problems are usually dealt with informally. Trustees who have considered this guidance, and acted in good faith, should have few worries.

### **H1. How does the Charity Commission for Northern Ireland deal with complaints about a charity's campaigning or political activity?**

#### **The short answer**

We have fair and open procedures for evaluating and dealing with all complaints received about charities, including those about campaigns. Where complainants simply disagree with the political or campaign stance taken by a charity, we will not generally become involved. As the charity regulator, our central concern is that charities should operate at all times within their own charitable purposes.

#### **In more detail**

**Controversial campaigns:** Campaigns are frequently controversial and we are aware that complaints may arise about a charity campaign for a number of reasons, for example, someone disagrees with the line that a charity has taken, the fact that the charity is engaged in political activity at all, the tone or accuracy of what the charity has said or that the charity is bringing itself into disrepute by engaging in controversy.

**Other regulators:** We may refer some complainants to another regulator, the Advertising Standards Authority (ASA), for example, or the Office of Communications (Ofcom).

**Our concerns:** In practice, the cases that are most likely to be of concern to us are those where it seems that the campaign is not sufficiently related to the purposes of the charity. We will be most concerned in cases where it seems that the trustees may have adopted a political purpose for the charity, whether deliberately or by mistake.

## **H2. What will happen if a charity breaks the rules or the law?**

### **The short answer**

Where an organisation currently treated as a charity under our jurisdiction (see the list on the CCNI website), whether deliberately or by mistake, appears to be carrying out campaign activity that is not sufficiently connected to its purposes, we may look into this. We will generally aim to resolve such situations informally, but may need to take regulatory action where there has been misuse of charity resources or misconduct.

### **In more detail**

**Regulatory action:** If, for whatever reason, a charity engages in campaigning and political activity that contravenes legal or regulatory requirements, we have a range of actions available to us. Any action taken will depend on the circumstances of the case, the scale and nature of the activity in question, and the extent to which the charity has sought to comply with these guidelines.

**The remedies available:** Where a complaint is justified, we have a wide range of remedial measures available to us. In practice, we are likely to give robust advice for the future as the most appropriate and proportionate response, rather than using any of those remedial powers. We are more likely to take a flexible approach where any breach of the law has been inadvertent, and the trustees have – in our view - been acting in good faith. However, where trustees have deliberately misused substantial charitable funds for improper political activity, they may be liable to make good the loss to the charity.



## **I Appendix**

### **Campaigning and Political Activity: A Checklist for Trustees**

- 1 What is/are the objective(s) of this campaign?
- 2 How would this campaign or political activity further or support the purposes of the charity?
- 3 Are any of the objectives of this campaign outside the purposes of the charity?
- 4 Are any of the activities party political?
- 5 How likely is it that the campaign would achieve its objective(s)?
- 6 Is all campaign material factually accurate?
- 7 What evidence is there to support the answers to questions 2-5 (eg beneficiary consultation, a credible evidence base)?
- 8(a) What other activities could the charity undertake that would achieve the same objectives?
- 8(b) In what ways would these other activities be more or less effective than campaigning?
- 9(a) What would be the duration and financial cost of the campaign?
- 9(b) Would campaigning become the charity's only activity, and if so, for how long?
- 10(a) Would the campaign be undertaken in partnership with other organisations?

10(b) If so, how would financial and partnership arrangements be managed?

11(a) What risks would the charity be exposed to in undertaking this campaign?

- Risk of acting outside charity's purposes/misuse of charity funds?
- Breach of legal/good practice requirements on campaigning?
- Costs and benefits?
- Risk of failure to meet objectives?
- Financial risk?
- Reputational risk?
- Risk to independence?
- Unintended consequences?
- Other?

11(b) How could these risks be mitigated?

12 How would the charity monitor and evaluate the effectiveness of the campaign?