



FREEDOM TO CAMPAIGN

A handy guide to what you
CAN do under The Lobbying Act

www.campaigncollective.org/FreedomToCampaign

From abolishing slavery to saving lives with seatbelts and smoking bans – civil society has created change through campaigning.

"Charities and campaign groups have an important role in speaking out on sometimes contentious and sensitive issues of public interest. It is important that their voices are heard in a democratic society alongside those of politicians and businesses."

Lord Harries of Pentregarth, chair of the Commission on Civil Society and Democratic Engagement, March 2016

"The Lobbying Act has had a significant chilling effect on legitimate charity sector campaigning in the pre-election period. A number of charities have altered or reduced campaigning activities before the election as a result of the Act."

Charities' letter to political parties, June 2017

Almost half of charity communicators don't understand the Lobbying Act rules.

We'd love to hear examples of campaigns you've run in the past – or plan to run in the future. Get in touch by emailing contact@campaigncollective.org and we'll promote the best on social media.

This guide has only been made possible by the clients of Campaign Collective enabling our social enterprise to exist and pursue our social purpose.

We would also like to thank the Sheila McKechnie Foundation, Bond, Small Charities Coalition and ACEVO for commenting on early drafts of this Guide – however, responsibility with content lies with the authors. The Charity Commission and Electoral Commission were approached for their input, but declined to take part.

The guide has been written by Campaign Collective Members Nancy Platts and Simon Francis. Design by Al Williams.

© Campaign Collective, January 2018. Charities may freely reproduce and share this guide in its original format.

www.campaigncollective.org/FreedomToCampaign

INTRODUCTION

CAMPAIGNING CAN CHANGE THE WORLD.

Charities have a legitimate and valuable role to play in making that change happen because they occupy a unique position in civil society between their beneficiaries and policy makers.

They are well placed to spot the unintended consequences of proposed changes to legislation and able to highlight the gaps that risk leaving sections of our society behind.

However, charity campaigners are being held back. According to research undertaken by the Sheila McKechnie Foundation, one fifth of charities are campaigning less than they used to since the Lobbying Act was introduced.

The Lobbying Act has had 'a chilling effect' on charities ability to speak out.

The Charity Commission for England and Wales acknowledges that whilst charities must be independent from party politics they must still be able to use their voice effectively at election times.

Charities need to campaign. Our guide will help you to do that – even during a regulated election period. This is a set time when the rules on spending apply and this differs depending on which election is being held.

YOU CAN CHECK THE REGULATED PERIOD FOR ELECTIONS TAKING PLACE EACH YEAR, AT LOCAL, REGIONAL AND NATIONAL LEVELS, ON THE ELECTORAL COMMISSION'S WEBSITE.

This guide aims to:



- **Let charities know what they CAN do within the rule of the Lobbying Act so they continue to raise the profile of issues that matter to their beneficiaries**



- **Empower charities so they feel confident about developing punchy campaigns and putting pressure on politicians**



- **Reassure trustees and managers so they feel comfortable making decisions about their campaigns and making public commentary about changes in political party policy**

AT A GLANCE

For the most part you can carry on 'business as usual' – our guide tells you how; but if you're in a hurry, here are five quick tips on how campaigners can stick within the law and still achieve their communications objectives:



1. STAY FOCUSED:

If you have a campaign underway, it is unlikely to be covered by the Act.



2. STAY NEUTRAL:

Don't be party political, don't reciprocate support and don't publicly shame politicians or political parties that don't support you.



3. STAY WITHIN THE LAW:

Check out the public and purpose tests.



4. STAY CLEVER:

There are plenty of campaign tactics not covered by the Act.



5. STAY ON TOP OF TIME:

Keep records of time and expenses spent on regulated work.

The Lobbying Act put in place two tests and if charity campaigning meets both tests; it falls under 'regulated campaign activity'. If a charity spends over a certain amount on 'regulated campaign activity', the charity must then register as a third party campaigner and report on its campaign spending.



DOES THE CAMPAIGN ACTIVITY INTEND TO INFLUENCE HOW PEOPLE WILL VOTE? OR WOULD A REASONABLE PERSON THINK THAT WAS YOUR INTENTION? (PURPOSE TEST)

AND

WILL THE PUBLIC SEE OR HEAR ABOUT THE CAMPAIGN ACTIVITY? (PUBLIC TEST)



AND IT ALL HANGS ON YOUR CHARITABLE PURPOSE

- A charity can carry out campaigning and political activity that supports its charitable purpose (unless its governing document prohibits it).
- That includes, raising public support for change and seeking to influence political parties or independent candidates, decision-makers, politicians or public servants.
- And charities can undertake regulated activity under the rules of the Lobbying Act

BUT....

- If a charity spends over £20k in England (or £10,000 in either Scotland, Wales or Northern Ireland) during the regulated period, they must register with the Electoral Commission. They cannot spend more than the maximum amount and they cannot break Charity Commission rules.
- Political campaigning must not be the continuing and sole activity of the charity.

PUBLIC COMMENTARY AND PARTY POLICY

A charity's policy position may be similar to that of one of the political parties. In this case it is entirely acceptable for the charity to continue to campaign on that issue.

WHAT YOU CAN DO

- Promote the charity's views on issues which relate to its charitable objectives.
- Outline the policies of each political party as long as the charity maintains a neutral tone towards each party.
- Approach candidates to set out their concerns and ask for the candidate's opinion to promote debate.
- Publish the views of candidates in local and national elections where these views relate to the charity's purposes.
- Publish a manifesto to publicise the issues on which the charity campaigns.
- Call for change on behalf of the charity's beneficiaries.
- Welcome a change in party policy, if the charity does so straight after the announcement.

IF YOU DO THIS, YOU MAY BREAK CHARITY LAW OR NEED TO REGISTER AS A THIRD PARTY CAMPAIGNER

- Compare the charity's views with any of the political parties or candidates.
- Reciprocate support if a candidate publicly supports the charity.
- Encourage support for any particular party or candidate.
- Grant permission to a political party to refer to the charity in their manifesto.
- Continue to reference support for a party's policy change after the initial welcome.
- Alter or increase campaigning as a result of a political party's support.
- Campaign on an issue that is closely linked to one party or candidate.
- Start campaigning as a reaction to a new policy position of a political party.
- Start campaigning on issues prominent in public debate or that clearly represent an area of difference between political parties, unless this is something on which you have always campaigned and is linked to your charitable objectives.

IN BRIEF: A charity can refer to its own issues and beneficiaries and it can publish factual information about party political positions, but it cannot draw comparisons with charity policy or influence voter behaviour.

CHANGING LEGISLATION OR PARTY POLICY

Often, to get the change you want, a change in the law is needed.

WHAT YOU CAN DO

- Campaign for a change in the law, where such change would support the charity's purposes.
- Support or oppose a Bill if the campaign focuses on why the Bill should or should not become law, providing this is not Party political.
- Run a campaign whilst Parliament debates the Bill.
- Ask members of the public to lobby their MP to support or oppose a Bill, providing this is not Party political.
- A charity can privately lobby on Party policy but can only involve the public when this involves supporting or opposing legislation.
- Campaign to ensure that existing laws are observed.
- Support specific policies advocated by political parties if it would help achieve the charitable purposes.
- Have stands, fringes or receptions at party conferences. It is best to go to at least the two main party conferences, if you are intending to go to any.

IF YOU DO THIS, YOU MAY BREAK CHARITY LAW OR NEED TO REGISTER AS A THIRD PARTY CAMPAIGNER

- Exist purely to secure or oppose a change in the law or policy.
- Focus on a political party or its members when campaigning to oppose a Bill.
- Ask members of the public to vote a particular way because of a party's position on a Bill.
- Continue to campaign after a Bill has passed into law if there is an upcoming election.
- Hold events for the public at party conferences, hand out materials to the public or advertise in a public place.
- Advertise in fringe guides in a way that might influence how someone will vote.
- Go to just one party's annual conference.

IN BRIEF: A charity can campaign to change the law or policy, by influencing politicians, but must stay politically neutral in the public eye.

MEDIA AND COMMUNICATIONS

Media and communications are an essential part of charity campaigning, even during elections.

WHAT YOU CAN DO

- Issue press releases and statements to the media.
- Respond to media requests for comment.
- Publish letters and articles in hard copy and online.
- Take part in TV and radio interviews.
- Use social media to talk about the charity's activities and services.
- Communicate with members and committed supporters e.g. donors and activists.
- Hold member-only events.
- Raise awareness of service delivery.

IF YOU DO THIS, YOU MAY BREAK CHARITY LAW OR NEED TO REGISTER AS A THIRD PARTY CAMPAIGNER

- Hold press conferences or other media events.
- Hold a members-only event and invite the media.
- Allow the media into an event they were not invited to.
- Campaign on social media in a way that is likely to influence how people will vote.
- Use a mailing list to communicate with people who are not members or committed supporters in a way which might influence how they will vote.
- Advertise your campaign in a newspaper or periodical.
- Advertise on transport or take people to a public campaign event.

IN BRIEF: A charity can continue with the majority of media activity during elections, providing it focuses on its own issues and does not invite the media to events.

EVENTS AND OTHER CAMPAIGN ACTIVITIES

Engaging with politicians, candidates and political parties can remain a core part of your campaigning activity in the run up to an election.

WHAT YOU CAN DO

- Invite candidates and political party representatives to public meetings about issues on which the charity is campaigning.
- Invite candidates to debate issues related to the charity's objectives.
- Organise hustings, providing the charity remains politically neutral.
- Invite candidates to speak at a reception to launch the charity's campaign(s).
- Invite representatives from a range of political parties to participate in the charity's events (this does not have to include EVERY political party).
- Exclude a candidate if their presence will create a risk of disorder, if their views are in contravention of the charity's objects or likely to alienate the charity's supporters.
- Accept invitations from political parties to explain the needs of its beneficiary group.
- Organise different kinds of direct action in support of charitable campaign activity.
- Organise a petition in support of its charitable campaign activity.
- Organise member-only events such as the charity's annual conference.
- Undertake market research with members and/or committed supporters.

IF YOU DO THIS, YOU MAY BREAK CHARITY LAW OR NEED TO REGISTER AS A THIRD PARTY CAMPAIGNER

- Invite candidates from only one political party to participate in the charity's events.
- Exclude candidates from the mainstream political parties without very strong reasons for doing so.
- Hold public rallies or events that might influence how people will vote.
- Undertake canvassing and market research of the public.

IN BRIEF: A charity can continue to campaign during elections providing it sticks to its own issues and does not attempt to influence how people vote.

HOW AND WHY WE WROTE THIS GUIDE

Charity research and formal reports into the impact of the Lobbying Act show it has had a chilling effect on charities and reduced their willingness to campaign on issues or engage with politicians and election candidates. This needs to be challenged.

In addition, the goal posts have moved. At first, the Fixed Term Parliament Act appeared to make it clearer when we were in a regulated period, however, the 2017 General Election changed that. We now know that we could be campaigning in a regulated period at any time.

We have tried to achieve two goals – firstly to bring links to all the advice into one place so that you can easily check the facts for yourself. Secondly, because all this advice runs to over 100 pages, we have simplified it down and tried to focus on what you can do. We have also listed activities that may either break charity law or require the charity to register as a third party campaigner.

This guide is intended to empower you so that you can make your own decisions about your campaigns. It was informed by the publications listed below.

It is not formal legal advice. Please do read the Electoral Commission and Charity Commission Guidance too – the links are below.

1. [Charities, Elections and Referendums](#) - Charity Commission for England and Wales
2. [Campaigning and political activity guidance for charities \(CC9\)](#)
- Charity Commission for England and Wales
3. [Non-party campaigners - FAQ](#) – Electoral Commission
4. [Charities and Campaigning – introduction](#) - Electoral Commission
5. [Overview of regulated non-party campaigning](#) – Electoral Commission
6. [Electoral Commission factsheets for non-party campaigners:](#)
[Common campaigning techniques:](#)
 - a. [Campaign later adopted by a political party or candidates at an election](#)
 - b. [Manifestos](#)
 - c. [Social media](#)
 - d. [Pledge cards](#)
 - e. [Party conferences](#)
7. [Speaking Frankly, Acting Boldly](#) – ACEVO

The Electoral Commission run an advice line during elections, so if you want to double check something, you can also ask them directly.

ABOUT US

Campaign Collective is a social enterprise that provides marketing advice and support to charities, public sector, social enterprises and other not-for-profits. The development and distribution of this guide has been made possible due to the social enterprise fund built up during the trading year 2016/17.

To help us measure the impact of this guide, please take the short survey on campaigncollective.org/FreedomToCampaign

To contact us about campaigning or marketing support, please email contact@campaigncollective.org

DO YOU NEED YOUR VOICE TO BE HEARD?

Campaign Collective is a social enterprise providing professional, affordable, communications advice to charities and other campaigners.

**Find out how we can help you at
campaigncollective.org**

