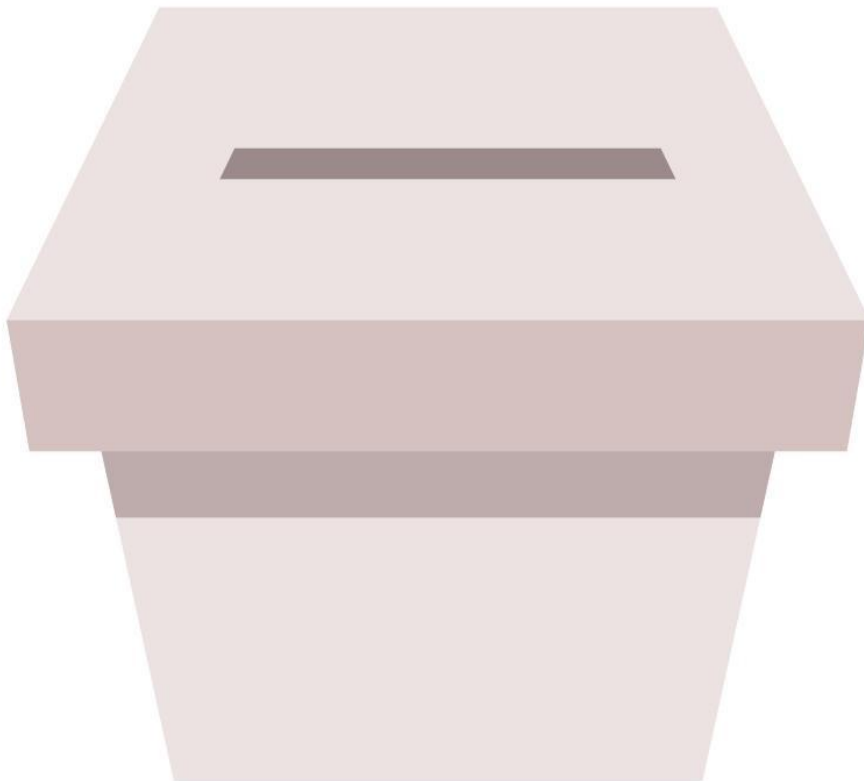


## **Charities and political campaigning - staying compliant**

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**A thematic report from the Charity Commission for Northern Ireland**



**February 2017**

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

The Charity Commission for Northern Ireland is the regulator of charities in Northern Ireland, a non-departmental public body sponsored by the Department for Social Development.

### **Our vision**

To deliver in partnership with other key stakeholders in the charitable sector “a dynamic and well governed charities sector in which the public has confidence, underpinned by the Commission’s effective delivery of its regulatory role.”

Further information about our aims and activities is available on our website [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)

### **Equality**

The Charity Commission for Northern Ireland is committed to equality and diversity in all that we do.

### **Accessibility**

If you have any accessibility requirements please contact us.

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## Introduction

The independent nature of the charitable sector is of fundamental importance to society and is greatly valued by the public. The guiding principle of charity law in terms of campaigning, political activity and elections is that charities should be, and be seen to be, independent of party politics. Charities in Northern Ireland have strong links to their local communities and beneficiaries. They play a valuable role in informing elected representatives while representing their diverse causes.

The Commission's Charities and politics [guidance](http://www.charitycommissionni.org.uk/charity-essentials/charities-and-politics/) (which can be found at <http://www.charitycommissionni.org.uk/charity-essentials/charities-and-politics/>) provides information and advice for charities in Northern Ireland on political purposes, political activity and campaigning. It aims to support charities in ensuring they retain the essential quality of independence, meet the requirements of charity law and use their voice effectively at election times.

Through the publication of this thematic report we wish to remind charity trustees of their obligation to comply with the guidance regarding political lobbying. This in turn will serve to promote the transparency and accountability of the charity sector. At all times, but particularly during election periods, charity trustees should ensure that their charity's staff and volunteers do not support, or be seen to support, a political party or candidate. The Commission has investigated a number of cases where a charity's social media pages have been used to support a political candidate. This is not permitted and may result in an intervention by the Commission.

Charity trustees must not allow the charity to be used as a vehicle for the expression of the political views of any individual trustee or member of staff and should be mindful of how the resources of the charity are used so as to ensure neutrality and independence.

We hope the examples and case studies we have provided here will act as a useful learning tool for charities, their charity trustees and staff, as well as the public. Good governance is at the very core of all concerns about charities we receive; just a few simple checks is all it can take to ensure your charity is, and is seen to be, independent of party politics.

**Myles McKeown**  
**Head of Compliance and Enquiries**  
**Charity Commission for Northern Ireland**

# Key themes from concerns about charities

## Background

The Charity Commission for Northern Ireland (the Commission), as the independent regulator of charities in Northern Ireland, is tasked with promoting public trust and confidence in charities and ensuring that charities meet their obligations under charity law. Charities must also be aware of their obligations under other legal frameworks and to other regulators such as, in this case, the Electoral Commission.

Charities cannot be established for a political purpose. Additionally, certain rules apply where charities hope to change the law or influence government policy through their activity. Many charities carry out some form of political activity or campaigning on a regular basis. Provided this meets the guidelines set out below, and they operate according to principles of good governance, charities should not encounter problems under charity law.

A political purpose is any purpose aimed at:

- furthering the interests of a political party; or
- securing or opposing a change in the law; or
- securing or opposing a change in the policies of government or any public body, whether in this country or abroad.

Purposes differ from activities in that the purposes of an organisation are what it is established to achieve, while the activities are what the organisation does to advance its purposes.

While a charity cannot be established for a political purpose, charities can engage in political activity as a way of advancing their purposes. For example, an organisation established to relieve poverty by changing legislation that affects the homeless would have a political rather than a charitable purpose. By contrast, an organisation set up to relieve poverty by providing social housing and food, and which in its activities sought to influence legislation, could be a charity.

**A charity can engage in political activity or campaigning where there is a reasonable expectation that doing so will help to advance its charitable purposes.**

## Case Study 1: A Charity Candidate

In the lead up to the Northern Ireland Assembly elections of 2016 the Commission received a concern from a member of the public advising that entries on a social media page operated by a registered charity sought donations, support and publicity for the election campaign of one of its trustees.

On examining the detail of this concern we established that the social media postings were signed on behalf of the charity by an individual in the capacity of both the election agent of the charity trustee and the charity's Chief Executive.

The nature and content of the posts on the social media site were as the concerned party had reported. Consequently, in line with the Commission's remit, the charity was given Regulatory Guidance and was required to demonstrate that immediate remedial action had been taken.

Within one day of receiving correspondence from the Commission, the charity trustees had taken action to remove the offending posts from their social media site. The following week, Commission staff met with the charity trustee running for election where we sought and received satisfaction that no charity resources had been misapplied during campaigning and that potential conflicts of interest were being appropriately managed. The charity trustee acknowledged they had erred in failing to appropriately monitor their social media output and that enthusiasm by staff and volunteers for their campaign had over run good sense.

In this instance, just one social media posting showing charity support for a political candidate resulted in the Commission issuing regulatory guidance and visiting the charity to ensure charity resources had not been misapplied.

The Commission noted that the episode was a result of a lack of knowledge on the part of trustees and by extension, the charity's Chief Executive. To address this, we directed charity trustees towards both the Commission's guidance on [charities and politics](#) and the Electoral Commission's guidance on [charities and campaigning](#) to ensure all concerned were fully cognisant of their responsibilities in respect of political campaigning.

Following this meeting we closed our enquiry file.

## What is meant by political activity or campaigning?

**Political activity:** this refers to activity by a charity which is aimed at advancing its charitable purposes by securing or opposing a change in the law or in the policies of government or another public body, whether in this country or abroad. It includes activity aimed at preserving an existing law where a charity opposes its removal or amendment. This differs from activity aimed at ensuring that an existing law is observed, which falls under the definition of campaigning. Examples of political activity include, but are not limited to:

- a health charity raising public support for a change in the law on the sale of alcohol
- an arts charity seeking to influence political parties or candidates on the charity's position
- responding to consultations carried out by political parties or by government.

**Campaigning:** this refers 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. Campaigning includes efforts to ensure that existing laws are observed. Examples of campaigning include, but are not limited to:

- a children's charity drawing attention to the symptoms of 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
- 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.

Regulated campaign activity under electoral law has a particular meaning and you should refer to guidance produced by the Electoral Commission for more information.

A charity can carry out political activity or campaigning provided:

- the activity is solely in support of its charitable purposes
- the activity is not prohibited in its governing document
- **it remains independent and does not align itself with a particular political party**

- it is in the charity's interests and the charity trustees are acting with due care.

**A charity's activities must be in support of its purposes. This includes political activity and campaigning. A charity must not therefore engage in political activity or campaigning which is not to advance its purposes.**

### Case study 2: Charity Gratitude to a Candidate

The Commission received a brief and anonymous letter of concern outlining that a registered charity, operating throughout Northern Ireland, was acting in contravention of charity law by encouraging support for one candidate in a particular constituency. While the Commission does not encourage anonymous concerns, this letter was supported by substantive information in the form of printouts of screen shots of various social media outlets supporting the concern. The charity was given Regulatory Guidance and was required to demonstrate that immediate remedial action had been taken.

The charity did not respond in a timely fashion, therefore we took steps to ensure that each of the charity trustees had received the Regulatory Guidance and insisted that they each independently made contact with the Commission to advise they were aware of what remedial steps were required.

Within hours of contacting the charity trustees directly, they had taken steps to remove the posts in question and of their own volition requested that all staff attend a social media awareness training session to make sure that Charity Commission guidelines are embedded in all staff's presence on social media. It was explained that the charity had been in the process of moving premises which meant that there had been little monitoring of e-mails and of the charity's staff and volunteers' engagement with social media outlets. It transpired that a member of staff had sought to thank the candidate for their support of the charity and its objectives. Nonetheless, the charity trustees accepted they had not acted in accordance with our guidance.

Following satisfaction that the charity trustees had taken the appropriate steps to remedy matters we closed our enquiry file.



## **Activity and campaigning must be independent and neutral of party politics**

A charity must remain independent and not align itself with a particular political party. It may support or oppose particular policies, including those advocated by a particular party, as a means of achieving its charitable purposes, but must never support or oppose a political party or politician.

If a charity endorses a party because it agrees with one policy, it is effectively endorsing the party's wider policies, which may not be related to the charity's purposes. Additionally, a party may change its policy over time in such a way that it would no longer align with the charity's purposes.

In supporting a policy that a political party advocates, a charity should make clear its independence to its supporters, the general public, and those whose views it is seeking to influence. Equally, when engaging with politicians, it is important that charities are open about their contact, and consider engaging with politicians from a range of parties. For example, a charity may receive invitations from a range of political parties to explain the needs of its beneficiaries. If the charity were to accept invitations or contact from only one party, and did so consistently over time, this would call into question whether the charity was remaining independent of party politics.

Charity trustees must not allow the charity to be used as a vehicle for the expression of the political views of any individual trustee or member of staff and should be mindful of how the resources of the charity are used so as to ensure neutrality and independence. For example, a charity must never give money to a political party, politician or party political campaign. Equally, charity trustees should be satisfied that any donations received, including from a political party or individual, are in the best interests of the charity and not likely to impact on the charity's reputation adversely.

Charities may wish to have policies in place to manage the tone of social media campaigns as well as policies to manage political affiliations of staff, charity trustees and volunteers and the use of social media, including personal social media accounts.

### **Case study 3: Support for a Political Representative on the Board**

The Commission received a concern regarding volunteers of a charity in a specific constituency putting up political posters in support of a named candidate who served on the charity's board.

The actions of the volunteers were photographed and published within the social media of the charity.

The Commission immediately sought a meeting with trustees to discuss the matter. Trustees acknowledged their omissions and ignorance of the relevant guidance. Social media posts were withdrawn and assurances given that volunteers would be informed that any support for candidates was to be undertaken by them as individuals and not in the name of the charity.

Trustees offered assurances to the Commission that their Board took this matter seriously and had met to discuss the matter. They also provided assurance that the charity remained independent from the political activities of their colleague and that the candidate had not sought to use their position as a trustee to gain influence on the charity to further their election prospects.

When satisfied that the charity trustees had taken the appropriate steps to remedy matters, we closed our enquiry file.

### **Important considerations for charity trustees**

Before engaging in political activity or campaigning, charity trustees should consider what they hope to achieve, the best methods for achieving this, and how they will go about minimising any associated risks. In planning their activity it is important that charity trustees consider having a strategy which assesses:

- the objectives of the activity
- the best methods for achieving those objectives
- how it will further the charity's purposes
- the associated risks, including risks to the charity's reputation
- the resources required
- the evidence base for any engagement
- whether consultation with stakeholders is required
- how the activity compares with alternative options.

This is to help ensure that charity trustees are satisfied that the activity is in the best interests of the charity, that they understand the legal framework, and the

charity's resources, as well as public trust and confidence in the charity, are protected. The Commission's [guidance](#) sets out a checklist at Appendix 1 to help charity trustees to assess any planned political activity or campaigning to make sure that they have considered the guidelines.

## **Political activity or campaigning in the run up to the election**

In the run up to the Northern Ireland Assembly election, charities that are engaging in political activity or campaigning must take special care to ensure that they are independent and do not align with any political party.

Additionally, charities need to be sure that they comply with electoral law. There may be requirements for a charity to register with the Electoral Commission as a non party campaigner where their activity meets certain criteria. The period in which activity is regulated under electoral law starts earlier than when an election is called. The relevant dates are published on the Electoral Commission's website.

The Electoral Commission, together with the UK charity regulators, has produced guidance on Charities and Campaigning (available at [http://www.electoralcommission.org.uk/\\_data/assets/pdf\\_file/0010/165961/intro-campaigning-charities-npc.pdf](http://www.electoralcommission.org.uk/_data/assets/pdf_file/0010/165961/intro-campaigning-charities-npc.pdf)) to help charities understand their legal obligations. It is important that charity trustees read the Electoral Commission's guidance as the rules can be complex and have recently changed with the introduction of the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act in January 2014 which came into effect on 19 September 2014.

## **Conclusion**

Charities must remain independent of party politics and must not use charity resources, whether that be financial or through social media, to support a political party or candidate.

The guidance produced by the Commission and the Electoral Commission should enable charities to use their voice effectively, and use political activity and campaigning to help achieve their purposes, whilst remaining within the limits of both charity law and electoral law.

There have already been instances on social media of charity volunteers expressing political views and support of particular candidates or parties. The Commission is responding to such reports promptly and may escalate regulatory intervention where necessary.

## Further information

### Charity Commission for Northern Ireland guidance on charities and politics

(<http://www.charitycommissionni.org.uk/media/59585/20160520-ccni-eg036-political-activity-and-campaigning-guidance-for-charities-v10.pdf>)

### The Electoral Commission guidance on charities and political campaigning

([http://www.electoralcommission.org.uk/\\_data/assets/pdf\\_file/0010/165961/intro-campaigning-charities-npc.pdf](http://www.electoralcommission.org.uk/_data/assets/pdf_file/0010/165961/intro-campaigning-charities-npc.pdf))

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