

Charities and the Lobbying Act: Frequently asked questions

11 March 2014

When do the rules for non-party campaigners apply?

The rules apply to the:

- UK General Election
- European Parliamentary Election
- Scottish Parliament
- National Assembly for Wales
- Northern Ireland Assembly.

The current rules (which can be found in the Political Parties, Elections and Referendum Act 2000) will continue to apply to non-party campaigners who are campaigning in the run up to the European Parliamentary elections being held on 22 May 2014.

The rules do not apply to local campaigns: if you are campaigning for or against one or more candidates in a particular ward or constituency, this would be regulated under Section 75 of the Representation of the People Act 1983 (RPA), or the equivalent legislation in Scotland, Wales and Northern Ireland.

When do the new rules come into force?

The new rules will apply to non-party campaigners at the 2015 UK Parliamentary general election (UKPGE). In the run up to some elections, there is a set time where campaign spending limits and rules apply. This time is called the regulated period. The regulated period for the 2015 UKPGE starts on 19 September 2014 and ends on polling day, 7 May 2015.

When does a charity have to register?

A charity must register with the Electoral Commission if it is planning on spending more than £20,000 in England or £10,000 in Scotland, Northern Ireland or Wales on certain campaigning activities that are regulated, during the regulated period.

Spending on these campaigning activities will only be regulated if the activities can reasonably be regarded as intended to promote or reduce the electoral prospects of a political party or parties, or a group of candidates, including parties or candidates who support or oppose a particular policy.

The campaigning activity may be regulated even if your intention is to achieve something else, such as raising awareness of an issue. The activity may also be regarded as intended to influence voters even if you do not name a political party or group of candidates as part of your campaign.

National Council for Voluntary Organisations

Society Building, 8 All Saints Street, London N1 9RL

T: 020 7713 6161 F: 020 7713 6300 E: ncvo@ncvo-vol.org.uk W: www.ncvo-vol.org.uk

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If a charity is planning to undertake campaigning during the regulated period, it should ask itself the following questions:

- Are your campaigning activities aimed at, seen by or involving the public or a section of the public? Spending on certain campaigning activities will only be regulated if they are directed at, or seen by, the public or a section of it. This applies to election material, canvassing and market research and public rallies and events.
- Could they reasonably be seen as intended to promote or procure the electoral success of a group of candidates or parties who support or oppose a particular policy?
- Are they likely to amount to expenditure that will exceed the registration level?

Charities must also comply with [Charity Commission guidance on campaigning and political activities](#) and its supplementary [guidance on 'Charities, Elections and Referendums'](#).

What activities are regulated?

Under the new rules, there are a wider range of activities that count towards controlled expenditure. They are:

- election material (publications and communications such as leaflets, adverts and websites)
- public events and rallies
- press conferences and other media events
- canvassing or market research seeking views or information from the public
- transport in connection with publicising a campaign.

In relation to each activity the following costs are excluded and therefore do not count towards the amount of controlled expenditure:

- disability accessibility costs
- safety and security costs
- translation costs to and from Welsh.

The Electoral Commission's guidance on the rules will explain how to assess when an activity is likely to be captured under each of the categories that are going to be regulated (ie what counts as a 'public event', what does 'transport to obtain publicity' mean in practice, etc).

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What happens if a charity has been campaigning on an issue that receives the endorsement of a particular party or candidate?

The law is not intended to restrict the normal campaigning activity of charities or campaigning groups.

Sometimes, a political party may publicly adopt policies that an organisation is already campaigning for. This does not automatically bring the campaign within the scope of the rules, provided that the organisation:

- does not publicise the political party's/candidate's support in its subsequent campaigning; and
- does not alter or increase its campaigning activity on the policy as a result of the political party's/candidate's support.

What happens once an organisation has registered?

As a registered non-party campaigner, an organisation must follow certain rules on how it manages and reports its spending on regulated activities, and on which donations it can accept. In particular, a registered non-party campaigner must:

- record and report their spending (including spending focused on individual constituencies)
- check the permissibility of donations received above a certain amount that go towards regulated activities
- comply with pre-poll and post-poll reporting obligations
- submit a spending return after the election.

There is also a requirement to submit a statement of accounts but it is unlikely that charities will need to do this because there is an exemption for organisations that are already under an equivalent legal requirement to submit accounts.

Would a charity organising a hustings event come within the scope of the rules?

Many hustings events will not be affected by the rules, provided they are run in a way that does not promote a particular candidate or party, or disadvantages others.

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Therefore hustings events will not be affected by the spending rules if the organiser has invited all the relevant candidates known to be standing in the constituency (in local hustings), and all the parties campaigning in the election (in national hustings).

However, if a non-party campaigner invites candidates because they hold or don't hold particular views, it is possible for the hustings event to come within the rules.

More details are available in the [Electoral Commission's current guidance on hustings events](#). The Commission is reviewing this guidance in light of the new rules.

Would a charity's publication of its manifesto count as 'election material'?

The determining factor is the content of the document. If an organisation produces a manifesto which simply outlines each party's policies in a neutral tone, this is unlikely to be considered as election material. Whether this is likely to meet the definition of election material will depend on a number of things, such as whether it:

- identifies candidates or parties who support or oppose the campaign's aims
- sets out or compares the positions of particular parties or candidates on a policy that the campaign is promoting in a way that can be seen as promoting or opposing parties or types of candidates
- promotes or opposes policies which are so closely and publicly associated with a party or parties that it is not reasonable to argue that the item isn't campaign material

There would also need to be an element of publicity targeting the general public for the manifesto to be regulated.

When is an activity considered to be aimed at the public?

There is no legal definition of 'public' in the legislation – the Electoral Commission's guidance will explain when a particular activity is likely to meet the public test.

The Electoral Commission has already clarified that:

- communications with MPs and peers are not covered by rules on non-party campaigning in the Act
- travel and other associated costs with meeting parliamentarians are also not covered

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- with regards to publications and written materials, material that an organisation sends to its members and committed supporters (ie people who support the organisation in the same way as members) does not count as election material, as long as it deals with issues that fall within the organisation's aims and objectives.

The exact nature of a 'committed supporter' will vary between organisations, but they could include:

- regular donors by direct debit
- people with an annual subscription
- people who are actively involved in your organisation.

The Commission's current guidance provides that people are not considered to be committed supporters if they:

- have signed up to social networking sites or tools (such as Facebook groups or Twitter feeds)
- appear on mailing lists that have been compiled for general commercial purposes (for example, a business's customer records).

For further details see the [Electoral Commission's guidance on non-party campaigning 'election material'](#). The Commission will be reviewing its guidance on members and committed supports in light of the new rules.

Would a charity's fringe event organised at a party conference come within the scope of the rules?

Activity such as the organisation of events could fall within the definition of controlled activity – and therefore count towards an organisation's regulated expenditure – depending on a number of factors such as:

- where the fringe event takes place (ie outside the security area that is accessible to the public)
- how it is being promoted
- its purpose and content (ie could it reasonably be regarded as intended to promote or procure the electoral success of a particular party or candidate).

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Will the requirement to account for staff costs mean that charities will have to record staff time by the hour and calculate the exact amount spent?

The Electoral Commission does not expect charities to set up burdensome recording systems such as time sheets to calculate the exact amount spent by each member of staff on regulated activities. It will be sufficient to provide a reasonable and honest assessment of the proportion of time spent, with some form of paper record to justify such an assessment.

Are volunteers covered by the rules?

No, charities and voluntary organisations will not have to include volunteer time and expenses in the calculation of costs incurred in relation to controlled expenditure, provided they are not reimbursed.

Under s87(2)(c) of PPERA the “provision by an individual of his own services which he provides voluntarily in his own time and free of charge” are excluded from the calculations of controlled expenditure. The Lobbying Act does not change this.

How do the rules on coalition campaigning work?

The ‘working together’ rules exist under both the current non-party campaigning rules and the new rules. This means that organisations working ‘to a joint plan’ have to count all the spending as part of the plan towards their own limits, regardless of their individual contribution.

The new rules make special provision for campaigners working on a joint campaign with a lead campaigner. This makes it possible for a minor campaigner, which is working with other campaigners and whose spending is below the registration threshold, to nominate another campaigner as the ‘lead campaigner’. The lead campaigner would take responsibility for registering with the Commission and reporting the overall spending.

What do new constituency spending limits mean?

The Act introduces new spending limits at constituency level (£9,750 in each constituency). These apply when a non-party campaigner is targeting its expenditure at constituency level, and the spending is going to have a significant effect in that constituency or constituencies but no significant effect in another constituency or constituencies.

The Electoral Commission is in the process of developing its interpretation of how the new controls on spending at constituency level will work in practice, and is engaging with

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non-party campaigners about the types of activity they are likely to undertake at a constituency level so the relevant guidance is as practical and helpful as possible.

What happens if an organisation has fallen foul of the rules?

The aim of the Electoral Commission's policy is to regulate in a way that is effective, proportionate and fair, in line with the principles of good regulation. Therefore wherever possible, it will use advice and guidance in order to help campaigners understand how the new rules will work and how they will apply to them. It will also be monitoring how well the rules are being followed and deal with possible breaches. The Commission will only use sanctions in cases where it is necessary to achieve its enforcement objectives.

A [full explanation of the Electoral Commission's Enforcement Policy is available](#).

Is there going to be guidance specifically aimed at charities?

Yes, the Electoral Commission will be working with the charity regulators to produce specific guidance for charities that explains the interaction between charity and electoral law

When will the new guidance be available?

The Electoral Commission is aiming to publish its guidance on the new rules at the beginning of July. In the meantime there are regular updates explaining different aspects of the rules as the full suite of guidance is developed.

[Sign up for updates on the Electoral Commission website](#).

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