



An Rialálaí
Carthanas

Charities
Regulator

Guidance on Charities and the Promotion of Political Causes

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LEGAL DISCLAIMER

This document is issued by the Charities Regulator under section 14(1)(i) of the Charities Act 2009, to encourage and facilitate the better administration and management of charitable organisations.

This document is not, nor is it intended to be, a definitive statement of the law and it does not constitute legal advice. This document is not a substitute for professional advice from an appropriately qualified source. The Charities Regulator recommends that charity trustees consult their governing document or obtain their own independent legal advice where necessary. The Charities Regulator accepts no responsibility or liability for any errors, inaccuracies or omissions in this document.

1 Introduction

The Charities Regulatory Authority, or Charities Regulator, is a statutory organization, set up in October 2014, to regulate and protect charities.

We have a number of functions, such as setting up and maintaining the Register of Charities. We also ensure that charities comply with their legal obligations under the Charities Act 2009, we carry out investigations into the affairs of charities and we issue guidelines and codes of conduct.

Who is this guidance for?

This guidance is primarily aimed at charity trustees e.g. anyone serving on the Board or a Committee of a charity including company directors and committee members.

Charity trustees are the people who exercise control over, and are legally responsible for, the management and control of a charity. Charity trustees have a legal duty to act with reasonable skill and care and in the best interests of their charity and its beneficiaries. The Charities Regulator expects charity trustees to control and manage their charity in a way which protects the reputation of, and encourages public trust and confidence in, their charity.

What does this guidance explain?

The Charities Regulator recognizes that engaging in activities to promote a political cause that is of direct relevance to the charitable purpose of a charity, can be an important means by which a charity can achieve its charitable purpose.

Such activities may include supporting the adoption of particular policies, seeking to influence central and local government and campaigning for the purpose of advocating changes to a law or policy.

This guidance note is issued by the Charities Regulator under section 14 of the Charities Act 2009, to highlight the rules that apply to a charity when engaging in activities to promote a political cause and matters which should be considered by the charity trustees of a charity before engaging in such activities.

2

What are the legal requirements for a charity?

The Charities Act 2009 requires that a charity must:

I. Operate in the Republic of Ireland, and

II. Promote a charitable purpose only, and

III. Use all of its property, subject to certain limited exceptions¹, to further its charitable purpose, and

IV. Provide a benefit to the public, or a section of the public, in Ireland or elsewhere.

The “charitable purpose” is what a charity is set up to achieve. The Charities Act 2009 sets out specific categories of charitable purposes and a charity’s purpose must fall within one or more of these categories:

- The prevention or relief of poverty or economic hardship
- The advancement of education
- The advancement of religion
- Any other purpose that is of benefit to the community (the legislation provides further detail on what is deemed a charitable purpose under this category²)

A charity must promote a charitable purpose only, in other words it cannot be set up to achieve a combination of charitable and non-charitable purposes.

When a charity is registered and included on the Register of Charities it will have been approved for at least one of the above charitable purposes. All of the activities of the charity must further the approved charitable purpose(s) only and it must have the consent of the Charities Regulator before it can change or add a charitable purpose.

For further information on legal requirements and charitable purposes please refer to our [‘What is a Charity?’](#) guidance.

¹ See definition of “charitable organization” in section 2(1) of the Charities Act 2009.

² For a full list of purposes falling under ‘Any other purpose which is of benefit to the community’, see section 3(11) of the Charities Act 2009.

3

What organisations are excluded from being registered as charities?

Certain bodies are excluded from being registered Irish charities under the Charities Act 2009¹.

The list of excluded bodies is set out in section 2(1) of the Charities Act 2009, and includes the following:

- A political party;
- A body that promotes a political party or candidate;
- A body that promotes a political cause that does not relate directly to the advancement of the body's charitable purpose.

This means that any organization which falls into one of the categories of excluded bodies is not, and cannot become, a registered charity.

4

Can a charity have a political purpose?

A political purpose is not a "charitable purpose" under the Charities Act 2009.

As a result, an organization that has an exclusively political purpose cannot be a registered charity under the Charities Act 2009.

An organization will be considered to have a political purpose if it –

- Is a political party,
- Promotes a political party or candidate, or
- Is set up primarily to promote a political cause such as bringing about a change in the law or policies of the Government or other public bodies, whether in Ireland or another country.

¹ See the definition of "excluded body" in section 2(1) of the Charities Act 2009 for a full list of bodies which cannot be a registered charity under the Act.

5 Can a charity engage in political activities?

A charity may engage in activities to promote a political cause provided that the promotion of the political cause:

- Relates directly to the advancement of its charitable purpose; and
- Does not promote a political party or candidate;
- Is not contrary to the charity's governing document.

The use of charitable funds and resources by a charity for the purpose of engaging in activities to promote a political cause is only permissible if it can be shown that the activity is directly advancing or supporting the charitable purpose of the charity.

Important note for registered charities regarding political causes

An existing registered Irish charity risks breaching the Charities Act 2009 and losing its charitable status where it seeks to promote a political cause which does not directly advance its charitable purpose.

It is therefore important that the charity trustees of any registered charity, which is engaging in or considering the promotion of a political cause, carefully consider the extent to which the charity is permitted to do so having regard to their charity's charitable purpose, its governing document and the requirements of the Charities Act 2009.

By way of illustration, the following section describes a number of scenarios in order to assist charity trustees to assess the kinds of activities that may or may not be permissible if undertaken by their charity.

6 Illustrative Examples

SCENARIO 1 - Organised march

A charity runs a youth group the purpose of which is the promotion of religious or racial harmony and harmonious community relations. The charity works with young migrants trying to promote good community relations. Most of its work involves weekly workshops where migrants from different backgrounds and cultures talk about their experience in Ireland and the cultural differences they have encountered. As part of the charity's promotion of good community relations, the charity organizes a march to Leinster House to encourage the Government to provide more funding for integration projects. In the lead up to the march, the charity promotes the march on its website and social media platforms and distributes printed leaflets at train stations across the country.

In this scenario, the activities described are permissible as the purpose of the march is to get more funding to promote good community relations, which advances the charity's charitable purpose. If the march was for a different purpose, such as to protest against changes being made to the State's corporate tax policy which has no direct relevance to the charity's charitable purpose, then the use of charitable funds to promote this activity would not be permissible.

SCENARIO 2 - Speaking event

A charity provides medical care and support services to people with addiction problems.

Its charitable purpose is stated to be the advancement of community welfare and this is referenced in the charity's governing document. A local politician organizes a public meeting on the topic of the national addiction framework and asks the charity if it would provide a speaker. A staff member of the organization speaks at the event and the charity promotes the event on their website and social media platforms.

In this scenario, once the charity ensures that it is promoting the event and not the individual politician then this form of activity is permissible.

SCENARIO 3 - Campaigning to change the legislation or public policy

A charity with a charitable purpose of the prevention or relief of poverty or economic hardship, which was set up to specifically assist refugees and asylum seekers when they arrive in the country, identifies that recent changes to social welfare regulations are leaving a small number of asylum seekers completely without benefits. While the charity is providing practical assistance such as clothing and toiletries to the affected asylum seekers, it knows that the only solution is an amendment to the regulations. Therefore it undertakes a campaign to highlight the issue and persuade Government to take the necessary steps to amend the regulations. The campaign includes organizing a number of marches to highlight the issue, a nationwide poster campaign and petitions delivered to public representatives and Dáil Éireann.

In this scenario, because the campaigning is not just about awareness raising or influencing public attitudes but involves trying to secure a change in the law or government policy, the campaigning is considered to be political activity, however it would be permissible as it relates directly to the furtherance of the charity's charitable purpose of prevention or relief of poverty or economic hardship.

However, if the same campaigning activities in relation to the same issue were undertaken by a charity with a charitable purpose of advancement of education, which was set up to specifically provide free English classes to refugees and asylum seekers, the campaigning activities described above would not be permissible as they do not further the charitable purpose of the charity.

SCENARIO 4 - Allowing a political candidate to use the charity's resources

John volunteers with a local community group, which is a registered charity set up for the advancement of the arts, culture and heritage in the area. He is involved in many projects locally and has decided to run in the local elections. As John has done a lot of work for the charity over the years, the charity trustees are very supportive of his campaign and allow him to use the charity's hall free of charge to host a campaign fundraiser.

In this scenario, the actions of the charity are not permissible. Allowing John to use the hall free of charge is not promoting the charitable purpose of the charity. Further, as it is permitting the charity's assets to be used at no cost, it is conferring a private benefit on an individual.

However, if the charity rented its hall on regular basis and charged John the standard rate for the room hire, then the activity would be permissible, as it would raise funds for the charity's charitable purpose.

SCENARIO 5 - Campaigning to change legislation or public policy

A charity with a charitable purpose of the protection of the natural environment was set up to specifically to promote the protection and conservation of native Irish wildlife. The Government announces a new policy to significantly reduce the size of all the national parks in the State and use the land to build social housing. The charity becomes aware of an upcoming protest march against the plan being organized by the main opposition party to the Government, which is the only political party not supporting this new policy to use national park land to alleviate the housing crisis. The charity promotes the march on its website and on social media and sends an email to all members and subscribers in support of the stance being taken by the opposition party. It also asks people to attend the march under the charity's banner to show their support for the party's position to the plan.

In this scenario, because the protest march is being organized by a political party, the charity's support of the party and its participation in the march is not permissible as it is endorsing and promoting the manifesto and activities of a particular political party and would be viewed as taking a party political position, even though the reason behind the march could be considered compatible with furthering the charitable purpose of the charity. Individual members of the charity or its staff could attend the march in an entirely personal capacity but they would have to take steps to ensure their participation did not in any way associate the charity with the event.

However, if the charity decided to organize its own protest march, then although it would still be considered a political activity because it involves trying to secure a change in the law or government policy, it would be permissible as it relates directly to the furtherance of the charity's charitable purpose of the protection of the natural environment and the charity is not taking a party political position.

7 Other matters to consider

Charities should ensure that they are compliant with all relevant laws that apply when promoting a political cause.

Other laws of relevance include the Regulation of Lobbying Act 2015.

The Regulation of Lobbying Act 2015 requires anyone engaged in lobbying to make their identity known to the public by being on the Register of Lobbying and supplying certain information relating to their lobbying activities to the Standards in Public Office Commission (“Standards Commission”) on a periodic basis.

The Register of Lobbying is web-based and is maintained by the Standards Commission. Further information on the Regulation of Lobbying Act 2015 and the role of the Standards Commission can be found at **www.lobbying.ie**

