



An Rialálaí
Carthanas
Charities
Regulator

Guidance on Charities and the Promotion of Political Causes

February 2018



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These guidelines are issued by the Charities Regulator pursuant to section 14 (1) of the Charities Act 2009, to encourage and facilitate the better administration and management of charitable organisations (charities).

What is the Charities Regulator?

The Charities Regulatory Authority or Charities Regulator for short is a statutory organisation, 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 requirements, we carry out investigations into the affairs of charities and we issue guidelines and codes of conduct¹.



¹ See www.charitiesregulator.ie for more information about us.

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What does this guide explain?

The Charities Regulator recognises 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.

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Legal Requirements for a Charity

Under the Charities Act 2009 –

(a) a charity must –

- (i) promote a charitable purpose only, and
- (ii) have in its constitution a requirement that, subject to certain limited exceptions², all of its property must be applied in furtherance of the charity's charitable purpose,

(b) a purpose will not be a charitable purpose unless it is of public benefit.

² See definition of "charitable organisation" in section 2(1) of the Charities Act 2009.

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Excluded bodies

Certain bodies are excluded from being registered Irish charities under the Charities Act 2009³.

The list of excluded bodies set out in section 2(1) of the Charities Act 2009, 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.

³ 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.

IMPORTANT NOTE

As an excluded body is not considered a charitable organisation for the purposes of the Charities Act 2009, 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 Irish 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.



4 Political Purpose

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

As a result, an organisation that has an exclusively political purpose cannot be a registered Irish charity under the Charities Act 2009. An organisation will be considered to have a political purpose if it –

- › is a political party,
- › promotes a political party or candidate, or
- › is set up exclusively to promote a political cause such as bringing about a change in the law or policies of the Government or other public bodies.

5 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;
- › 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.

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.

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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 organises 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 – Referendum campaign

A charity for the integration of those who are disadvantaged, and the promotion of their full participation, in society promotes equality for lesbian, gay, bisexual and transgender people in Ireland. The charity campaigns for a 'yes' vote in respect of the 34th amendment of the Constitution, which permits marriage to be contracted by two persons regardless of their gender. In the lead up to the referendum, the charity campaigns for a 'yes' vote on its website and social media platforms, distributes printed leaflets at various locations across the country and participates in television and radio debates on the referendum.

In this scenario, the campaigning activities would be permissible as they relate directly to the furtherance of the charity's charitable purpose.

However, if the same campaigning activities in relation to the same referendum were undertaken by a charity that was set up for the purpose of advancing environmental sustainability, the activities concerned would not be permissible, as they could not be said to relate directly to the advancement of the charitable purpose of the charity.

SCENARIO 3 – 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 organises 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 organisation 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 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 a regular basis and charged John the standard rate for room hire, then the activity would be permissible, as it would raise funds for the charity's charitable purpose.

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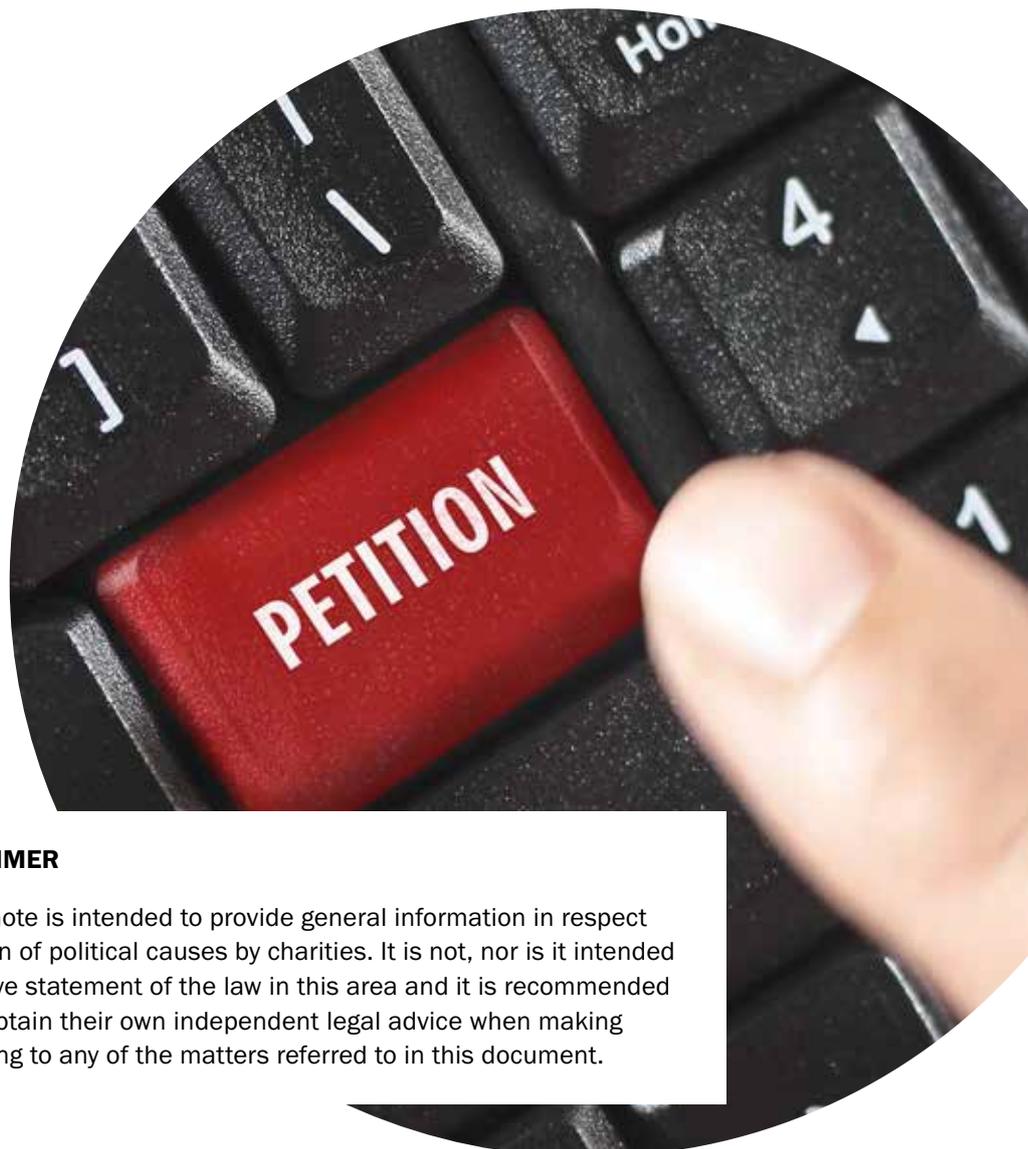
Other matters to consider

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.



LEGAL DISCLAIMER

This guidance note is intended to provide general information in respect of the promotion of political causes by charities. It is not, nor is it intended to be, a definitive statement of the law in this area and it is recommended that charities obtain their own independent legal advice when making decisions relating to any of the matters referred to in this document.

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