

### **Guidance to dioceses and parishes on campaigning during an election period**

Part 2 of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 amends the legislation which applies to campaigners who are **not** political parties or candidates during an election period. In certain circumstances, “third-party campaigners” (i.e. people or organisations who are engaged in political campaigning but are not political parties) are required to register with the Electoral Commission.

**The probability is that few, if any, parishes and diocesan bodies will have to register with the Electoral Commission as “third party campaigners” during the election period before the general election in May. Church bodies will generally either not be involved in “controlled expenditure” at all or, if they are, such expenditure will be below the limit imposed on spending by unregistered campaigners (£20,000).** This note is intended to provide assistance for those parishes or diocesan bodies which are engaged in campaigning on policy issues and are concerned that they might possibly be required to register.

There are one or two specific areas on which the legislation makes provision or the Electoral Commission has given guidance which may be helpful to dioceses and parishes, and these are as follows.

#### *Hustings*

The Electoral Commission is clear that running a hustings meeting (e.g. in a parish hall) is not “controlled expenditure” provided that the hustings are impartial. Impartiality can be achieved either by inviting all candidates, or by using clear non-partisan criteria to support any exclusions, such as excluding any party that did not attract more than X votes at the previous general election. The guidance specifically states that concerns relating to security would be an adequate reason for excluding a particular party.

#### *Meaning of “the public”*

If a meeting or publication is not open to, or aimed at, “the public” (or the media) it cannot be controlled expenditure. Therefore material circulated only to PCC members will be outside the definition. However, it is clear from the Electoral Commission guidance that material aimed at the church congregation as a whole will be treated as aimed at “the public”.

#### *Commenting on Government policy*

The Electoral Commission is clear that a charity will not be treated as a “third-party campaigner” merely because, in order to further its charitable objects, it is commenting on Government policy, or arguing for changes to draft legislation or Government proposals.

#### *The legal position*

The legislation places restrictions on “controlled expenditure”. The expenses which might be controlled expenditure are:

- publication of material which is made available to the public;
- canvassing or market research;
- press conferences or other media events;
- transport of persons to any place with a view to obtaining publicity [presumably aimed at campaign “battle buses” and other such things]; and
- public rallies or other public events.

Expenditure on any of the items in the list above will be “controlled expenditure” within the meaning of the legislation **only** if “it can reasonably be regarded as intended to promote or procure electoral success at any relevant election for:

- one or more particular registered [political] parties,
- one or more registered [political] parties who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of such parties, or
- candidates who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of candidates.”

The test is an objective one – would an impartial observer think that the intention was to affect how people cast their votes at the election?

Expenditure can still be “controlled expenditure” if it does not refer to a party or candidate by name (if, for example, a publication were produced which argued that readers should not vote for a party which espoused a particular policy which was known to be the policy of one or more parties). “Expenditure” also includes costs in kind such as employees’ time (though not volunteers’ time or expenses paid to volunteers).

The election period began on 19 September 2014 and ends on 7 May 2015, the date of the general election.

#### *Other guidance*

If you are considering campaigning on a particular issue, you should first consider the Charity Commission guidance on campaign activity by charities. This can be found at: <http://www.charitycommission.gov.uk/detailed-guidance/managing-your-charity/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9/charities-and-elections/>

If your activity is activity of a kind which would be regarded as a proper activity for a charity under the Charity Commission’s guidance, it is unlikely, though not impossible, that the Electoral Commission will treat it as “intended to promote or procure electoral success”. Further guidance can also be found on the Electoral Commission’s website, 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)

