

FIGHTING FEARLESSLY

**CAMPAIGNING FOR THE ENVIRONMENT
IN THE GENERAL ELECTION 2024**



**Guidance: how can organisations campaigning for
the environment make the most of opportunities
from now to July 4th?**

A JOINT GUIDE FROM



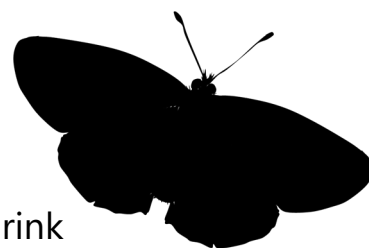
LEIGH DAY
LAWYERS AGAINST INJUSTICE

FIGHTING FEARLESSLY



General elections are potential turning points for the environment and wildlife. The policies, spending plans, priorities and effectiveness of each government determine the fate of the environment. The general election of 2024 is no exception: at a time of biodiversity and climate crises the forthcoming general election will affect how well or badly environmental targets, many set for 2030, will be met.

The next six weeks are crucial in influencing the direction of the next UK government. Non-governmental organisations with large memberships should be very active, even more active than usual, right now. This is a big opportunity to influence all political parties' manifestos and promises.



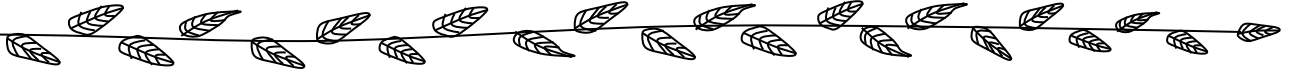
Wild Justice is disappointed that wildlife organisations often shrink from speaking up in the run up to elections. They usually explain this by saying that there are strict and onerous restrictions on what charities in particular can do.

This guidance makes it clear that is not so. Yes, there are some rules, but there is little to prevent organisations commenting on what should be done, and whether the plans of the political parties are meeting the environmental challenge.

The millions of members of environmental organisations should expect to see those organisations speaking out loudly and putting pressure on politicians to take urgent action for the environment.



FIGHTING FEARLESSLY



This guidance is for UK environmental organisations and addresses how they can pursue their environmental ambitions during the course of a general election.

It applies to organisations based in England and Wales such as;

- ✓ **Charities**
- ✓ **Not-for-profit companies**
- ✓ **Community Interest Companies (CICs)**
- ✓ **Other groups which are not political**

Similar considerations apply to Northern Ireland and Scotland, but the details differ and they are not addressed here.

Most of the following guidance about general elections applies similarly to charities and non-charities alike - both are classed as non-party campaigners if they are not standing candidates in the election.

There are considerable differences between what charities and non-charities can do outside election periods as well as within election periods, but it is helpful to describe the general election rules first as they are not very onerous.



SECTION 1: THE RULES



THE LEGAL FRAMEWORK

There are two key sets of rules that apply to non-party campaigners ahead of a general election:

- ✓ The Political Parties, Elections and Referendums Act 2000 (PPERA) sets certain rules applying to campaigns that could be seen to be for or against particular parties or other 'broad' categories of candidate, including candidates and parties who support or oppose particular policies. These rules form the main focus of this guidance.
- ✓ The Representation of the People Act 1983 (RPA) sets certain rules applying to individual constituency candidate level campaigns. The Electoral Commission has a helpful guide available [HERE](#).

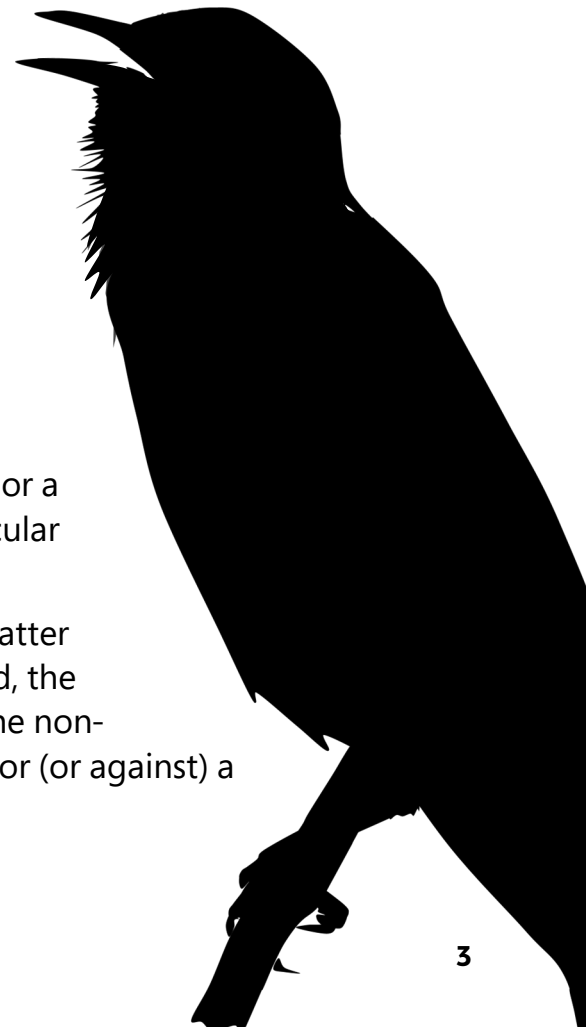
THE REGULATED PERIOD

The run-up to an election is known as the regulated period, and for general elections it is usually the period starting 365 days before the election. The next UK general election has been announced for 4 July 2024 (and in any event had to take place before 28 January 2025) and so we are now in its regulated period.

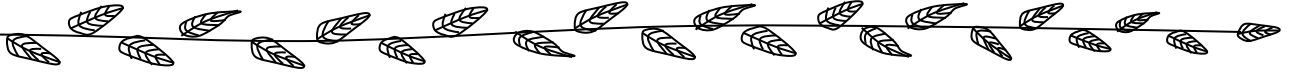
REGULATED ACTIVITIES

Under election law, regulated activities include most activities which "can reasonably be regarded as intended to promote or procure electoral success at any relevant election". This could be for a particular political party, or a party (or parties) advocating particular policies, or a candidate holding particular opinions or advocating particular policies.

The key factor is the intention of the activity. It does not matter whether a party or candidate is named in materials. Instead, the question is whether a reasonable person would perceive the non-party campaigner as seeking to encourage voters to vote for (or against) a particular party or candidate.



SECTION 1: THE RULES



EXPENDITURE ON REGULATED ACTIVITIES DURING THE REGULATED PERIOD

Under PPERA, non-party campaigners based in the UK engaging in general election campaigning are subject to financial limits:

1. In the first instance, up to **£10,000** worth of regulated activities is permitted during the regulated period.
2. Once that financial limit is reached, then a non-party campaigner must register with the Electoral Commission.
3. Following registration, non-party campaigners can carry out up to just over £700,000 worth of regulated activities and, in doing so, must comply with various reporting requirements

OR

4. They can opt to notify the Electoral Commission that they will not carry out more than £20,000 worth of regulated activities.

The limit of just over £700,000 is a UK-wide limit, made up of separate limits on the value of regulated activities in England, Scotland, Northern Ireland and Wales:

- ✓ England: £586,548.60,
- ✓ Scotland: £81,571.40,
- ✓ Wales: £54,566.40,
- ✓ Northern Ireland: £39,433.60.



SECTION 2: HOW IT WORKS IN PRACTICE



CHARITIES VS NON-CHARITIES:

Most of the familiar environmental organisations are charities. This means that they have charitable purposes (sometimes called charitable objects or aims) which are framed in terms of the 'public good' (although that is a rather fuzzy concept) and set out in their governing documents. Along with charitable status come the financial benefits of exemption from Corporation Tax and being able to claim back much of the Value Added Tax (VAT) spent in pursuing charitable purposes.

NON-CHARITIES:

Basically, this is everyone else including businesses, not-for-profit companies, community interest companies, and so on.



'BEING POLITICAL'

An organisation cannot be given charitable status if its purposes are political. In this context, a political purpose is: 'any purpose directed at furthering the interests of any political party, or securing or opposing a change in the law, policy or decisions either in this country or abroad'.

Therefore, it **would not be** possible, for example, to establish a charity in England and Wales with the purpose of reforming the system of public payments to farmers. But that doesn't mean that charities cannot undertake political activities in pursuit of their charitable purposes. There is an important distinction here between political campaigning to support charitable purposes and an organisation having a political purpose or aims.

SECTION 2: HOW IT WORKS IN PRACTICE



POLITICAL CAMPAIGNING VS POLITICAL ACTIVITIES:

The Charity Commission distinguishes between campaigning activity and political activity, both of which are permitted when carried out in support of charitable purposes.

Campaigning activity includes awareness-raising and efforts to educate or involve the public by mobilising their support on a particular issue, or to influence or change public attitudes, as well as activities aimed at ensuring existing laws are observed.

Political activity involves trying to secure support for, or oppose, a change in the law or in the policy or decisions of central government, local authorities or other public bodies, whether in this country or abroad.

Charities are allowed to carry out both types of activity.

Political activities such as securing a change in government policy, cannot, in and of themselves, be the charitable **purpose** of any charity - but they can and often will be **activities** properly carried out by a charity in support of that charity's purposes. Therefore, it would be possible for a charity with the aim of increasing wildlife abundance in the farmed countryside to carry out activities with the aim of achieving reform of the system of public payments to farmers.

The distinction between having a political purpose and carrying out political activities applies throughout the year and is nothing to do with election periods but the considerations outlined in Section 1 will apply to political activities during election periods.



SECTION 2: HOW IT WORKS IN PRACTICE



CHARITY NEUTRALITY

The Charity Commission stresses the importance of charities remaining neutral (and being seen to remain neutral) in terms of party politics and of protecting their independence.

A charity **should not** support a political party or recommend that the charity's supporters should vote for a political party or its candidates, whether solely on the basis of the party's policies on, for example, Badger culls, or otherwise. Importantly, however, there is nothing to prevent a charity evaluating the political parties' views on a range of issues relevant to the charity's purposes and scoring them according to their likely impact.

Charities are afforded broad discretion in how to achieve their stated charitable purposes. In practice, it is a charity's trustees' role to ensure that the charity complies with its governing document; and hence, to ensure that the charity's activities are ones carried out in support of the organisation's charitable purposes.

The Charity Commission's guidance [LINK](#) sets out key points for trustees to consider when looking at their charity's activities. The guidance reflects the position in law that "*campaigning and political activity can be legitimate and valuable activities for charities to undertake*" and, moreover, that "*there may be situations where carrying out political activity is the best way for trustees to support the charity's purposes*", even to the extent that "*a charity may choose to focus most, or all, of its resources on political activity for a period*". This may be the case, for example, during a general election year.

In practice, during an election period, a charity can be as bold as any other organisation or individual who chooses to campaign. The central principle is that a charity must act in a way that supports the aims it was set up to achieve, and must be clear about its independence from any political party advocating the same policy or aims.

The Charity Commission for England and Wales maintains guidance on campaigning and political activity by charities, which can be found [HERE](#), and on charities and elections, which can be found [HERE](#), and special guidance on Charity campaigning in an election year, which can be found [HERE](#). The Charity Commission distinguishes between campaigning activity and political activity, both of which are permitted when carried out in support of charitable purposes. We don't find that distinction very helpful in practice.

SECTION 3:

THE BOTTOM LINE



For many environmental charities, campaigning is at the heart of the work they do in support of their charitable purposes. Indeed, many environmental charities devote significant time, energy and other resources on campaigning work to support delivery of their overarching charitable purposes.

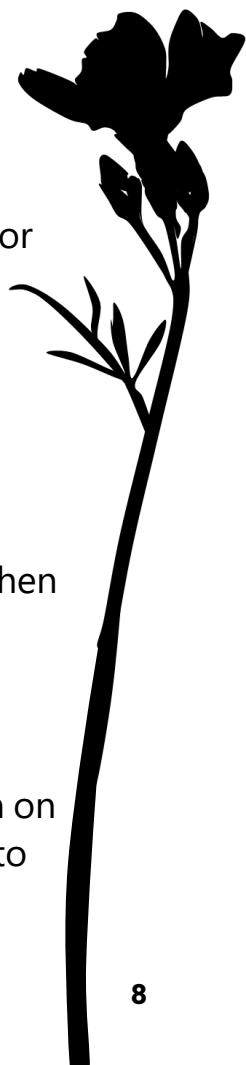
Whilst this subject seems intimidating on the face of it, the bottom line is that charities should feel confident to be outspoken during election periods. By following the above rules, and by sense-checking campaigns, charities can;

- ✓ Produce an assessment of the environmental policies and pledges put forward by different political parties; for example, in the format of a 'scorecard rating'.
- ✓ Send this type of information to their members and supporters.
- ✓ Call out poor policies where they see them.
- ✓ Ask for new policies, or changes to existing ones.
- ✓ Highlight good policies too!
- ✓ Produce any kind of publicity materials, whether in print, social media, or traditional media, that promote its views and opinions on any issues that relate to its charitable purposes and activities.

By sense checking, as above, it's also quite clear what isn't permitted. Charities cannot:


- ✗ Call on people to vote for one party or another.
- ✗ Give financial support, or support in kind, to any political party, even when that party advocates a policy that the charity supports.
- ✗ Exceed the financial limitations set out in Section 1.


The key point is that whilst charities can attempt to influence public opinion on a particular issue if it furthers or supports their purposes, they must leave it to the electorate to make their own decisions about how to vote.





WILD JUSTICE'S VIEWS




- 

General elections are opportunities to highlight environmental problems and test the solutions for them proposed by different political parties – there is nothing to prevent environmental charities from doing this and we believe that they should.
- 

The supporters of environmental charities should expect them to be communicating their views on what are important policies for the future and there is no reason for those charities not to comment on the policies proposed by a range of political parties.
- 

In our view, there is nothing to prevent environmental charities from making statements such as “This party has a better manifesto on environmental issues for the following reasons.”
- 

After all, charities have charitable purposes which are for the public good. If they cannot inform the public about their views on which political parties have the best policies in the charities’ areas of interest and expertise then who can? Surely not only the politicians, the newspapers and some bloke down the pub?
- 

As a not-for-profit company there is nothing to stop Wild Justice from endorsing any political party or candidate.
- 

Wild Justice’s view is that the spending caps on regulated activities within the regulated period are bizarre in that they discriminate against large charities (who, arguably, might have most knowledge and might cover a wider range of issues than smaller charities). As framed, a small charity could spend a much higher proportion of its total spend on regulated activities than a large charity because the expenditure is capped as an amount rather than a proportion of income.
- 

We are unaware of cases where environmental charities have suffered any significant reprimand from the Charity Commission for behaving inappropriately in general elections – this suggests to us that either the guidelines are so vague that they are difficult to enforce or, more likely, that charities have been so timid as not to have pushed the boundaries at all.



About this guide

This guide has been prepared with input from law firm Leigh Day and is intended to provide an overview of the relevant law and guidance to help organisations campaigning on the environment understand how they can take part in political activity in the run-up to the general election 2024. This guide was prepared in May 2024 and reflects our understanding of existing provisions at this time. This guide is not intended to be used in legal action or to be relied on as legal advice. If you require advice in relation to your organisation's activities, you should seek specialist legal assistance or consult with the Charity Commission where appropriate.



www.wildjustice.org.uk |  [@wildjustice_org](https://twitter.com/wildjustice_org) |  admin@wildjustice.org

NEWSLETTER

wildjustice.org.uk/newsletter/

DONATE

wildjustice.org.uk/wildlife-donations/

A JOINT GUIDE FROM



LEIGH DAY
LAWYERS AGAINST INJUSTICE