

Note of Advice

Legal Education Foundation - Scottish Election Advice

L05049.0001

Generally, the principles are the same in Scotland and we have no major additions. The Office of the Scottish Charity Regulator (“OSCR”) provides a short note of guidance which can be read in addition to the Charity Commission’s. The direction of this guidance is not significantly different from that published by the Charity Commission, and we have set out the significant differences to note below. A link to the OSCR guidance is inserted below.

Office of the Scottish Charity Regulator published guidance on Political Campaigning (March 2021)	<i>Charities and campaigning on political issues: FAQs</i> This guidance can be found using the following link .
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Regulated Period

Section 14.22 of the Stone King LLP advice note states that “*The Regulated Period for a UK Parliamentary General Election (UKPGE) (retrospective) is the 365-day period leading up to and including polling day (4 months for Scottish Parliament, Welsh and NI Assembly)*”. We wish to make it clear that the regulated period for a UK General Election is 365 Days for the whole of the UK, including Scotland. The 4-month period in Scotland is relevant to Scottish elections.

Controlled Expenditure

There is a difference on the limit of spending if there is an intention to carry out regulated campaign activity during the regulated period, such as: press conferences; the production or publication of election material; canvassing and market research; or public rallies and public events. Your charity must register with the Electoral Commission as a non-party campaigner if it spends (or plans to spend) £10,000 in Scotland. Your spending includes your staff costs.

Lobbying

Section 18 of the Stone King LLP note mentions that you may meet with MPs and PPCs in private meetings. In Scotland, there are certain rules in relation to meeting privately with political individuals, face to face and orally. This is covered by the Lobbying (Scotland) Act 2016. Any meeting with MSPs, Scottish Government Ministers, the Scottish Government’s Permanent Secretary or Special Advisors, about the Scottish Government or Scottish parliamentary functions, orally or face to face falls under regulated lobbying. If you are to carry out regulated lobbying, you must use the Lobbying Register to provide information on who you have lobbied, when and where

it happened and to what purpose. This is the most significant difference between the two jurisdictions in relation to political campaigning.

The Scottish Parliament published guidance on the Lobbying (Scotland) Act 2016 (January 2018)	<i>Parliamentary Guidance Published under the Lobbying (Scotland) Act 2016</i> This guidance can be found using the following link .
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If lobbying is not anticipated as part of your activities, this is less of a concern. If that kind of activity is envisaged then it is necessary to take this into consideration. We have included a flowchart from the abovementioned parliamentary guidance which sets out succinctly when lobbying may apply, as an appendix to this note.

Turcan Connell
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AM I INVOLVED IN REGULATED LOBBYING?

