CAMPAIGNING FOR SOCIAL CHANGE: THE ROLE OF TRUSTEES

NPC briefing, August 2014

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On 14 July 2014, NPC and the Clothworkers' Company held a seminar on the benefits and risks of charity campaigning and the role of a trustee board. This paper highlights the main discussion points of the day, summarising advice from our speakers and drawing on the broad experience of those in attendance.

> The seminar was chaired by Robert Abercrombie, Director of Research & Consulting at NPC. The panellists focused on the following themes:
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> **Sara Llewellin** (Chief Executive, Barrow Cadbury Trust) explained how charity campaigning can improve society at a structural level, and the role played by trustees.
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> **Stephen Lloyd** (Senior Counsel, Chairman BWB ventures, Charity & Social Enterprise Department, Bates Wells Braithwaite) outlined the regulatory guidance on charity campaigning activities—what the legal risks are and how trustees should seek to manage them.
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> **Philippa Lowe** (Chair of the Communications and Campaigns Committee, Rethink Mental Illness) gave **a** personal account of her involvement in the Time to Change campaign.
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> **Catherine Howarth** (Chief Executive, ShareAction and trustee of Green Alliance) defined four important factors in running an effective campaign and how trustees can support this.
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> *Stephen Lloyd very sadly passed away in August 2014. He was much admired and a great friend to NPC; here we have tried to give a faithful recording of his contribution.*

Introduction

Campaigning is an integral part of the charity sector. It plays a vital role in the democratic process and is a powerful tool in achieving social change, because for many charities it feels inadequate to continually treat symptoms without looking for, and voicing, possible solutions. Sara Llewellin explained that Barrow Cadbury Trust supports campaigns and helps build movements *'in order to bring about structural change…Campaigns are time-limited and episodic, and movements are the enduring coalitions that will drive the change.'*

Importantly, good campaigning has the potential to make the money go a long way because it allows even small charities to tackle the underlying causes of a problem. Indeed many of the changes that have shaped society were brought about by voluntary action. International development, Fairtrade, hospices, and even those things that we now take for granted—the vote for women and decriminalisation of homosexuality—were all the product of campaigning. As Stephen Lloyd of Bates Wells Braithwaite explained: *'Campaigning is the key way in which charities have been absolutely integral in changing the public's view on fundamental issues.'*

Charities derive their mandate from being independent and non-partisan, and they earn the trust of the public by being transparent about their actions and motives. Trustees have a crucial role in maintaining this trust by managing risks and ensuring that if they run a campaign it has the best chances of success.

At the seminar, the speakers discussed what this role entails, exploring the legal regulation and risks of campaigning, and what it takes to run an effective campaign.

'As civil society, we have a mandate to influence policymaking. Civil society is there to hold government to account—and has often done so! We speak truth to power.'

Sara Llewellin, Barrow Cadbury Trust

What is campaigning?

We can distinguish broadly between two types of campaigning: policy influence and behaviour change.

Policy influence campaigns aim to directly or indirectly influence key decision-makers in order to achieve a change in legislation, policy, implementation or processes. Common tactics (ie, activities and short-term plans) include lobbying, advising and mobilisation of public support.

Behaviour change campaigns aim to change the way people act to improve health or end domestic violence, for example. Common tactics include dissemination of information through traditional advertising channels as well as more interactive forms of communication, such as workshops or events.

NPC's paper *Closing in on change: Measuring the effectiveness of your campaign*[1] describes campaigning strategies and tactics in further detail, supported by a number of case studies.

The role of trustees in campaigning charities

As the guardian of your charitable mission, you are responsible for the general control and management of the administration of your charity. Furthermore, you are legally required to use your charity's resources in the most impactful way possible to advance that mission. You therefore need to continuously ask yourself and your colleagues what you are trying to achieve and how you can best achieve it.

'There is a need to be truthful. Sometimes it means being honest about how difficult it is to be a trustee, and how you can't know everything.'

Philippa Lowe, Rethink Mental Illness

The speakers discussed how this responsibility translates into three main duties:

- **Understand how campaigning fits with your charitable objective.** You must always be able to take a step back from frontline activities and think strategically about whether the campaign fits with your charity's aims and values, and whether it is the best way to achieve your objectives. You also need to assess whether the campaign is delivering the benefits you expected to see and—if working in coalition, for example—whether your charity is getting the say and the profile it deserves. This duty serves several purposes: if it is unclear how your campaign aims to achieve your charitable purpose, you may be exposing yourself to legal risks and/or spending money on something that does not benefit your beneficiaries.

- **Manage risk.** It is the duty of trustees to manage the risks of campaigning. These include legal risks—ensuring that the charity complies with the Charities Act 2011 and with the requirements of the Charity Commission as regulator—and also reputational risk—the potential loss of confidence in your organisation, which may result in a decline in donor and volunteer support. You can minimise both of these by taking minutes at all board discussions around how the campaign fits with your charitable objective, leaving an audit trail of how you justified your decisions. If the campaign risks being perceived as political—if, for instance, it

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[1] Hestbaek, C. (2014) *Closing in on change: Measuring the effectiveness of your campaign*. New Philanthropy Capital.

advocates policies that are similar to those of a political party—you should regularly seek advice from a lawyer who will provide you with legal briefings.

- **Ensure effectiveness**. Trustees are responsible for ensuring that resources are spent in the most effective way possible. You will therefore need to scrutinise the impact your campaign is having to consider whether it delivers social value for money. When evaluating campaigns, it is important to focus on your *contribution* to the social change, and not get stuck trying to demonstrate that your organisation is solely responsible for it. Policy and behaviour change are complex areas with so many unknown and unpredictable influences that it is rarely possible to attribute change to one actor.

'Our job is as the honest broker. Money is just one of the means to bring about the social change we want to see.'

Sara Llewellin, Barrow Cadbury Trust

Case study: A trustee's way into campaigning

Philippa Lowe, Rethink Mental Illness: When Philippa Lowe's son was diagnosed with schizophrenia 17 years ago, she witnessed the prejudice against people suffering from mental ill-health in society and the health system. It became clear to her that these problems are some of the biggest barriers to recovery, and that attitudes need to shift in order to improve the quality of life for those affected by mental illness. For Philippa, campaigning is central to achieving this.

When she became involved in the governance of Rethink Mental Illness, it was therefore natural that she helped shape the charity's campaigning strategy. She has recently focused on the Time to Change campaign, which aims to end mental health stigma and discrimination. Run in collaboration with Mind, the campaign has achieved good results so far. Some of the most prominent effects are that the number of people living discrimination-free lives has increased by 3%, and average levels of discrimination have dropped by 11.5%.

Now retired, Philippa continues to care for her son and to act as chair for the Communications and Campaigning Committee.

1. The legal regulation and risks of campaigning

Stephen Lloyd outlined the legal regulation around campaigning and what this means for trustees of registered charities. The two most important rules for ensuring legal campaigning are:

- **Remain independent of any candidate or political party**. Some of the issues charities work with can be politicised, but one of the key responsibilities for trustees is to make sure the campaigning is non-partisan and does not run along party lines. Trustees need to ensure that the charity seeks to influence all parties, and that its funding and collaboration is not skewed towards any one part of the political spectrum. This also means that a charity cannot support a candidate or candidates for political office even if they belong to a range of political parties, and that an organisation needs a policy to manage the risk if a trustee or an employee is an MP, local councillor, peer or prospective parliamentary candidate. Such a risk can usually be mitigated by ensuring diversity in the board of trustees.

- **Do not seek to influence voter intention.** This follows on from the obligation to be non-partisan. It is illegal to make statements such as 'we think this party has a better policy on mental health issues' or 'voting no at this referendum will be the best for animal rights.'

What the rules mean for three types of charity campaigning

	Non-political campaigning	Political campaigning	Party political campaigning
Definition	Public awareness raising and changing public attitudes on a particular issue. Activities to change the policy or practice of a business or company.	Activities to change law, policy or decisions of governmental authorities whether in this country or abroad, and at a local or national level. This excludes party political activities.	Support to a party, a candidate or groups of candidates.
Examples	Action on Smoking and Health's campaign to make people stop smoking. Greenpeace's campaign to stop Shell drilling in the Arctic.	Shelter's campaign to change the law on regulation of estate agents. Oxfam's campaign for the World Bank to freeze its land investments and improve its protection of poor communities.	Campaigns stating that a certain party or candidate's policy will help the charity's beneficiaries.
Regulation	No regulations. Charities are allowed to spend up to 100% of their resources on this type of campaigning.	Regulated by the CC9: political campaigning cannot be the sole and continuing activity—ie, you cannot set up a charity to change the law. Charities need to justify that the campaign is a means to achieve their objective, and not an end in itself.	**Prohibited.**

Source: adapted from BWB (Stephen Lloyd) presentation material, 14 July 2014.

This legislation is enforced by the Charity Commission[2], which rules in cases where charities are accused of being too political. A special set of rules apply from the day an election is called until the election is over. The Charity Commission's guidance[3] helps charities navigate this regulation.

The Lobbying Act

As of February 2014, additional regulation on campaigning was introduced with The Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014. This law, the 'Lobbying Act,' regulates how much 'third parties', which include charities, can spend on campaigning in an election or referendum period before they have to register with the Electoral Commission. A charity that incurs controlled expenditure may have to register with the Electoral Commission, subject to activities, publicity and threshold tests. The regulated period includes a pre-election phase which begins 19 September 2014.

- **Activities** that 'can be reasonably regarded as intended to' promote political parties or groups of candidates including those who hold or do not hold particular opinions, policies or types of candidates—for example, candidates in a certain age group.

- **Publicity**: Material must be made available to public, ie, not members or committed supporters.

Source: BWB (Stephen Lloyd) presentation material, 14 July 2014 and Charity Commission.

'The new law is a definitive game changer in that it will control campaigning expenditure. People will and should take the Lobbying Act seriously, and there is no doubt that it will have a chilling effect on campaigning.'

Stephen Lloyd, BWB

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[2] The Charity Commission (2008) *Speaking out guidance on campaigning and political activity by charities (CC9).*
[3] The Charity Commission (2014) *Charities, Elections and Referendums*

2. Making it an effective campaign

Catherine Howarth, consistent with previous speakers, listed four important factors for creating a good campaign:

- **Have a clear, but tactically nimble, strategy.** When you campaign, things can change very quickly. Public opinion, media focus, political debate, or other unexpected events that effect your campaign will often require you to change your tactics along the way; your strategy needs to be flexible enough to allow for this.

- **Find good people.** You need talented campaigners to create a successful campaign. Good campaigners can come from all backgrounds, and their most important trait is curiosity—a desire to know what is going on in the minds of other people. Good campaigners always consider what 'makes people tick' and how they can appeal to the self-interests of the people they aim to influence.

- **Think ahead.** A ground rule for campaigning is that different groups respond differently. If you are able to predict who your opponents and critics will be, and which arguments they will use, you are in a strong position to be successful in addressing and deflecting criticism of your campaign.

- **Mobilise all sectors and build a movement**. Often the secret to success is to work with and through others—for a good campaign, you need to think broadly. As a trustee you need to focus not only on internal capacity and objectives, but also on the role of your organisation in catalysing external change. Could you possibly leverage the power of others who have similar objectives to you? Find allies, take on partners, and make sure you do not stereotype or leave out any sectors or organisations—sometimes the most unlikely allies are the strongest. Catherine Howarth mentioned a number of examples of successful campaigns, including Living Wage, a campaign run by a coalition of charities and for which she sits on the advisory board. Living Wage has been successful partly because it has worked closely with the private sector and built broad alliances across sectors and the political spectrum.

Final thought

'Civil society is bringing the voice of the disadvantaged to those in power.'

Sara Llewellin, Barrow Cadbury Trust

Further resources

Crutchfield, L.R., McLeod Grant, H. (2007) *Forces for good: The six practices of high-impact nonprofits.* Jossey-Bass.

NCVO Campaigning and Lobbying Standards Group (forthcoming): *Charities engagement in campaigning and political influencing - Recommendations for best practice.*

Hestbaek, C. (2014): *Closing in on change: Measuring the effectiveness of your campaign.* New Philanthropy Capital.

Kail, A., Lumley, T. (2012): *Theory of Change.* New Philanthropy Capital.

Lamb, B. (2010): *Trustee guide to campaigning and influencing.* NCVO.

Tips for trustees

Checklist of duties for trustees in campaigning charities and questions you should ask.

1. Understanding how campaigning fits into your charitable objective
• Is the charity's objective clear—is it obvious what we are trying to achieve?   • How can we help our beneficiaries most effectively?   • Would changes in legislation, behaviour, attitudes and opinion or external processes help us achieve our charitable objective?   • Is there a reasonable expectation that campaigning activities will further the charity's purpose?   • Do we have the capability and resources to run a successful campaign?   **Having a theory of change can help you work out exactly how campaigning fits into your objective. NPC's *Theory of Change*[4] provides guidance on this approach.**

2. Managing risk
• Is there a risk of acting outside the charity's objective?   • Is it clear to anyone looking at your activities and the publically available information about your work that campaigning is a means to achieving your objective?   • Is there a sound and factually accurate evidence base that the change you are proposing will help your beneficiaries?   • Is there a risk to the charity's independence, such as a trustee or senior executive being a prospective parliamentary candidate?   • Does the charity's policy coincide with that of a political party? If so, what is the public perception of the charity's political independence?   • Does the charity have a social media policy and do you have editorial control of the content staff post on social media? This should include tweets and re-tweets, blogs, or third party comments on blogs.   • Does the charity comply with all legal requirements, including charity law, CC9 guidance, election law, defamation law (which applies to all social media as well), public order (particularly for demonstrations) and advertising law?   **It is good practice to draw up a register that identifies risks and outlines strategy, risk management and evaluation of actions to address the risks. This should be signed off by trustees. The Charity Commission's CC26[5] provides guidance on how trustees can review and assess risks to their charity and set a risk framework.**

3. Ensuring effectiveness
• Is the use of resources (including duration and financial cost) to promote the campaign justified?   • What other activities would achieve the same objective? Would they be more cost effective?   • Could we increase our leverage if we worked together with other organisations?   • How can we evaluate the campaign?   • How can we learn from the evaluation and improve our campaign's effectiveness?   **Having a measurement framework built on your theory of change can help monitor progress during the campaign. NPC's *Measuring the effectiveness of your campaign*[6] offers guidance on this.**

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[4] Kail, A., Lumley, T. (2012) *Theory of change.* New Philanthropy Capital.
[5] The Charity Commission (2010). *Charities and risk management (CC26)*
[6] Hestbaek, C. (2014) *Closing in on change: Measuring the effectiveness of your campaign*. New Philanthropy Capital.

TRANSFORMING THE CHARITY SECTOR

NPC is a charity think tank and consultancy which occupies a unique position at the nexus between charities and funders, helping them achieve the greatest impact. We are driven by the values and mission of the charity sector, to which we bring the rigour, clarity and analysis needed to better achieve the outcomes we all seek. We also share the motivations and passion of funders, to which we bring our expertise, experience and track record of success.

Increasing the impact of charities: NPC exists to make charities and social enterprises more successful in achieving their missions. Through rigorous analysis, practical advice and innovative thinking, we make charities' money and energy go further, and help them to achieve the greatest impact.

Increasing the impact of funders: NPC's role is to make funders more successful too. We share the passion funders have for helping charities and changing people's lives. We understand their motivations and their objectives, and we know that giving is more rewarding if it achieves the greatest impact it can.

Strengthening the partnership between charities and funders: NPC's mission is also to bring the two sides of the funding equation together, improving understanding and enhancing their combined impact. We can help funders and those they fund to connect and transform the way they work together to achieve their vision.

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