



CHARITY COMMISSION
FOR ENGLAND AND WALES

COMPLIANCE TOOLKIT: PROTECTING CHARITIES FROM HARM

Chapter 5: Protecting Charities from abuse for extremist purposes



A. What is the purpose of this guidance and who should read it?

This guidance is for charity trustees, staff and volunteers, to help them protect their charities from abuse by anyone encouraging or condoning extremism, terrorism or illegal activity. All charities must comply with UK law and so must not promote or support terrorism or extremism, or other illegal conduct, such as racial or religious hatred. Nor can a charity's name, premises or money be used to promote extremist and other activities which are inappropriate under charity law.

This guidance looks at issues that can arise when charities use speakers at events or promote literature. The government's Prevent¹ strategy clarifies what is meant by extremism, radicalisation and radicalising materials in the context of terrorism issues.

This guidance highlights:

- some of the challenges charities may encounter
- how to avoid problems in the first place
- what to do if there are concerns about a speaker, an event or literature

It is relevant for all charities and trustees, particularly if there are concerns or issues about whether someone is suitable to be involved in a charity because of their controversial or extremist views. Charities that regularly carry out activities or events involving guest speakers, or that use literature as part of their work will find the guidance particularly helpful.

The guidance may therefore be of particular interest to:

- charitable think tanks and debating societies
- students' unions
- religious charities
- schools, colleges and universities
- other charities involved in education
- bookshops and other charities that provide or promote literature and educational materials
- charities that provide or promote literature and educational materials through electronic media, including television, radio, internet, social media or physical recordings (memory cards, CDs or DVDs)

The guidance explains what trustees legal duties are under charity law, including how to manage the risks so they protect their charity, act lawfully, and maintain public trust and confidence. These are the legal requirements that the Commission will hold trustees to account for if a regulatory concern arises. Following this guidance will help trustees show they are complying with their duties and responsibilities.

This guidance is for charities regulated by the Charity Commission. It will also be helpful for charities which are exempt and regulated by other principal regulators as it is the same charity law requirements that exempt charities have to follow.²

1 Prevent is one of the 4 work streams of CONTEST, the UK Government's Strategy for Countering Terrorism

2 The Charities Act 2006 changed the regulatory arrangements for exempt and excepted charities. When fully implemented, all charities must have a charity regulator, either the Commission or a suitable principal regulator appointed by government to oversee charity law compliance. For further information see the Commission's **guidance on exempt charities**.

B. Scope of this guidance

This guidance aims to raise awareness amongst trustees of the legal requirements placed on them in relation to both criminal law and charity law so that they can properly discharge their duties in the interests of their charity. It gives a brief overview of the wider legal framework, including the law relating to terrorism, which trustees need to consider. However, the Commission cannot provide advice on whether a crime may have been committed or not under terrorism laws - criminal issues are a matter for the police.

Relationship with other Commission guidance on terrorism

This guidance supplements existing operational guidance:

- **OG410 Charities and Terrorism**
- the online toolkit **Protecting Charities from Harm: Chapter 1 Charities and Terrorism, Chapter 2: Due diligence, monitoring and verification of the end use of funds**
- **The Essential Trustee: What you need to know (CC3)**
- **Speaking Out - Guidance on Campaigning and Political Activity by Charities (CC9)**
- **The Advancement of Education for the Public Benefit**

What we mean by 'must' and 'should'

In this guidance:

- 'must' means something is a legal or regulatory requirement or duty that trustees must comply with
- 'should' means something is good practice that the commission expects trustees to follow and apply to their charity

Following the good practice specified in this guidance will help you to run your charity effectively, avoid difficulties and comply with your legal duties. Charities vary in terms of their size and activities. Consider and decide how best to apply this good practice to your charity's circumstances. The commission expects you to be able to explain and justify your approach, particularly if you decide not to follow good practice in this guidance.

Using this guidance

For each question we give a **short answer** and explanations **in more detail**. There are links to other websites, documents, further information and useful tools for charities.

C. Technical terms used

We use some technical terms in this guidance. This list explains what they mean:

Beneficiary: A person who receives benefit, financial or otherwise, from a charity.

CONTEST: The UK Government's strategy for Countering Terrorism.

Counter-terrorism legislation: The Terrorism Act 2000 is the main piece of counter-terrorism legislation in the UK. Other relevant laws includes: (1) The Anti-Terrorism, Crime and Security Act 2001; (2) The Prevention of Terrorism Act 2005; (3) The Terrorism Act 2006; (4) The Counter-Terrorism Act 2008; The Terrorist Asset Freezing etc Act 2010.

Designated persons or entities are individuals or groups which face financial restrictions in the UK. HM Treasury maintains the **Consolidated List** of these individuals and entities on its website.

Extremism in the UK Prevent Strategy is a vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. Also included in extremism are calls for the death of members of the armed forces, whether in this country or overseas.³

Governing document: A legal document setting out the charity's purposes and, usually, how it is to be run. It may be a trust deed, constitution, articles of association, will, conveyance, Royal Charter, Scheme of the Commission, or other formal document.

Prevent - One of the four work streams of the CONTEST strategy. Prevent aims to stop people becoming terrorists or supporting terrorism, including challenging and preventing extremist ideology which is conducive to, and can be used to legitimise, terrorism.

Property: Includes not only land and buildings, but also investments, cash and other assets.

Proscribed Organisation: A proscribed organisation is an organisation which the Home Secretary believes to be concerned in terrorism as defined by the Terrorism Act 2000. It is a criminal offence for a person to be a member of, or invite support for, or arrange a meeting for, a proscribed organisation. Proscription means that the financial assets of the organisation become terrorist property and can be subject to freezing and seizure. The Home Office maintains a **list** of terrorist groups or organisations banned under UK law on its website.

Radicalisation is the process by which a person comes to support terrorism and forms of extremism leading to terrorism.

Radicalising materials include literature or videos that are used by radicalisers to encourage or reinforce individuals to adopt a violent ideology. Some of this material may explicitly encourage violence. Other materials may take no avowed position on violence but make claims to which violence is subsequently presented as the only solution.

Serious Incident: An incident that has taken place in a charity is considered as serious if it has resulted or could result in a significant loss of funds or a significant risk to the charity's property, work, beneficiaries or reputation. As a matter of good practice, trustees should report any serious incident to the Commission as soon as possible.

If a registered charity has an income over £25,000 the trustees must, as part of the Annual Return, sign a declaration that there are no serious incidents that they should have brought to our attention but have not. If they are unable to make this declaration then they cannot comply with their legal obligation to complete the Annual Return.

³ Prevent Strategy. Annex A: Glossary of terms. June 2011

Terrorism is as defined under UK law in the Terrorism Act 2000 (TACT 2000). In summary this defines terrorism as an action that endangers or causes serious violence to a person/people; causes serious damage to property; or seriously interferes or disrupts an electronic system. The use or threat must be designed to influence the government or to intimidate the public and is made for the purpose of advancing a political, religious or ideological cause.

Trustees: Charity trustees are the people who are responsible for the general control of the management of the administration of the charity. In the charity's governing document they may be collectively called trustees, the board, managing trustees, the management committee, governors or directors, or they may be referred to by some other title.

D. Why are extremism issues relevant to my charity?

Short answer (legal requirement)

Trustees have a duty of care to protect the assets of their charities from abuse and must ensure that the charity's funds, assets and reputation are not placed at undue risk, including from becoming involved in extremism issues.

In addition, some charities, because of the nature of their particular charitable work or because of which beneficiaries they support, for example people at particular risk of radicalisation, will have an important role to play through their work in helping to prevent the promotion and support of extremist ideas and views that may encourage terrorism, or that incite criminal acts or racial or religious hatred.

In more detail:

There have been occasions when terrorists, and those with extremist views who encourage and support terrorism and terrorist ideology, have used charity events to make those views known, or have used charities to promote or distribute their literature. Trustees therefore need to be aware of these risks and take reasonable steps to protect the assets of their charity. The risks vary from charity to charity and will vary depending on what activities a charity carries out and who its beneficiaries are. For some charities the risks will be very low and there will be little they need to do. For others, the risks are likely to be higher and the trustees will need to take specific steps to safeguard their charity against abuse if they are to meet their legal duties as trustees.

The risks are likely to be higher for those charities that regularly run speaking events or use literature to promote the charity's purposes, although the risks will still vary from charity to charity.

In addition, charities and their work can be an important protection against extremism and terrorism and in helping to uphold democracy and the rule of law. Schools, for example, can play a vital role in preparing young people to challenge extremism and the ideology of terrorism. Faith organisations can play a very important role in preventive activity, challenging ideology that claims religious justification for terrorism.

Civil society, of which charities are a key part, is also an important place for the free exchange of views and debate which can inhibit the activities of propagandists of extremism and terrorism. Some charities provide specific mechanisms for constructive debate and social action to build a strong civil society which can protect against terrorist and extremist abuse.

Many charities help to support vulnerable people in society, including people at risk of radicalisation. Trustees of these charities, through their work, should ensure that they know what to do when they are alerted to concerns about an individual. The charity's staff and volunteers also need to know how to deal with these concerns.

Further information for charities that work with people who may be at risk of radicalisation, can be found in the Prevent Strategy under Objective Two: supporting vulnerable people. It considers that radicalisation is a process not an event. During that process it is possible to intervene to prevent vulnerable people being drawn into terrorist-related activity. Channel is the existing multi-agency programme to identify and provide support to people at risk of radicalisation.

E. When are extremist views contrary to charity law?

Short answer:

Some views may not be the norm or traditional. They may be controversial. That does not necessarily mean they cannot be promoted or supported by a charity.

At one end of the scale, there are extremist views which are criminal. These are clearly not acceptable under any circumstances for charities to promote or support.

Beyond that there are a range of views that may not be appropriate for a charity to support under charity law. Charities will be in breach of charity law where they promote extremist views and use radicalising materials.

This may be the case even where those extremist views are not violent or not likely to incite violence, or even if they do not breach terrorism laws relating to the glorification of terrorism, or constitute incitement to racial or religious hatred. These extremist views may also be unlawful under other laws which apply to particular types of charities, such as schools, under education law.

If a charity provides a platform for the expression or promotion of extremist views this is not likely to be in furtherance of the charity's purposes or comply with the public benefit requirement⁴. Trustees are also likely to be in breach of their fiduciary duties as trustees.

In more detail:

As part of the democratic society and laws of the UK, individuals are entitled to their own views and have a right to express these, including those that not everyone agrees with or which are controversial but which may be considered by some others as traditional, the norm and reasonable. However, there are limits to this right. Promoting some views would be a criminal offence, for example, if they encourage terrorism. This includes publishing statements that encourage and glorify terrorist acts.

Legal requirement: charities, their trustees, staff and volunteers must comply with the general law so they must both as an individual and as a representative or agent of the charity make sure they do not commit a crime.

It will be a criminal matter if a charity runs an event or publishes material which glorifies terrorism or incites racial or religious hatred. Trustees and other charity representatives may also be at risk of committing a criminal offence in carrying out their role where, for example, they popularise ideas or policies that are espoused by and closely associated with terrorist groups.

Under charity law, charities must comply with the public benefit requirement. Views or activities which are violent or which encourage violence cannot be for the public benefit because they are illegal. In addition, there are other extreme views and activities, particularly activities which seek to radicalise or use radicalising materials which may be inappropriate for a charity to host or promote. Such views may not be in furtherance of the charity's purposes, or may breach the rules on political activities. Other extreme views may help to create an environment conducive to terrorism. In addition, promoting views which are harmful to social cohesion, such as denigrating those of a particular faith or promoting segregation on religious or racial grounds, or which seek to radicalise by making claims to which violence is subsequently presented as the only solution may well be inconsistent with the public benefit requirement even though such views might fall well below the criminal threshold. All these pose unacceptable risks to a charity.

⁴ See Charity Commission guidance: **Charities and Public Benefit**

F. How might extremists seek to abuse charities?

Short answer:

Abuse can occur in many ways, such as during the course of a charity's activities, through the use of its premises, by speakers at charity events, through the use of the charity's communications network to promote extremist literature. Abuse activities may be carried out by someone involved in or connected to a charity, by individuals outside of it or by other organisations.

In more detail:

Some example scenarios include:

- the charity organises activities promoting or condoning inappropriate extremist views, for example, teaching extremist views in a school or a charity representative promoting extremist views at a debate or event
- someone within a charity may arrange for or allow charity premises to be used by someone else to promote terrorist activity or extremist ideology
- charities may invite speakers or use volunteers they know to be likely to promote extremist views to influence or direct the charity's work
- a visiting or external speaker using a charity event or meeting to promote extremist messages
- trustees, staff or other charity representatives may engage in similar inappropriate behaviour or make inappropriate comments in their personal capacity
- people with extremist views may use legitimate and acceptable contact with the charity to endorse them, or to give them status or credibility
- a charity uses or promotes literature which contains extremist views and makes this available to the charity's beneficiaries (such as articles written in the name of the charity, material posted on the charity's website, or available at the charity's premises, in prayer rooms, in a bookshop, or through social and other electronic media)
- other groups and bodies hire or use charity premises to hold an event at which extremist views are expressed or promoted and/or collect funds in support of extremist or terrorist purposes
- charities might be used to support extremists, for example by trying to provide charitable funds or other assistance only to people that hold certain extreme views or beliefs
- an event which is nothing to do with the charity is a platform for extremist views or is inviting a speaker known to have made inappropriate extremist comments. The charity's name is associated with the event because the organisers are donating the fees from the event to the charity and using this in its advertising literature to attract attendees and connect the charity to it
- the communications network of a charity could be exploited to allow those intent on promoting and developing extremist views with a view to encouraging terrorism to contact or meet each other. Sometimes the charity may simply provide the opportunity for them to meet. This may happen without the knowledge of the charity or its trustees

G. What are my legal duties as a charity trustee?

Short answer (legal requirement)

Trustees must always act in the best interests of their charity. They must act reasonably and prudently and they must ensure that the charity's funds, assets and reputation are not placed at undue risk, and that it is complying with the wider legal framework.

A charity's activities can only be in pursuit of lawful charitable purposes. Concerns about a charity involved in promoting, supporting or giving a platform to inappropriate radical and extremist views would call into question whether what it was doing was lawful, was in furtherance of its purposes and for the public benefit.

In more detail (legal requirement)

Charities and their trustees must comply with the law. This means they must not promote or support extremist views or activity that promotes terrorism and terrorist ideology through the charity's work.

In addition, trustees must not misuse a charity's funds or assets and must ensure that its finances and property are used appropriately and in accordance with its charitable purposes. Charity law places clear obligations on trustees to always act in the best interest of the charity. They must ensure that its funds, assets and reputation are not placed at undue risk. Trustees cannot use a charity's name to promote views or activities inappropriate for a charity.

This means:

- trustees must comply with the law, including counter-terrorism legislation and criminal law, and ensure their charity's activities do not promote violence, racial or religious hatred, or encourage or glorify terrorism, or incite criminal acts or public order offences
- trustees must not engage in conduct or activities which would lead a reasonable member of the public to conclude that the charity or its trustees were associated with a proscribed organisation or promoting or supporting terrorism
- when dealing with concerns which are raised about charity activities, the greater the risks, the higher the duty of care is likely to be and the more important it is the trustees can show they have discharged their duty of care; so if the charity regularly invites controversial speakers, the trustees are likely to have to do more to show that they are properly managing the risks to the charity
- if trustees know that their charity's name is, or is likely to be, associated with an extremist activity or event or with extremist views, contrary to charity law, but do nothing about it, they are likely to fail in their duties as trustees. This also applies if they ought to have known about it had they taken reasonable steps and been vigilant
- trustees must not allow the charity to be used as a vehicle for the expression of the political views of any individual trustee, staff member or other representative (in this context we mean personal or party political views)

- a charity must not provide funding or support to an organisation that exposes beneficiaries to extremist views or activities which directly, or indirectly, promote terrorism. This is so even if the charity's funding or support is applied for legitimate charitable activities. If it does, this is likely to amount to misconduct on the part of the trustees in managing and administering the work of the charity

For example, a charity provides funding for mathematics and language classes at a school overseas. However, the trustees know that the school also teaches and promotes terrorist ideology alongside proper classes. This activity means it would be completely unacceptable for the charity to continue to support the school and the trustees must ensure this ceases.

H. In practice what does this mean for trustees?

Short answer (legal requirement)

Trustees need to be vigilant, particularly if they regularly run events and use literature which is controversial. They need to put appropriate policies and procedures in place and ensure they take reasonable steps to protect their charity.

In more detail:

The risks are likely to be higher for those charities that regularly run speaking events or use literature to promote the charity's purposes, although the risks will still vary from charity to charity. The higher the risks, the more a charity will need to do to protect itself. What action is reasonable and proportionate to take to ensure trustees comply with their duties, will vary from charity to charity.

Trustees:

- must ensure that proper and adequate procedures are put in place and properly implemented to prevent terrorist organisations and extremists who seek to encourage or support terrorism from taking advantage of a charity's status, reputation, facilities or assets
- must, in this context, implement effective procedures for assessing the risks posed by speakers who may speak at events organised by the charity, and which include carrying out appropriate background checks. This includes assessing the risks when working with other organisations or groups to host an event
- should be able to demonstrate that they have considered the suitability of individuals or groups the charity is going to be closely associated with
- should be able to demonstrate that they have processes in place to satisfy themselves that literature distributed by or made available by the charity is consistent with its charitable objects and does not place the charity at undue risk
- must be vigilant to ensure that a charity's premises, assets, staff, volunteers or other resources cannot be used for activities inappropriate for a charity
- should be alert to the risk that, very occasionally, a speaker may have an ulterior motive for wanting to work with their charity that could be unconnected with the charity's work, and which could adversely affect the charity's reputation, independence and public confidence in it
- should take all necessary steps to ensure their activities or views cannot be misinterpreted. Trustees should ensure their charitable activities and conduct are open and transparent, and that they do not place the charity at undue risk

Where a charity's activities may, or appear to support, condone or encourage terrorist activity and terrorist ideology, trustees should take immediate steps to make clear it does not support terrorist or violent activities and views, these are not the charity's views and that it does not condone or support them. If there is a close association between the activities and a terrorist group, the charity is likely to have to stop those activities.

Charity trustees must ensure they exercise proper control over the charity's financial affairs, keeping accurate records and safeguarding its assets. Ultimately, it is the responsibility of trustees to be satisfied that an event and using a particular speaker is in the best interests of the charity.

We expect any person connected with a charity, whether a trustee, employee, volunteer, or beneficiary, to deal responsibly and efficiently with concerns of the charity's possible links with extremist activity and allegations of connections to terrorists.

I. What other legal issues do trustees need to be aware of when managing the risks?

Short answer (legal requirement)

When organising charitable activities, trustees have to comply with their fiduciary duties as trustees under charity law. This includes their duties to act prudently, not expose the charity and its assets to undue risk and to act in the charity's best interests at all times.

Trustees must comply with the legal duties under the general law, including criminal, human rights and equality law. This means ensuring that the charity's decision-making and risk assessment procedures take account of the wider legal framework.

In more detail:

The wider legal framework (legal requirement)

This section gives an overview of some of the legal considerations that may be relevant for charities when organising charitable activities involving guest speakers, or that promote literature and other educational material as part of their work. It aims to help trustees properly administer their charity.

Trustees should normally consider obtaining external professional advice on matters where there may be material risk to the charity, or where the trustees may be in breach of their duties and on complex legal matters. In higher risk situations, it will be difficult to see how they could show they have discharged their duties without doing so. In some circumstances it may be appropriate to seek formal regulatory advice from the Commission under section 110 Charities Act 2011 that they are acting within their charity law duties.

Trust/charity law: Trustees must:

- act reasonably and prudently in all matters relating to their charity
- always act in the charity's interests
- safeguard and protect the charity's assets, including its reputation

Trustees must comply with the rules on carrying out political activities. For example, trustees must not allow the charity to be used as a vehicle for the expression of the political views of any individual trustee or staff member (in this context this means personal or party political views).

Charities must also be for the public benefit (and may not be deemed to have sufficient public benefit, should this be counter-balanced by causing significant harm). Trustees must therefore operate their charities for the public benefit, be outward facing and inclusive, and not be exclusive "clubs" that only a few can join. If a charity - such as a student society - runs a debate or education forum that excludes people and is only open to members of a particularly exclusive group this could be judged to be in breach of charity law requirements. Speaker events must have the public benefit in mind.

For further information see **section G**. What are my legal duties as a charity trustee?

Human rights law: The Human Rights Act 1998 incorporates into UK domestic law the provisions of the European Convention on Human Rights.

Most rights have limits to ensure that they do not unfairly damage other people's rights. However, certain rights - such as the right not to be tortured - can never be limited by a court or anybody else.

The rights in the Convention that are most likely to be relevant in this context are Articles:

- 9 (freedom of thought, conscience and religion)
- 10 (freedom of expression)
- 11 (freedom of association)
- 14 (prohibition of discrimination)

None of these rights is absolute; they can be restricted if it is necessary on one of the grounds set out within the Convention (including the protection of public order and the protection of the rights and freedoms of others) and is done so in a reasonable and proportionate manner.

For example, in 2002 the Court of Appeal held that the Home Secretary's decision to exclude Louis Farrakhan from the UK was a proportionate restriction of his Article 10 right to freedom of expression. The exclusion was on the ground that his visit 'might provide a catalyst for disorder' and posed a threat to community relations between Muslims and Jews.

Article 17 of the Convention states that the Convention does not grant anyone the right to do anything aimed at depriving others of their Convention rights. For example, speech or literature which aims to make the lives of a particular group intolerable would not be protected under the right to freedom of expression.

The Equalities Act 2010 places a proactive duty on public bodies (which includes some types of charity) not to discriminate on grounds of religion or belief, sexual orientation and age.

Criminal law: An individual's rights can be lawfully restricted if their behaviour constitutes a criminal offence.

There are a number of public order offences that trustees need to be careful they do not break when organising events. See further: **General principle: public order offences**

Incitement to racial or religious hatred are also criminal offences, where there is either an intention, or a likelihood, that racial or religious hatred will be stirred up.

The Terrorism Act 2000 specifically makes it a criminal offence directly or indirectly to incite or encourage others to commit acts of terrorism or to glorify terrorism. It is sufficient if the speaker is reckless as to whether members of the public may be encouraged to commit, prepare or instigate acts of terrorism. Charities cannot provide a platform for or condone or support terrorist activities or ideologies. Trustees must be vigilant to ensure that a charity's premises, assets, staff, volunteers and other resources cannot be used for activities that may, or may appear to, support or condone terrorist activities.

Charity trustees may commit a criminal offence if the charity is connected to or supports a proscribed organisation. Trustees must therefore put in place proper procedures for managing the risks of coming into contact with proscribed organisations, designated persons, groups or entities and take appropriate steps if the situation arises.

Even indirect or informal links with a proscribed terrorist organisation pose unacceptable risks to the property of a charity and its proper and effective administration. This may be an association with someone who is a known supporter of a proscribed organisation, or allowing a member of a proscribed organisation to influence the behaviour or activities of the charity. Examples of indirect or informal links to proscribed organisations include allowing or using charity premises, events, website or literature to support a proscribed organisation. Trustees must ensure that the risks caused by associating with such persons or organisations are properly assessed and managed.

HM Treasury maintains a list of all designated persons and entities whose assets have been frozen in the UK.

Legal requirement: it is a criminal offence for a person (including the designated person) to deal with funds or economic resources belonging to, owned or held by a designated individual or entity. It is also a criminal offence to make funds, economic resources or financial services, available directly or indirectly, to or for the benefit of a designated individual or entity.

The list of designated persons is available on the financial sanctions pages of HM Treasury's website: **Consolidated List of Financial Sanctions Targets in the UK** and further advice for charities on what this means for them is in Chapter 1 of the Compliance Toolkit

The Home Office maintains a list of terrorist groups or organisations banned under UK law which can be found on their **website**.

To ensure trustees discharge their legal duties, we recommend that trustees check prospective speakers and partner organisations against these lists as part of their due diligence and risk management procedures.

For more information, see the Commission's guidance **Protecting charities from harm: Chapter 1 - Charities and terrorism**.

Freedom of speech

In the context of running events and promoting literature, the laws on freedom of speech are also engaged. There is a right to freedom of speech, and for some charities, such as higher and further education institutions there are specific legal duties to respect freedom of speech, within the law. However, trustees must ensure that in respecting freedom of speech they are not failing to comply with other legal duties.

There may be instances when it is necessary for the trustees to curtail freedom of speech, for example, if they are informed that speakers at events within their control may:

- discriminate against a protected group
- commit a criminal offence
- incite others to commit criminal acts
- act in a way contrary to the civil or human rights of the individuals or the charity itself

J. Charity events and speakers

J1. Inviting speakers to participate in charity events and meetings

Short answer:

Trustees have a duty to protect the assets of their charity and avoid taking undue risks, which would include the risk of giving a platform to speakers who condone terrorism or other illegal activity, or who express extremist views.

There are a number of steps trustees should consider taking to manage the risks, although what trustees should do will depend on the charity, its activities and how often it holds events giving a platform to speakers. The higher the risks, the more a charity will need to do to protect itself. What action is reasonable and proportionate to take to ensure trustees comply with their duties, will therefore vary from charity to charity.

If trustees fail to implement appropriate measures to protect their charity they may find they are in breach of their duties as trustees.

In more detail:

Trustees should take a risk-based approach when organising charity events. The more frequent the events and/or the greater the concerns, the more trustees will need to do to provide sufficient assurance that their decisions to allow speakers a platform are in the best interests of the charity and furthering its purpose.

Trustees should ensure they consider and assess the risks and benefits of running an event, including:

- that the charity will be drawn into activities that are outside its purposes or means it is not complying with the public benefit requirement or that it misapplies its funds
- the risk of breaching the legal/good practice requirements on political activities and campaigning
- the benefits of the event and why it is in the charity's best interests
- the costs and financial risks
- the risks attached to the specific event, and how these might best be managed; these include public perceptions about the charity's independence, for example if a charity is supporting or opposing a policy that is also advocated by a political group
- any unintended consequences
- how best to evaluate the event's success and impact

In addition, here are some examples of the steps that trustees can take that will help them to manage the risks:

- have a clear policy and procedures for risk assessment and decision making in relation to inviting particular speakers (internal and external) to charity events and activities
- have clear criteria for determining if a speaker is a cause for concern
- where other organisations or groups are heavily involved or closely associated with an event, the risk assessment should include an assessment as to the suitability of a relationship with the partner organisations and any promotional material related to them

- ensure that the charity has an adequate level of knowledge about proposed speakers and close partners
- carry out due diligence checks on potential speakers and partner organisations including basic checks which aim to establish the extent of the risk of the charity directly or indirectly promoting inappropriate or extremist views
- carry out checks against the Home Office list of proscribed groups and against the HM Treasury list of designated persons and entities
- be alert to warning signs that a speaker may promote views that are illegal in the UK and/or intended to radicalise, and/or raise concerns about inappropriate political activities or public benefit issues, such as intolerance of other cultures, religions, ethnic groups, and age, sexuality or gender equality
- if a risk assessment identifies a sufficient cause for concern, obtain and consider a copy of the speaker's speech before giving approval for the speaker to deliver it
- provide a written briefing for speakers which sets out the charity's expectations and its requirements of speakers and how they should conduct themselves at an event. The briefing should make speakers aware of the charity's purposes and of its charitable status, of the key factors which they must consider, and are relevant to the need for their contribution to be consistent with charity's purpose. In some cases a more detailed briefing may be needed which could include the following specific provisions that speakers:
 - must ensure they do not do anything which would bring the name of the charity into disrepute or damage public trust and confidence in it
 - must not encourage, glorify or promote any acts of terrorism, including any individuals, groups and organisations that support such actions
 - must not incite hatred, violence or call for the breaking of the law
 - must not spread hatred and intolerance in the community
 - must be careful not to insult faiths, racial or other groups; and
 - are not permitted to raise or collect funds for any external organisation or cause without express permission of the trustees
- ensure that staff attending events and activities, and chairs of events, where there are invited speakers understand and follow the charity's policy and procedures, and are adequately briefed and tasked (for example, should they intervene if inappropriate comments are made?)
- ensure there are clear procedures in place for dealing with an incident/complaint and taking action, including where relevant disciplinary action, if the charity's policy and rules which govern decisions on inviting speakers is breached
- document and record decisions made on inviting speakers, particularly where they may be controversial, and the factors that were considered. This will provide evidence to demonstrate that the trustees have acted responsibly in the event of future challenge

As well as making an informed decision about whether to invite a speaker and run an event, trustees must be able to explain the reasoning behind decisions. Trustees need to be able to counter any criticisms that may arise - for instance that the event was not in line with the charity's purposes, or that the trustees or the speakers were pursuing an agenda linked, or perceived to be linked, to their personal political or other views.

Trustees must always have regard to their responsibility to use charitable funds and assets wisely, and only in furtherance or support of the charity's purposes. The more controversial an event or speaker, the more likely it is that criticism will arise and the spotlight will be on the trustees' decision making.

J2. Can someone with controversial views be invited to a charity event to speak?

Short answer:

Yes, but the trustees will need to be clear about how this will further the charity's objects and take active steps to manage the risks.

In more detail:

Some views may not be the norm or traditional. They may be controversial. That does not necessarily mean they cannot be promoted or supported by a charity. Expressing strongly controversial or partisan views is not illegal or unacceptable under charity law in itself, unless they are criminal. However, whether they are unacceptable for a charity to promote or condone under charity law will depend on the circumstances, what is said, when, who to and why, as well as how, if at all, they can be said to further the charity's purposes.

Trustees must not allow the charity to be used as a vehicle for the expression of the political views of any individual trustee or staff member (in this context this means personal or party political views) or as a vehicle for the expression of extremist, radicalising or other views which promote or support terrorism.

The trustees must be able to show that an activity is in furtherance of the charity's purposes. Even if this can be shown, expressing or promoting extreme, partisan or controversial views on a particular issue as part of that activity may compromise the charity's integrity, purposes or public trust and confidence in it. It may pose or result in risks to the charity's operations and other activities, or safety of its staff and volunteers.

Trustees need to assess these risks and manage them if they are considering inviting a speaker who has controversial or partisan views.

J3. Can charity speaking events be limited to a small and specific group of people?

Short answer:

Speaking events held by charities are normally be open to anyone with an interest in attending and not limited to a small defined group. However, it may, under some circumstances, be acceptable to set restrictions on who can attend if it can be shown that it is a lawful restriction which is reasonable and relevant to the charitable aim.

In more detail (legal requirement)

Charity law requires that charities are established and operate for charitable purposes and for the public benefit. Charities by definition are outward-facing and inclusive, not inward-looking or for private benefit. They should not be exclusive 'clubs' that only a few can join.

Speaker events are usually open to as many people as possible in terms of not setting restrictions as to who can attend unless they can show other ways in which the public benefit requirement can be satisfied. For example, the benefit may be to only a small group or 'section of the public' where restricting benefit is reasonable and relevant to the charitable aim. This means that restrictions must be legitimate, proportionate, rational and justifiable given the aim of the organisation.⁵

If a charity - such as a student society - runs a debate or education forum that excludes people and is only open to members of a particular group, this may be in breach of charity law requirements. Such speaking events must have the public benefit in mind. Charities should also consider their obligations under the Equality Act 2010 in deciding whether any such restrictions are necessary for the charity to further its purpose.

J4. What if the event is held on the charity's premises but is being run by another organisation?

Short answer:

Where a charity allows its premises to be used by another organisation to hold an event and the trustees have reason to believe or ought to know that the organisation may intend to use the event to promote extremist views and/or radicalising materials that would break the law, they must report their concerns to the police immediately and take steps to stop the event taking place.

In more detail:

If a charity has concerns about an event due to take place at its premises run by another organisation, it should report those concerns to the police immediately.

A charity may decline to allow a particular organisation or individual to use its premises because the organisation's aims or an individual's activities would conflict with the charity's purposes, or because of the risk of public disorder or of alienating the charity's beneficiaries or supporters (for example, an organisation which was associated with racist beliefs).

If a charity regularly hires out its premises and facilities, in order to protect the charity and its assets, it should ensure it sets clear terms and conditions for the rental/hiring agreement. Those terms and conditions could contain a clause which means the charity reserves the right to stop or prevent an event taking place where it has concerns about the event and/or where there is potential for the conditions of use to be breached. This could include where the charity has significant concerns that public order issues may take place, illegal and/or extremist views or activities are likely to be promoted at an event.

In some circumstances, the charity may decide to allow the event go ahead but insist on attending the event to monitor the proceedings and assess the risks itself. If the charity attempts to stop the event but is unable to, it may, depending on outcome, consider refusing to hire or allow the premises to be used again and/or report its concerns about the organisation to the police.

⁵ See Charity Commission guidance: **The Advancement of Education for the Public Benefit**

J5. Can someone with controversial views be a charity trustee?

Short answer:

Yes. However, expressing strongly controversial and partisan views may compromise the independence of the charity and make it unsuitable for the individual to act as a trustee. All trustees must act in the best interests of the charity and ensure any conflicts of interest are properly managed.

In more detail:

As part of their legal duties, trustees must use reasonable care and skill in the administration of the charity. This applies to both the trustees' own conduct and how they deal with concerns affecting the charity. They must also act in the best interests of the charity.

In terms of their own conduct, expressing strongly controversial or partisan views on a particular issue may compromise the charity's integrity, purposes or activities and may make it unsuitable for an individual to act as a trustee of that charity. This will depend on the circumstances, but could be regardless of whether those views are held or expressed in a personal capacity. Those views may conflict with the individual exercising their objective judgment in the interests of the charity and may interfere with the individual's ability to properly manage the potential harm to public confidence in their charity, and create risks to the charity's operations. In particular, it may undermine the charity's ability to deliver services to its beneficiaries.

If a trustee cannot carry out their role and comply with their duties, they should resign. If they remain in post but know they are unable to comply with their fiduciary duties as trustees, they would be failing in their duties and this would be mismanagement in the administration of the charity.

K. Extremist Literature

K1. How can a charity ensure it does not promote or support extremist literature?

Short answer:

Charities use a wide range of means to promote literature and educational materials. Examples include through electronic media, including television and radio, social media, including Facebook, Twitter and YouTube, or physical recordings, including memory cards, CDs and DVDs. Charities may also sell, use, distribute or otherwise promote literature at their premises, in prayer rooms and through bookshops.

Trustees must ensure that the risks associated with promoting material through these vehicles are assessed and appropriate measures are put in place to mitigate against those risks.

In more detail:

Many charities, by the nature of their work and the issues they deal with, will raise issues which some people find emotive. This can mean these charities' literature materials may frequently have an emotive content, and this is perfectly acceptable so long as it has a well-founded evidence base and is factually accurate.

However, it is not acceptable for charities to promote or use literature which is extremist in nature or radicalising material.

In addition, as with any campaigning material, trustees need to consider the particular risks of using emotive or controversial materials, which may be significant because of the risk to the public perception of the charity. Even if these materials in content do not breach the general law or charity law, trustees need to weigh up these risks up against the potential benefits, which might include enhanced public understanding and a change in attitude towards an issue.

More guidance on using controversial campaigning material is in **Speaking Out: Guidance on campaigning and political activities by charities (CC9)**.

There are a number of steps that trustees can take to reduce and manage the risk of the charity promoting or disseminating extremist literature or material, particularly where they regularly use or promote literature, and on controversial subjects. These include the following:

- have a clear policy and procedures for risk assessment and decision making in relation to literature which may be regularly used or promoted by the charity or which are made available at its premises
- have criteria and a clear framework for determining if an author or the content of any material is a cause for concern
- where an author is assessed as a potential concern carry out further due diligence including undertaking further checks (such as against the HM Treasury list of designated individuals and entities)

- in instances where a risk assessment identifies a sufficient cause for concern, a copy of the literature should be obtained and considered before approval is given for it to be disseminated at a charity event or made available at the charity's premises

In some cases, failure to take appropriate steps by trustees to protect the charity from undue risk by ensuring that no extremist literature or material is promoted or made available through the charity means they will be in breach of their duties.

The higher the risks, the more a charity will need to do to protect itself. What action is reasonable and proportionate to take to ensure trustees comply with their duties will vary from charity to charity.

K2. When will certain views or literature be inappropriate?

Short answer:

Trustees should take a common sense approach and remain vigilant so that, as a minimum, they identify and prevent literature or material that contains extremist views that are likely to be in breach of UK law from being made available by their charity.

In more detail:

When trustees assess literature or material that they may make available through their charity, they need to be aware and take into account that some content and views may be illegal. This includes, for example, views that promote violence, incite racial or religious hatred, or incite hatred that is targeted at particular groups in society such as those of a particular race, colour, gender, nationality or ethnicity. Extremist views that incite criminal acts or public order offences also break the law. Trustees need to consider whether literature and materials contain views that may encourage or glorify terrorism or promote terrorist aims or ideologies.

Trustees should also consider:

- whether it is appropriate material for the charity to use and promote, within its objects
- how controversial the material is
- what is the risk that the content is offensive to some people
- whether the content of material might be misinterpreted or have different meanings to different audiences
- how the public might react if they knew this material was being promoted or used by the charity and accessed by its beneficiaries
- what impact on public trust and confidence in the charity might this have
- whether it is likely to generate complaints, who from and how they might be responded to

K3. What if inappropriate material is promoted through the internet?

Short answer:

Trustees can report their concerns about online content (information, videos and pictures) the charity comes across to the police at the Counter Terrorism Internet Referral Unit (CTIRU), through the **GOV.UK** website.

If the content of concern involves the charity's own material, or is connected to the charity, the trustees must take appropriate steps to remove the material and deal with the incident promptly.

In more detail:

The legal framework for this work is provided by Sections 1 and 2 of the Terrorism Act 2006 (TACT) which creates the offences of encouragement of terrorism (section 1) and the dissemination of terrorist publications (section 2).

The Counter Terrorism Internet Referral Unit (CTIRU) is a dedicated police unit which assesses and investigates internet-based content which may be illegal under UK law. It takes appropriate action through the criminal justice system and/or by contacting internet service providers. Trustees or charities concerned about online material they come across through their work can make referrals to the CTIRU through the **GOV.UK** website. The website also explains how material which is unlawful or offensive can be referred directly to the company which hosts the relevant site and whose contractual terms of use may be breached by it.

Illegal terrorist or extremist content might include:

- speeches or essays calling for racial or religious violence
- videos of violence with messages of 'glorification' or praise for the attacker
- chat forums with postings calling for people to commit acts of terrorism or violent extremism
- messages intended to stir up hatred against any religious or ethnic group
- bomb-making instructions

If trustees have concerns about internet-based content which may be illegal, or charity staff or volunteers raise concerns, the trustees should take reasonable and prompt steps to address the concerns. This may include advising staff and volunteers about reporting to the police and checking this is done, or deciding to make a report themselves.

If the internet-based content involves the charity's own material, the trustees are responsible and must take the content down straight away if it is clearly unacceptable. Trustees should take steps to find out how the content was linked with the charity. They may need to consider how to prevent this happening again.

L. What risks and legal issues do schools and other educational charities need to be aware of?

Short answer:

A charity should not promote, display or use educational materials that contain biased or incorrect information about other people, groups or beliefs (for example, material that is anti-Semitic or homophobic).

Neither is it acceptable for any charity to promulgate extremist and intolerant views or to preach hatred, particularly against members of other religions and faiths.

In more detail:

Charity law gives a wide meaning to education and does not limit it to education in a classroom environment. Although education can have an uncontroversial broad value base, it should allow those being educated to make up their own minds on controversial issues. This means:

- researching and presenting information in a neutral and balanced way that encourages awareness of different points of view, where appropriate
- considering the arguments in an appropriate way related to the evidence
- if it reaches conclusions, those conclusions being based on evidence and analysis

In an educational context and as part of the learning process and in developing critical thinking skills, it is expected that students will be engaged in analysis, discussion and debate on difficult and controversial issues, which could include extremist views and ideologies. However, a charity cannot promote or endorse such views.

This also applies outside of the classroom or other direct educational provision. Charities need to be vigilant to ensure that their educational premises are not being misused to promote extremist views or activities, for example, through after school or extra-curricular activities, or through child care provision.

The legal requirements for educational institutions place clear obligations on many charitable schools to ensure there are safeguards against biased or unbalanced teaching or the promotion of partisan political views in publicly funded schools. These require that all reasonable and practicable steps are taken to ensure that where political or controversial issues are brought to pupils' attention, they are offered a balanced presentation of opposing views.

In addition, there is also a duty on publicly funded schools to promote community cohesion and there are further requirements in the independent school standards. Ofsted and the Department for Education have the role and remit to enforce these obligations.

In addition to these education regulations, educational establishments, including schools, universities, colleges and other organisations which have educational charitable purposes, must, under charity law, ensure that the provision of education is not done so in such a way so as to promote a political or extremist point of view. Therefore the general duties set out in this guidance above will also apply.

M. What risks and legal issues do debating societies and student unions need to be aware of?

Short answer:

Many charities are leaders in promoting democracy, the right to freedom of speech and civil liberties. But this must be balanced with ensuring that activities aimed at promoting these rights do not interfere with or deprive other people of their rights. For example, speech or literature which aims to make the lives of a particular group intolerable would not be protected under the right to freedom of expression.

In more detail:

Under charity law, all charities must work for the public benefit and must act to avoid damage to the charity's reputation, assets and associated individuals. All charities, including higher education institutions, debating societies and student unions can be challenged on whether they have given due consideration to the public benefit and associated risks when they, or one of their affiliated societies, invite controversial or extremist speakers to address students.

Student unions and higher education institutions should also take an interest in the activities and views being expressed within affiliated societies, along with literature and other materials that are made available and promoted in bookshops/bookstalls, in prayer rooms, through electronic media, websites and using social media spaces to ensure compliance with charity legislation, which includes provisions relating to human rights, equalities and political neutrality.

See **section I** of this guidance for further information on the wider legal framework.

N. What should I do if I am concerned that a charity is promoting extremist views in its activities?

If your concerns involve criminality, you should report these to the police straight away.

You should also inform the Charity Commission.

If the charity is an exempt charity, for example most English universities, academies, sixth form colleges and foundation and voluntary schools, you need to report to their principal regulator in the first instance. To find out whether a charity is exempt and who its principal regulator is, see our guidance **Exempt charities (CC23)**.

For other charitable organisations, you can report your concerns to the Charity Commission using our online **Reporting concerns about a charity** form available on our website. You will need to explain why and how you think the charity is promoting extremist ideas and whether you have tried to get the trustees to address your concerns.

If you are a trustee and are concerned about activities at the charity, you need to raise your concerns with the other trustees as soon as possible. If you feel unable to do this because it may risk your personal safety then you should report your concerns to the police and the Commission.

Legal requirement: charity law requires trustees to submit, as part of the Annual Return, information specified by the Charity Commission in its regulations. If a charity has an income over £25,000 the trustees must, as part of the Annual Return, sign a declaration that there are no serious incidents or other matters relating to their charity over the previous financial year that should have been brought to our attention but have not. If the declaration is not made then the Annual Return will not be complete and the trustees will have defaulted on the statutory requirement under section 169 of the Charities Act 2011. It is also an offence under section 60 of the Charities Act 2011 to provide false or misleading information to the Commission.

Given the serious and significant risk to the charity concerns about links to terrorism raise, trustees who properly discharge their duties will report these concerns immediately. Our **Serious Incident Reporting** guidance helps to explain what sort of incidents should be reported. These include:

- connections to proscribed (banned) organisations and designated individuals
- charity links to or support for terrorism, financial or otherwise
- misuse of a charity to foster criminal extremism
- fraud and money laundering

If the activity is a cause for concern and is continuing to take place, the trustees should take steps to stop the activity. If the activity has already ceased, the trustees should review what took place and take steps to ensure the concern does not happen again. This may mean revising or amending existing policies and procedures.

0. What will the Commission do when concerns are raised with it?

The Commission's regulatory role is to ensure that trustees comply with their legal duties and responsibilities in managing and administering their charity. When serious concerns about charities come to our attention we assess the issues in each case to decide the most appropriate course of action. Our regulatory focus is on the conduct of the trustees and whether they are appropriately managing risks so they are properly furthering the purpose of the charity, acting lawfully and maintaining public trust and confidence. If the trustees have effectively dealt with the matter, we may decide that there is no further action for us.

If we find a serious breach has occurred, we may need to take regulatory action. This is likely to include providing regulatory advice and guidance and placing the trustees on notice that they need to take action to resolve the matter. In some cases regulatory action could include a compliance visit which may check that this has happened or in itself result in the Commission requiring the trustees to take specific steps to further address or remedy the breach.

In the most serious cases we may need to open an investigation, even if the trustees are cooperating with us and the police. If the activities of concern do not stop, we may need to exercise legal powers against trustees to protect the charity. In some circumstances, the breach may call into question whether the organisation is in fact or ever was a charity.

P. Further information and resources

Protecting charities from harm:

- Chapter 1: Charities and terrorism
- Chapter 2: Due diligence, monitoring and verification of the end use of funds

Charities and risk management (CC26)

The Essential Trustee: What you need to know (CC3)

Hallmarks of an Effective Charity (CC10)

Speaking Out: Guidance on Campaigning and Political Activity by Charities (CC9)

Charities and public benefit

Prevent strategy