

All Party Group on Ethnic Minority Communities

Date: Tuesday 21 October, 3.30pm

Venue: Room 21, Parliament Buildings, Stormont

In attendance:

Political Representatives

Anna Lo (Chair - Alliance), Bronwyn McGahan (Sinn Féin), Colum Eastwood (SDLP), Noelle Robinson (Cllr, Green Party – on behalf on S. Agnew MLA)

BME Sector Representatives

Patrick Yu (NICEM), Kristyene Boreland (World Wide Women @ North Down), Joseph Ricketts (Afro-Caribbean Support Organisation NI), Frances Wong (Oi Yin Women's Group), Damaris Muchendu (Kenyan in Northern Ireland), Mark Caffrey (NICEM Mid Ulster and Down), Luke Kelly (NICEM), Nicholas Cassidy (Omagh Ethnic Communities Support Group), Fungayi Mukosera (ZIM Solidarity/NICRAS), Maria Lourenco (World Wide Women @ North Down), Lisa Lemon (Afro-Caribbean Support Organisation NI), Anwar Mady (Belfast Islamic Centre)

Others

Ann Watt (Electoral Commission)

Speakers

Aoife Morrisson (Charity Commission), Roisin McDaid (Electoral Commission)

Apologies

Political Representatives

Danny Kinahan (UUP)

BME Sector Representatives

Phoebe Wong (Oi Yin Women's Group), James Holmlund (Baha'i Council for NI)

1. Apologies

2. Approval of Minutes of last meeting - Minutes approved

3. Matters arising from last meeting

- Draft of motion debate circulated to those present. Attention drawn to third paragraph – request for amendments to be made after consultation with party colleagues. BMG asks for clarification – PY and AL confirm that wording of third paragraph is what will be put forward for motion debate on behalf after circulation. Will check with Business Committee to ascertain whether it will be put forward as 'All Party' or 'All Party Group' motion.

4. Presentation from Ms Roisin McDaid (Electoral Commission) on the new law on political campaign for Westminster Election in 2015 and the Charity Commission on the new Charity Law on political campaigning

- Non-Party campaigning rules in force since May 2014 in the run up to 2015 Westminster Elections. Only certain types of campaigning captured by these rules.
- Electoral Commission are independent body – ensuring transparency and issuing guidance are key focus: people must know where the money is coming from to support campaigning activities.
- Guidance issued since July 2014, consultation across UK (50 roundtable events, 1 held in NI; supported by online survey that helps focus on areas most important to campaigners) Small edits made to guidance following consultation events. Guidance issued in 4-stage interlinked structure available online: level of detail increases as one moves through the four documents. Supporting fact sheets have been published. FAQ section of Electoral Commission website continually updated.
- Rules did exist before, but scope of the rules has been widened to cover a greater range of activities. These rules only apply during election campaign periods. Key changes: i. wider range of activities regulated ii. registration threshold have changed (only need to register if spending over £10,000 on certain types of campaigning) iii. focused constituency spending rules iv. working together rules (impacting on joint campaigns)
- Gave overview of types of regulated campaign activity. Activities are only regulated if they pass the ‘gateway test’ - no automatic regulation – depends on how the activity is carried out. Gateway focuses on ‘public nature of activity’ and if it ‘influences how the public will vote’.
- Only if it satisfies this ‘public test’ above does it pass to ‘purpose test’ where we consider if a campaigning activity is negative in terms of party representation, consideration of timing, party stances on the issues, call to action – are you asking people to vote in a particular way through your campaigning message? *How would a reasonable person see the campaigning activity?* Overall context of the campaigning activity is key.
- Members and committed supporters (who support an organisation in a way that is similar to members eg. occasional donors, volunteers) are not considered to be members of the public. Mailing list contacts will generally be regarded as public.

- Lobbying politicians does not mean you are lobbying the public. This has emerged as a commonly asked question. Roisin McDaid (RMD) refers members present to leaflets for more detail on the Public and Purpose Tests.
- If you decide that you will be campaigning you need to consider your spend on regulated campaigning activity. It is only necessary to register with Electoral Commission if total spend until May 2015 is £10,000 or more. A flow chart will always help clarify (provided in leaflets).
- If you are not spending on regulated campaign activities, if your activities take place outside of the run up to elections, or if you are spending less than £10,000 it is not necessary to register with Electoral Commission.
- Electoral Commission are here to help. Thanks members for opportunity to provide brief overview. Webinars are available to sign up to via the Electoral Commission website – running through October and November 2014.
- Anna Lo (AL): Who are registered non-party campaigners? RMD: This is the general term for campaigners. Anyone who campaigns in the public arena that campaigns in a way that might influence public to vote during the run up to election. AL asks for example. RMD: Charities, not for profit eg. Amnesty NI. AL: What if they campaign for certain parties? RMD: If it is clear that a policy closely associated with one party is being challenged through an activity, it could reasonably be seen as an encouragement not to vote for that party. See Purpose Test guidance. For political parties usual campaigning rules would apply.
- Patrick Yu (PY): Welfare Reform Bill raised as campaign issue, significant impact on ability to influence people to vote. In general, we encourage people to vote, promote participation. However, tighter regulations than before. In the past, individual party candidates have been too closely linked with BME organisations – important to be careful that individual political aspirations do not impact on integrity of BME groups.
- AL refers to NI21 situation – two BME representatives encouraged BME vote through the influence of their organizational contacts and community network, then near the deadlines ran as candidates for council elections. The initiative to increase the BME vote was OFMDFM funded and a clear conflict of interest. RMD: To clarify, encouraging public to vote is not itself regulated. Candidate rules kick in subsequently. PY and AL raise the point that in this instance the two are interlinked. AL: They were high profile individuals within the communities and one was involved right up until the campaign saw her

become a candidate. RMD: Again, from Electoral Commission perspective difficult to prove.

- Ann Watt (AW): if a key individual came out in support of a party this would be concerning for Charities Commission. Seen as a 'very significant risk'. It would necessitate 'consideration of (temporary) resignation' to avoid a scandal. Additionally, use of funding in this manner could constitute a breach of OFMDFM funding rules. Aoife Morrison (AM): If OFMDFM funded this campaign activity, then the nature of activity changed this should be a concern for OFMDFM. Individuals concerned could not remain in a decision-making role in their respective charities and be elected, as this could create a conflict of interests.
- Fungayi Mukosera (FM) – to clarify, is an investigation necessary in such an instance? RMG: whilst understanding your concern on the ethical issue raised, only when campaigning in a party political way will these Electoral Commission rules kick in. Nothing in electoral law stopping people becoming a candidate. AW: a charity cannot decide to become a political body – your funds MUST be used for charitable purpose. You would not be able to do this and the Charity Commission would investigate such an activity.
- PY refers to Westminster bill. Regulation is clear– current regulation should be sufficient. RMG: yes, and we have issued joint guidance with Charities Commission across the UK to identify and expand on overlap.

Aoife Morrison (Charities Commission) continues:

- Almost 480 charities now registered with Charities Commission since December 2013. Register of Charities mean it is now compulsory for charities to be registered with Charities Commission. 7-12,000 charities approx in Northern Ireland - all being asked to come forward by Charities Commission.
- Charities are close to communities, beneficiaries and parties. Uniquely placed to lobby. Charities Commission want to see charities use voice and be effective, using their freedom'. Limitations are specific.
- Charity regulation until now: self regulation, no compulsory registration. HMRC held the register on basis of tax/gift aid. DSD also had some responsibilities. NI are now in line with other jurisdictions in UK. Charity Commission now has investigatory powers with ability to suspend or remove charity trustees if misconduct has occurred. We provide consent for charities to change purpose for example, authorising transactions such as payment of a trustee; we can offer advice and guidance (website continually updated – but can contact us directly)

- Political purposes: charity cannot be established for political purpose. Charity defined by purposes (12 broad categories contained within our legislation) and must be established for 'public benefit'. Purpose is different from activities – a political purpose would be group established to oppose or support a change in the law, an organisation established for this reason is not charitable – we cannot in law state that it is for public benefit. For example, advancing health by campaigning for change in law or abolishing death penalty around the world are not for public benefit under this legislation because they engage with the law.
- Charity must have 'exclusively' charitable purposes, cannot be a charitable even if only 1 of the charity's 10 activities are political activity. Purposes should be clear in the charity's governing document and fully scrutinized when they register with Charities Commission.
- Colum Eastwood (CE): what if they have vague purposes and then simply carry out political activities? AM: we will ask for annual report and public benefit statement – we might address activities and decide if they are in fact operating as a political organisation.
- AL: is it possible for a charity to influence policy to benefit public? AM: potentially: eg. Human Dignity Trust - set a precedent for organisations whose activities might be to make sure their country pays due consideration to international law, ensuring law is well-administered. There is a distinction between a charity having political purpose and taking political actions – a charity must have exclusively charitable purposes.
- CE: Do the Charities Commission establish whether international or national law takes precedence? AM: If a country has signed up to an international mechanism and wasn't fulfilling their obligation, then it may be possible that an activity could be to influence policy to ensure 'rights set out in law are achieved' CE: If national law contravenes international law, can a charity be set up to change national law? AM: There will be no allowance made for organisations that are established to change the law – only to encourage to 'fulfill legal obligations'.
- PY: NI charity law has lagged behind UK law for more than a decade. AM: Not every good cause is considered charitable eg. The National Anti-Vivisection League. Established to change the law and so cannot be considered a charity.
- Political activities and campaigning - what you can do? Speaking out is powerful and legitimate. Understanding this varies with time, charities to meet certain criteria i. Solely to advance charity purposes ii. Must be permitted in governing doc iii. must remain independent of party politics iv. Activity must be in interests of charity, with trustees

acting in due care - consider the risk, have strategy in place – is the action still in best interest of charity?

- AL: Regarding elections – charities lobby parties – requests for party position. How does this affect charities? AM: Charities might want to set out range of positions across all parties. Tone is very important when awareness raising. For example, a BME support group can lobby politicians, but cannot be established for the purpose of doing so. Engaging with consultations. Call for existing legislation to be adhered to. Can focus resources on this for a time but should not be sole activity.
- Examples given with reference to case studies on slides. Focusing on parties rather than political issue is not acceptable. Charity funds must be used in a way that is clear in governing document.
- Noelle Robinson (NR): Are charities removed from register if their activities are conflicting? AM: Trustees given guidance and advice – if misconduct or mismanagement, will advise to stop, remove trustees or install interim board in worst case. Evidence based concerns will need to be presented. Risk assessment before follow-up. Commission seeks to avoid removing charities from the register, as this places them outside of their jurisdiction.
- Joseph Ricketts (JR): what if the group has been established to promote religious activities? AM: Charity can have a number of purposes – if purposes are out of date they can be amended or added to through Charities Commission. A charity cannot act outside of purposes. For example, to support asylum seekers and then act outside of purpose by promoting religion then they must either cease or amend governing document. If activities are listed, then this is acceptable. Charities and Politics Guidance available from website. Reference to checklist on notes for quick guidance.
- AL: You estimate 7-12,000, yet only fraction registered so far. AM: Since December 2013 AL: Deadline? AM: When called forward to register charities have 3 months. If you currently have a code XR or XN you should be on Deemed List – 11 sets of organisations have been called forward so far. New or existing charities can complete an Expression of Intent. We can't just open to all. Over 3,000 called forward to date. 1000 application made to date. 470 registered from this so far. Existing charities should be completely registered in about 3 years time.

(Division Bell – AL passes Chair to PY. MLAs leave room.)

- Anwar Mady: With reference to Board of Trustees. What is the case if we have Board of Trustees, Hon. Members and an Executive Committee? AM: Executive and Management Committee control

direction and strategic oversight. Honorary Trustees are not who we are looking for. If not sure, please check with us.

- PY: Any members present aside from NICEM and SECA (not present) registered so far? FM: we experienced issue of presenting financial statement etc. - what are the advantages of registering? At moment it seems to be potentially negative for charities. AM: It is now the law. You will be breaking the law if you don't register. A lot of funding streams will only be open to registered charities and it will improve trust with funders who are used to the system in England and Wales, where charities have had to register for many years. Access to funding is key. We will try to streamline processes. A lot of online info. We will work with HMRC and companies house to streamline process. Your organisation will be listed on public Register of Charities - increasing levels of trust from beneficiaries, funders and potential donors who can search by area, purpose and name of charity. We ask for a statement of public benefit. We don't ask for any info that charities were not already required to keep.
- Maria Lourenco: is the public register online already? AM: Yes. The current 470. All will be listed. Annual update and accounts provision will all be in public arena.
- NR: As a political representative involved in charity, is their status compromised? AM: Careful to manage conflict of interest. Declaring funding. Running for public office or campaigning public, can be no suggestion of charity endorsement of private interest.
- JR: Possible for civil servant, diplomatic and councillor involvement on Committee? AM: Yes, but manage interests. If too great a conflict they must register conflict of interest.
- Kristyene Boreland: Volunteers and paid staff must be considered? AM: Depends on charity – typically it is Trustees and Management Committee we are interested in.
- Application – two members so far registered SECA and NICEM. All organisations can do it – regardless of staff/volunteers. PY suggests we need to work to inform and train communities to complete registration.
- FM: Is the process free? AM: It is free, for this to change all political parties would need to come together to change legislation. If invited to come forward, free support workshop. SECA found it worthwhile and straightforward process. No more than 2.5 hours at most to complete app. Charities Commission will support.
- JR: Many small national groups without registration, are they operating outside the law? Timeline? AM: Groups have until the end of this year to come forward.

(DM leaves room)

- Expression of Intent must be submitted before end Dec 2014.
- PY all must complete the Expression of Intent, this will be required by funders. Could impact on funds. AM: NICEM is registered as a helper group. Point of contact for questions. List of helper groups on website.

(NR leaves room)

- FM: Do you have a strict guideline for getting documents in order?
AM: Signed pdf copy of governing document, trustee declaration and recent bank statement. Only things needed – supported by online tutorial. We will take copy of accounts and reports in current form. Annual update on information required once register is in place. DSD will make regulations in time on format of account. Reporting on ‘next full year’ – ie. 2015-16 if you register now. Plenty of time.
- PY: a model constitution for small organisations is available from Charities Commission website.

JR and Lisa Lemon leave

5. AOB

- PY: Question from Minister – to report at next meeting. **ACTION POINT**
- PY: RE NI21 – PY will talk to Chair to see if measures have been taken since then. Aware funds were stopped but need to ascertain will it be paid back. **ACTION POINT**

6. Date of next meeting

- **Tuesday 18th November 3.30pm**