

Regulatory Case Report

Tomorrow's People Trust Limited

Registered Charity Number 1102759



This is a Regulatory Case Report of the Charity Commission's assessment of concerns raised about the contribution of Tomorrow's People Trust Limited ('the Charity') to the General Election manifesto of a political party. The Commission's Report is published on 13 August 2010.

The Charity's contribution to the manifesto of a political party issued at the time of the General Election raised concerns that the Charity may have or may have been seen as providing and encouraging general support for a political party. The support of a political party is not permitted under charity law, and as such this issue has the potential to impact not just on the work and reputation of the Charity, but also on public trust and confidence in charities generally.

Having regard to the principles of best regulatory practice, the Charity Commission ('the Commission') has decided to publish this Regulatory Case Report¹ on its recent assessment into this charity.

This report also identifies issues for the wider sector.

The Charity

1. Tomorrow's People Trust Limited was incorporated in January 2004 and is governed by a Memorandum and Articles of Association as amended by special resolution dated 18 June 2009. It was entered onto the Commission's Register of Charities on 22 March 2004.
2. The Charity's objects are:
 - 1) to further the education and training of persons and in particular young persons by providing them with opportunities of work experience and of such training facilities and educational courses as will enable such persons as aforesaid to acquire and develop professional vocational and special skills; and
 - 2) such other charitable purposes as the trustees shall from time to time determine.²
3. The Charity describes itself as follows:

"An independent employment charity which works nationally with the long-term unemployed, helping people overcome personal barriers so that they can move into long-term, sustainable jobs. Our objective is to help those who are furthest from the labour market to get and keep a job, by preparing them for work and supporting them through their individual return-to-work programmes."

¹ More information on Regulatory Case Reports can be found under 'Our regulatory activity'.

² The Charity's objects, as stated in their governing document, are published on the Charity Commission's website:
<http://www.charitycommission.gov.uk/SHOWCHARITY/RegisterOfCharities/CharityFramework.aspx?RegisteredCharityNumber=1102759&SubsidiaryNumber=0>

4. The Charity's accounts for the financial year ending 31 March 2009 show an income of £7,981,260 and expenditure of £7,620,171. The charity's income includes £6,717,834 funding from regional Government Offices, local authorities and the London Development Agency.

Source of concern

5. On 19 April 2010 a concern was raised with the Commission about the Charity's contribution to the Conservative Party manifesto³ ('the Manifesto'). The Manifesto featured comments from Debbie Scott⁴, the Charity's Chief Executive, about the work of the Charity and the single Work Programme of the Conservative Party ('the Party'), supported by a full page photograph of the Chief Executive.
6. The Charity's contribution to the Manifesto raised concerns for the Commission that in agreeing to appear in the Manifesto and supporting Conservative Party policy the Charity was endorsing the Party generally. This called into question the Charity's impartiality and independence from party politics.
7. The Commission took the view that these issues constituted a potential infringement of the charity trustees' duties and responsibilities and the Commission's published guidance on charities engaging in political activities⁵, and therefore warranted further examination.

Issues Examined

8. The Commission's Compliance assessment case⁶ was opened on 20 April 2010, and concluded on 27 May 2010.
9. The purpose of the Commission's assessment was to determine if the Charity had acted inappropriately, by directly or indirectly supporting or endorsing the Party by contributing to its election manifesto.
10. As part of its assessment, the Commission immediately engaged with the Charity in order to obtain further information. The Commission also reviewed the extract of the Manifesto which featured the photograph and comments of the Charity's Chief Executive.
11. This was the Commission's first engagement with the Charity regarding concerns of this nature. The trustees have co-operated with the Commission's assessment and accepted the regulatory advice and guidance provided.

³ http://media.conservatives.s3.amazonaws.com/manifestomanifesto/cpmanifestomanifesto2010_lowres.pdf

⁴ Debbie Scott now Baroness Stedman-Scott was introduced to the House of Lords on 19 July 2010 as a working peer.

⁵ *Speaking out: Guidance on Campaigning and Political Activity by Charities* (CC9) and *Charities and Elections*.

⁶ The assessment was conducted in accordance with the Commission's published *Risk and Proportionality Framework for its Compliance work and guidance Complaints About Charities* (CC47).

Findings

12. As a result of its Compliance assessment, the Commission's findings are as follows:

Legal context

13. The Commission has published guidance on the extent to which charities can engage in political activities. In relation to support for a political party, our guidance is clear that a charity cannot give support to any one political party. To support a political party is not in itself a charitable purpose. However, a charity may give support to a specific policy which is advocated by a political party. A charity cannot give general support to a political party, because all political parties have a range of policies. So if a charity endorses a party because it agrees with one policy, it is effectively supporting the party as a whole and will be endorsing the party's wider policies, which are nothing to do with the charity's purposes. While support for a specific policy may be an important way of contributing to a charity's purposes, support for a political party even when it advocates a policy that the charity supports, is not open to a charity. A charity cannot give financial support, or support in kind, to a political party.

Summary of events

14. The Charity was approached by the Party and asked to provide a 'case study' for their Manifesto. The Charity understood that other charities would also be submitting similar pieces. The Charity informed the Commission that their involvement in the Manifesto was to support a specific policy – the single Work Programme – and they were not giving broad endorsement to Conservative Party policy as a whole.
15. The charity informed the Commission that they did not intend to review the Manifesto other than the extract containing the Chief Executive's comments and photograph. The Charity also informed the Commission that they were not then given the opportunity to comment on or sign off the extract of the Manifesto containing the Chief Executive's comments and photograph before it was published.
16. The Charity informed the Commission that the wording and emphasis of the Chief Executive's comments were changed without their knowledge or consent. They advised that the prominence and positioning of the Charity's contribution, including the photograph, in the Manifesto was greater than they had anticipated or would have approved.
17. The Commission acknowledges that the published version of the Chief Executive's comments was different to the comments that the Charity had submitted. However, the Commission concluded that both the submitted and published versions of the Chief Executive's comments favourably compared the Charity's view on welfare to work strategies with the Party's single Work Programme policy.

18. Following the publication of the Manifesto, the Charity has raised concerns with the Conservative Party about the way in which the Chief Executive's comments were altered.
19. It is clear from our engagement with the Charity, that in agreeing to contribute to the Manifesto, it was not the Charity's intention to provide or encourage support for the Party.

The charity's decision making

20. The Charity has a Communications Working Group comprising two trustees, the Chief Executive and the Marketing and Communications Director. Under the agreed delegation procedures of the Communications Working Group, the decision to contribute to the Manifesto was made by the Chief Executive and the Marketing and Communications Director. The trustees were made aware of the decision to contribute after the information had been submitted to the Conservative Party.
21. The trustees have confirmed that they fully supported the decision that was made to contribute to the Manifesto and accept that the comments made by the Charity's Chief Executive were made for and on behalf of the Charity.
22. The trustees assert that the purpose of contributing to the Manifesto was to influence the policies of the Party in the interest of the charity's beneficiaries. The trustees told the Commission that they believe that the version submitted would not have breached the legal and regulatory requirements as set out in the Commission's published guidance on charities and political activities if, as the charity expected, the original text had been used; if it had been accompanied by a thumbnail photograph and if the piece had been part of a number of endorsements from other charities.

Evaluation and management of risks

23. The Charity did take some steps to manage and mitigate the risks associated with contributing to the Manifesto by following their usual practice of also approaching the other major political parties to offer to comment on their welfare to work policies. However, none of these offers were accepted.
24. The trustees were not able to demonstrate that they, or the delegated group, had sufficiently considered and managed all the risks arising from the decision to contribute to the Manifesto. In particular, the trustees did not consider the possibility that changes may be made to the content of the Charity's submission or that it may be used for the benefit of the Party rather than that of the Charity and its beneficiaries.
25. The Commission recognises that certain steps were taken to mitigate the risks to the Charity and maintain its political neutrality. However, the Commission concluded that these steps were insufficient to protect the Charity's reputation and independence from party politics. As such, the perception of the Charity's independence and political neutrality has been adversely affected.

Conclusions

26. The Commission was unable to see how the trustees could have properly discharged their legal duties and responsibilities and complied with the guidance on charities and political activities by contributing to the Manifesto. An election manifesto is, by its nature, a party political publication which taken as a whole promotes a political party and its policies in order to secure votes in an election. Its aim is to present the party in the most favourable light in order to secure votes and any material within it, including any contribution by a charity, will be there to further that aim.
27. By agreeing to contribute to the Manifesto, the Charity has provided support to the Party and this is the case even if the contribution was only intended to support the single Work Programme. The Commission was unable to see how this decision would not adversely affect the Charity's independence or fail to be perceived as providing or encouraging support for the Party policies as a whole. Appearing within the Party's manifesto has called the Charity's independence and political impartiality into question because it can be seen to be an endorsement of the wider policies of the Party.
28. In the Commission's view the decision to contribute to the Manifesto was both high risk and novel and as such it was inappropriate for this to be delegated. This decision should have been considered by the full board of trustees, although given the circumstances it could not have been approved, even by the full board of trustees.

Outcome

29. The Commission provided the Charity with advice and guidance regarding the legal and regulatory requirements that must be complied with by charities and the risks associated with any engagement within the political environment. In particular, the Charity was made aware of the importance of protecting its independence and perceptions of its independence in its links and associations with any political parties. The Commission has received assurances that the Charity strives to remain independent of party politics at all times.

Issues for the wider sector

30. It is a fundamental principle that charities must remain independent from party politics and cannot give support to a political party, politician or candidate.
31. During an election period, the need for impartiality and balance is intensified, and charities must take particular care when undertaking any activities in the political arena to ensure that the charity's independence is maintained and that there is no perception that its independence is being adversely affected by the charity's activities.

32. Contributing to an election manifesto or any party political publication would have the inevitable result of providing or encouraging support for a particular political party, or at the very least, the perception of doing so. As a charity cannot support or encourage support for any political party, the Commission is unable to see how a charity could demonstrate that it had sufficiently considered and managed all the risks arising from a decision to contribute to an election manifesto or party political publication.
33. It is permissible for a charity to seek to influence the policies of a political party or parties where this will contribute to the delivery of its own charitable purposes. Where a charity's policy position on a particular issue is similar to or coincides with that of one of the political parties, it is also acceptable for the charity to continue to campaign on that issue and advocate its adoption. However, where it does so, the charity must emphasise its independence from any political party advocating the same policy and do nothing to encourage support for any political party.
34. During election periods, charities must steer clear of explicitly comparing its views (favourably or otherwise) with those of the political parties or candidates taking part in the election. The key point is that whilst charities can attempt to influence public opinion on a particular issue, if it furthers or supports their objects, they must leave it to the electorate to make their own decisions about how to vote.
35. The independent nature of the charitable sector is of fundamental importance to society, and is greatly valued by the public. Trustees of charities which engage in political activity, or with people in the political arena, should pay particular attention to the inherent risks associated with the nature of the work they undertake. Where risks are identified, trustees need to be satisfied that such risks can be sufficiently managed or mitigated. Whilst charities can engage with political parties and politicians, in doing so they must always ensure the political neutrality of the work they do. This means that a charity cannot champion or otherwise support the Government, one political party and/or discredit another.
36. It is legitimate for trustees to delegate decisions regarding the day-to-day management of a charity to staff and others. However, where they do so, the trustees must always retain ultimate responsibility and accountability for all decisions that are made. Trustees must ensure they have established clear and robust reporting procedures and lines of accountability. High risk and novel decisions should not be delegated but considered and authorised by the trustees. Appropriate guidelines should be drawn up to help those making decisions on delegated committees to assess what is likely to be high risk or novel.

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