

Government response: Updated guidance to support trustee decision-making

The Charity Commission has today published updates to Chapter 5 of its guidance '[Protecting charities from harm](#)', which supports charity trustees to manage some of the challenges associated with hosting speakers and debates.

In our [evidence](#) and [response](#) to the Joint Committee on Human Rights inquiry into freedom of speech in universities, we committed to updating this guidance as we recognised it has not always been read in the manner in which it was intended. The Commission's published guidance sets out areas of charity law and practice, and assists trustees in the practical application of key principles.

In publishing the updated guidance, Aarti Thakor, Director of Legal Services at the Charity Commission said:

Charitable students' unions and higher education providers play a vital role in providing space for discussion and debate, encouraging students to develop political awareness, to challenge their own views and perceptions and to exchange ideas on a range of issues.

It is clear that freedom of speech can be integral to charities' activities in carrying out educational purposes. However it is known that freedom of speech is a qualified right and it must not be used as an excuse to fall short on legal duties. In engaging with and providing these important opportunities for their members, trustees must ensure they put their charity's best interests first, and limit any undue risk of harm.

We want to see all charities thrive for the betterment of the communities they serve. This updated guidance will help trustees ensure balance and make good decisions, bolstering their positive impact on society.

[Chapter 5](#) of our toolkit on 'Protecting charities from harm', which is designed as guidance for all charities, not just students' unions and higher education providers, has been updated to help charities that regularly host or hold events at their premises, use speakers at events or distribute literature (whether or not produced by the charity), to further their charity's purposes through the promotion and exchange of views and ideas.

The guidance is clear that the right to freedom of expression is an important element in furthering educational charitable purposes, and enabling debate and discussion is an important part of this. This guidance should not be used to prohibit those with lawful, albeit unpopular, views.

The updated guidance:

- Highlights the centrality of freedom of speech to charities with purposes to advance education
- Stresses the positive and important role students' unions and higher education providers have in the context of free speech and in educating through activism and discussion.
- Stresses what charities can do in order to support trustees to support charity trustees to manage some of the challenges associated with hosting speakers and debates
- Places due weight on the fact that inhibiting lawful free speech could damage a students' union's reputation, including their independence and credibility

Operational Guidance

The Commission has also updated its operational guidance on students' unions (OG48). This is internal guidance, produced to support Commission staff in their casework, that is published by the Commission for transparency reasons. The guidance was created in 2010 when students' unions were first required to register with the Commission.

Our review of this ensures it now:

- Sufficiently reflects relevant aspects of freedom of speech when students' unions carry out activities
- Ensures a clearer distinction is made between the trustees of students' unions, and the obligations that are specific to them, as opposed to the student societies themselves and their broader membership

The updated guidance is available to download here: [Charity Commission OG48 Students' Unions](#) (PDF, 503KB, 16 pages)

The Commission's [response](#) and [written evidence](#) to the Joint Committee on Human Rights inquiry into freedom of speech in universities is available on GOV.UK.

Ends

Notes to editors:

1. The Charity Commission is the independent regulator of charities in England and Wales. Read more about our work via the About Us page on [GOV.UK](#).