FUNDERS MAKING CHANGE:

ENGAGING IN PUBLIC POLICY

TABLE OF CONTENTS

📁 SECTION ONE

WHY SHOULD FUNDERS ENGAGE IN POLICY WORK?

> *"Charitable status (and its financial benefits) creates a moral imperative to pursue the public good and to be engaged as policy advocates in political and ethical debates about policy and social change."*
>
> **Dr Roger Gibbins,** Max Bell Senior Fellow, 2015-2016

This guide is for charitable private funders considering or already engaged in the work of developing better public policy. For many private funders, the idea of engaging in public policy work may seem to be outside of their purpose as philanthropists. Yet the context, framework and direction provided by public policy can have profound impacts on the achievement of funders' desired outcomes. So, the decisions made by policy makers must be taken into consideration in designing any philanthropic strategy. But should foundations involve themselves in the policy process? This guide argues that they can and that where possible they should, if their purpose is to create public benefit.

Most foundations in Canada would describe themselves as arms-length funders of other charities. Yet foundations can and do play other roles that lend themselves to changing and improving public policy. They convene dialogues, bring together issue experts, commission original work and operate their own programs. While many foundations don't choose to speak out themselves, they strengthen the voices of others, or create spaces for dialogue and the expression of views. Going beyond this, some foundations use their own voice to highlight questions that matter in the public space. They use many tools, especially in the digital space, such as newsletters, reports, or websites, to speak on social and economic issues.

Even if foundations rarely advocate directly for an explicit policy position or a course of action to take, it is certain that public policy development is an essential tool if their mission involves changing the systems that make our society less equal or less inclusive. In a sense, they are compelled to do so, as Dr Roger Gibbins, a former Senior Fellow of the Max Bell Foundation, has noted: "The very concept of a charity carries with it an obligation for policy advocacy that sets charities apart from the private and more broadly defined nonprofit sectors. In short, charitable status confers a privileged position that comes at a price: that charities necessarily assume a moral obligation to pursue the public good."[1]

Through their funding and other resources, Canadian foundations have been essential to many important public policy changes of the last two decades: the Canada Child Tax Benefit, the Registered Disability Savings Plan, the Portable Housing Benefit, the Ontario Greenbelt, Community Benefits Agreement, the Great Bear Rainforest (Forest Protection) Act and others. Foundations are active in a wide range of policy areas, including poverty reduction, youth homelessness, decent work and youth employment, environmental protection and indigenous reconciliation initiatives.

With the introduction in 2018/2019 of new legislation and guidance from the federal government around what are called Public Policy Dialogue and Development Activities (PPDDA), charitable funders have more clarity and flexibility with regard to engaging with public policy-makers. **This guide will outline the new PPDDA rules and regulations, describe what you can and can't do as a charity, and provide brief stories and case studies** of the many ways that Canadian funders are already engaging in public policy creatively and with meaningful results. The guide is written for foundations or funders registered as charities in Canada.

[1] Roger Gibbins, The Moral Imperative For Policy Advocacy, February 2016

HOW CAN FUNDERS ENGAGE IN POLICY WORK?

"Good public policy improves the lives of Canadians, and contributions from charities can significantly improve the public policy that governments make."

Allan Northcott, President, Max Bell Foundation

There are many ways that funders can engage in public policy. To break it down in broad terms, the work of public policy can be grouped into two areas: **development of policy options,** and **advocacy for specific options.** Policy development includes issue identification, exploration and policy design. Policy advocacy includes consultation, communication, awareness building and engagement with policy makers. One way of looking at this is to visualize the policy development process as a circular one. Visualizing the process helps to pinpoint where philanthropic interventions can happen.

Policy development itself begins with identification of issues. Issues can be identified or explored through research, front-line data collection, community debate or expert discussions. Identification is followed by policy design, which is most often done by policy makers within government, but which can be initiated or improved by input from community organizations, policy think tanks, universities, policy labs and other expert contributors. The process of selecting, approving and implementing policy options is fostered through advocacy of specific options, including consultations and meetings with public decision-makers (elected or civil service). Once a policy been implemented, evaluation and feedback on results and impacts are important to identify issues arising and to make needed adjustments to design. Funders at this stage can fund evaluations and impact measurement.

POLICY DESIGN

ISSUE IDENTIFICATION

POLICY ADOPTION

ASSESSMENT

POLICY IMPLEMENTATION
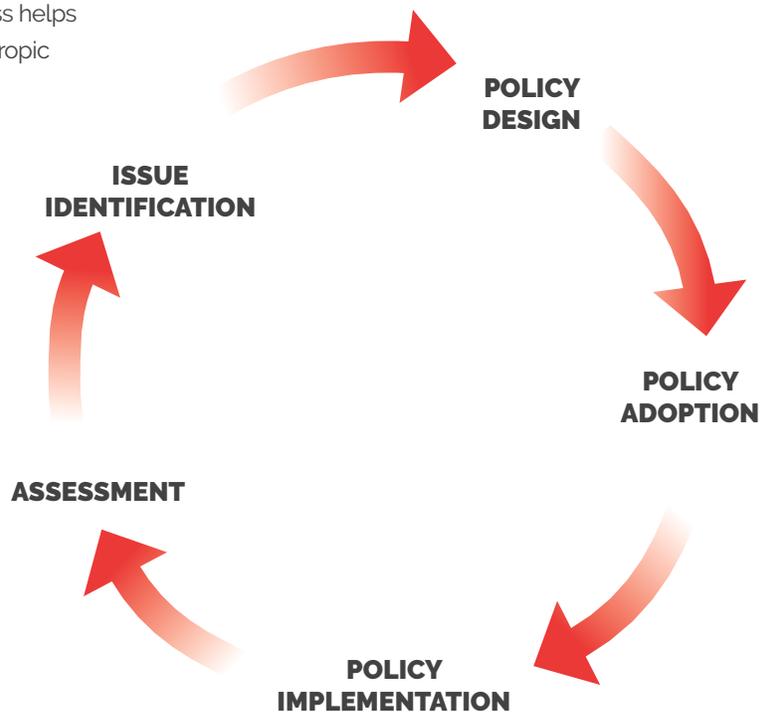
With a picture of these aspects of policy making in mind, charitable funders can choose from among multiple strategies. **Here are some of them:**

PUBLIC POLICY DEVELOPMENT	PUBLIC POLICY ADVOCACY
Fund other charities to conduct policy research	Build public awareness of policy options through funding of charities to do advocacy work
Conduct policy research yourself as a funder	Work through own specialized staff to advocate externally
Build capacity for public policy development within the charitable sector	Encourage communities to mobilize and advocate for policy options
Support networks to promote collaboration among charities and policy developers	Organize candidates' meetings or communicate with all parties to solicit views on policy options during a campaign
Convene interested or expert groups to exchange on policy ideas and data	Present policy briefs to legislative committees and participate in public hearings
Participate in funder tables or fund social innovation labs to help develop policy options	Publish open letters or make statements to media about a policy issue or perspective

Whichever strategies they choose, funders working on either public policy development or advocacy should keep certain factors in mind: the policy process can be lengthy, complex, involve many players, and take turns that are unexpected. Public policy-making can be messy, lengthy and full of surprises. Patience is required. Persistence is important. Sometimes simply taking advantage of the unexpected opportunities that appear is the key to moving policy ideas forward.

Success Factors in Funding Public Policy

- Alignment between a funder's charitable goals and a public policy issue
- Relationship of trust with community partners
- Good communication with policy-makers and understanding of government
- Willingness to provide open-ended or multi-year funding
- Willingness to take risks
- Openness to collaboration with other funders
- Flexibility on measurement of impact and attribution
- Patience and a long view

📁 SECTION TWO

FUNDERS IN ACTION: CASE STUDIES

The Laidlaw Foundation:
Supporting the Voice of Youth

The **Laidlaw Foundation of Toronto** is focused on young people. It invests in innovative ideas, convenes interested parties, shares its learning and advocates for change in support of young people being healthy, creative and fully engaged citizens. Working on public policy change is a key strategy of the Foundation. It has helped to craft policy proposals for government and supported advocacy efforts through its funding. The Foundation believes in the important and privileged role it plays as a funder and has chosen to create a staffed internal public policy capacity to help address the systemic barriers facing its grantees.

Laidlaw aims to elevate the voices and concerns of youth to policy-makers in the areas of youth justice, child welfare and education. Through its convening capacity, Laidlaw facilitated a nationally-covered, youth-focused Town Hall with the leaders of Ontario's provincial parties during the 2018 provincial election. This was a rare dialogue between Ontario's youth and political leaders in a public forum. Through its hands-on approach to supporting community advocates, Laidlaw mentored grantees to provide direct input into the Ontario Correctional Services Transformation Act by organizing meetings with the Minister's office and coaching them on government relations, policy and communications fundamentals. Laidlaw has also organized a roundtable of frontline experts and organizations working to address major challenges facing youth in or exiting the publicly-run child care system.

Atkinson Foundation:
Advocating for Decent Work

The mission of the **Atkinson Foundation** is to promote social and economic justice. Atkinson uses the tools of grant making, advocacy and investing in a coordinated way to elevate the idea that philanthropy can be about more than generosity toward disadvantaged people or communities. It can also be about making institutions, systems, structures and practices more democratic, just and equitable. To that end, the Foundation convenes consultations, participates in coalitions, speaks out through the media and directly to elected representatives, commissions academic and practitioner research, establishes fellowships, and amplifies the voices of those who have been historically excluded from the public policy development process.

Through the Atkinson Decent Work Fund, the Foundation collaborates with people who want to create the conditions for decent work in every place, sector and situation. These conditions include better wages, working conditions and employer-employee relations. The Foundation advocates for employment-related policies and regulations that benefit everyone and strengthen our social fabric. Atkinson also collaborates with people and institutions to create a fair economy. The Foundation supports innovative strategies for reducing poverty and increasing

The Muttart Foundation of Edmonton created the **Pemsel Case Foundation** in 2014 to undertake research, education and possibly interventions in existing litigation to help clarify and advance various aspects of Canadian charity law.

Maytree of Toronto established the **Caledon Institute of Social Policy** in 1992 and funded it over 25 years to do effective work in fighting poverty in Canada by producing rigorous, data-based, independent solutions-oriented and policy-ready ideas.

community wealth such as social procurement and community benefits agreements. These strategies activate public dollars to create new jobs, training, apprenticeships, businesses, and other economic opportunities in low-income communities. These strategies are connected to procurement plans or public infrastructure projects, and involve grassroots organizing and policy research for better returns on public investments. By collaborating with other investors and shareholders, the Foundation advocates to influence corporate behaviour on decent work and related public policy. It makes independent shareholder proposals and works as part of shareholder coalitions to disrupt corporate culture and how capital markets operate.

Early Child Development Funders Working Group (ECDFWG):
Using Evidence for Policy Change

The **Early Child Development Funders Working Group** is a collaboration of eight diverse foundations with a shared goal: to make quality, publicly-funded, early childhood education and care available for every preschool child. The group came together in 2009. Among the first actions taken by the group was funding for research and evidence into the key factors in child development. One of the ECFDWG's major projects has been a shared investment in the creation and promotion of the Early Childhood Education Report, which documents the social, economic and scientific rationale for increased investments in early childhood education, and monitors the funding, policy, access and quality of early education programming. This Report, first issued in 2011, is repeated every three years and provides user-friendly data that organizations can use in their own policy engagement with provincial and territorial governments, as well as the federal government.

In 2015, in a federal election year, the EDCFWG took the step of a joint public advocacy initiative, wishing to play a stronger collective role on the public policy front. As one of the group's members said, "After all, it's hard to see how we will see meaningful change on the ECE front without trying to influence public policy." So the group released an Open Letter to urge Canada's politicians to recognize that early childhood education and care is a must-have element in building a more prosperous country and to invest in quality early childhood education and care for all children across Canada. They asked federal parties to take a stand and commit to investing 1.1% of the GDP (the OECD average) in quality early childhood education and care. In 2017, the federal government announced a Multilateral Early Learning and Child Care Framework -- to set out the parameters for new child care funding to the provinces.

Max Bell Foundation:
Developing Professional Capacity for Policy Work

The **Max Bell Foundation of Calgary** focuses much of its effort on improving public policy. Its mission is to encourage the development of forward-looking innovations that impact public policies and practices with an emphasis on health and wellness, education and the environment. In 2008, the Foundation, building on a model launched by Maytree in Toronto, launched a public policy training institute in Alberta. Every year, this institute brings together 25 Canadian leaders from the charitable sector in Alberta to help these leaders (staff or board members) increase their knowledge of the public policy process and their capacity to influence it. The leaders learn from seasoned veterans of the public policy process, including former politicians and civil servants.

The Ivey Foundation of Toronto helped to create the **EcoFiscal Commission** in 2014 to identify and promote practical fiscal solutions to support Canada's economic and environmental prosperity. This group, based at McGill University, brings together experienced, policy-minded economists from across the country to broaden the discussion of ecofiscal policy reform into the realm of practical policy application.

As one of the faculty members explains it: *"The goal is to impart lessons from practical experience and the "school of hard knocks" to those leaders in the not-for-profit world who are in a position, and have a desire, to influence public policy."* [2]

The participants attend six two-day sessions which explore such topics as evidence, policy options, communications and engagement, and implementation. Each leader receives one-on-one coaching during the program to help them develop a policy-ready position on a given issue by program end. The results over a decade of investment have been evident. Alberta's sector leaders are improving their performance in the policy change area and becoming more strategic and effective in their advocacy.

The Trottier Foundation:
Developing Policies for Environmental Sustainability

The **Trottier Family Foundation of Montreal** is committed to mitigating the effects of climate change and reducing greenhouse gas emissions. It is participating in a collaborative effort among Canadian foundations to help accelerate urban carbon-reduction solutions. Two recent projects of the Trottier Family Foundation illustrate the possibilities for foundation engagement with local governments around climate change.

In December 2018, the Trottier Family Foundation, along with the David Suzuki Foundation and C40 Cities, committed to funding the City of Montreal to develop a climate action plan that would enable the City to reduce greenhouse gas emissions and adapt to climate change. The City's goal is to become carbon-neutral by 2050. In another local climate project, the Trottier Family Foundation announced in June 2019 that it would host the Montreal LC3 Center or Montreal Climate Centre. This is part of Low Carbon Cities Canada (LC3), a partnership between seven local centres and the Federation of Canadian Municipalities, which was driven in early stages by the Trottier Family Foundation in partnership with the Toronto Atmospheric Fund. LC3 will be using various tools to gather the best low-carbon ideas, including impact investing, grants and demonstration programs. LC3 will be self-sustaining, leveraging government funding in seven cities to start with the aim to expand to several more cities. With the support of the federal government, LC3 intends to provide the capacity, capital, and risk tolerance necessary to remove barriers to the adoption of new technologies, policies, and financial tools necessary to reducing urban carbon emissions. Eric St.Pierre, Executive Director of the Trottier Family Foundation, noted, that "as a financial partner of Montreal's future Climate Plan, we are thrilled to see concrete action being taken and clear objectives being set, along with related investments, just months after concluding our collaboration agreement."

The Lucie et André Chagnon Foundation:
Advocacy Through Public Voice

From its inception in 2000, the Quebec-based **Lucie and Andre Chagnon Foundation** has been committed to building the healthy development of children and the wellbeing of families. It sees direct advocacy as one of the tools that it can use to condition the public

The Graham Boeckh Foundation of Montreal brings together annually the key policy makers in youth mental health from provincial and federal governments to share data and information about policy initiatives and decisions to develop greater access by youth to mental health services.

---

[2] Brenda Eaton, Public Policy Advocacy- A Teachable Art?, February 2014

environment, for policy changes that will support its mission. In 2015 the Foundation decided to build public awareness and encourage policy action by commissioning a public opinion poll on Quebec's social policies. The results of their poll found that half of all Quebecers believe that, along with the educational success of Quebec's children, fighting poverty must be a priority for Quebec's decision-makers. In releasing the poll, Claude Chagnon, President of the Foundation, said publicly "The choices that we make as a society will inevitably have an impact on our ability to prevent poverty and promote childhood development.. with all the repercussions that will have on Quebec's economy and quality of life."

This public statement followed on the heels of another act of advocacy, an open letter to the Premier of Quebec in March 2015, signed by Chagnon and several other Quebec private and public foundations. While the foundations were not advocating for a particular policy choice, they were advocating for the government to take into account the impact of its policy choices on the most vulnerable in Quebec. The foundations stated their concern about the impact of fiscal restraint on social inequality and suggested that they wanted to "constructively participate in the debate by inviting the government to fully measure the impact of its reforms on citizens and communities". This was an unprecedented public statement, and all the more important because several foundations agreed for the first time to collaborate on public advocacy.

J. W. McConnell Family Foundation:
Innovating Public Policy

The **J W McConnell Family Foundation of Montreal** engages in many ways to work with governments at all levels - co-designing, researching, co-funding and convening. It has also funded public policy innovation through social innovation "labs" as a way of bringing people together to workshop policy solutions to complex social issues. The Foundation has funded and supported a growing community of labs in Canada for several years (since 2012). These labs work on issues including the acceleration of Alberta's economic transition away from fossil fuels, the shift to sustainable food systems, the need to connect health issues to social determinants such as access to housing, and proactive approaches to stem the increase of mental health challenges in children.

Social Innovation Labs in general involve phases: convening representatives of a given system, researching and reframing the systemic roots of problems, identifying promising ideas, prototyping interventions, and then iterating, implementing and scaling the social solutions that are generated. In this way, they are ideal spaces for the development of new policy options. McConnell is committed to the development of the social lab field and currently supports labs working on a number of issues. Among them are labs that continue for years, such as Winnipeg Boldness, an Indigenous-led lab now in its seventh year and co-funded with the Government of Manitoba. It has developed numerous prototypes for improving outcomes for Indigenous children and families. One idea — an Indigenous doula initiative — is the subject of a new $3.5 million social impact bond. Another is the lab collective - such as the Civic Capital Lab, in development with Community Foundations of Canada, MaRS Solutions Lab, La maison de l'innovation sociale, Future Cities Canada and Dark Matter Labs of the UK.

The Palix Foundation of Calgary funds the **Alberta Family Wellness Initiative** as an independent non-profit initiative to bridge the gap between scientific knowledge about brain development, mental health, and addiction, and what is actually done in policy and practice. The Initiative collaborates with leaders in policy, research and service delivery to turn scientific insights into measureable results.

The Gordon Foundation of Toronto convenes **Northern Policy Hackathons** to bring together northerners to discuss policy issues and create tangible, actionable solutions. These Policy Hackathons have focused on areas such as housing, food security and building small and medium sized enterprises in the Canadian North.

The Metcalf Foundation:
Supporting Experience-Based Policy Research

The **George Cedric Metcalf Foundation of Toronto** focuses on three areas: Performing Arts, Environment, and Inclusive Local Economies. Its primary geographic focus is the Greater Toronto Area. The Foundation strives to inform public policy through original research and cutting-edge ideas, in the belief that good approaches and practices are best forged from a range of perspectives and long-term engagement with complex issues.

In 2005 the Foundation established the Metcalf Innovation Fellowship program to provide critical thinkers with the opportunity to ask hard questions and propose solutions to systemic issues in areas which the Foundation works. To date, the Foundation has supported the work of 18 Fellows, who have tackled a wide range of topics including the geography of poverty, precarious work, improving Toronto's public parks, and the promise of shared charitable platforms. Metcalf's goal in establishing these fellowships is to connect policy makers with thinkers and activists who have frontline or grassroots experience of social impact work. Their credibility, rooted in field experience, lends weight to the policy recommendations that they can make. The 2018 Metcalf Foundation Fellow, Danielle Olsen, is a former Executive Director of the Hospitality Workers Training Centre, a sector-based labour-management workforce development organization in Toronto. She is focusing on policy issues around innovative workforce development policy and practice to improve the economic opportunities of low-income people.

The work of the Metcalf Innovation Fellows has been published by the Foundation in a series of reports posted on the Foundation website. The Foundation uses social media and commissioned articles in partner publications such as The Philanthropist to introduce and highlight new ideas and critical thinking. The Foundation also hosts workshops and special events with the goal of bringing people together to advance conversations on complex and pressing issues.

The National Housing Collaborative:
Building Collaborative Platforms

The **National Housing Collaborative (NHC)** is a Canadian coalition of non-profits and foundations, with a goal of ending homelessness in Canada within 10 years. The collaborative is supported by United Way Centraide, the J.W. McConnell Family Foundation, the Metcalf Foundation and Maytree among other partners. Through their collaborative efforts over several years, beginning in Ontario, these funders built a social "lab" to test the elements of a National Housing Strategy, including the implementation of a Portable Housing Benefit for tenants struggling to afford rent. Because most households face homelessness due to a lack of affordable housing, providing a subsidy would bring households out of homelessness and allow them to allocate their extra finances to support education, nutrition and well-being. Since the subsidy would be "needs-based," people would have liberty to move to other neighborhoods or cities without fear of unaffordable rents. The work of the Collaborative strongly influenced the National Housing Strategy announced by the federal government in 2017. The Strategy aims to reduce chronic homelessness by 50%, remove 530,000 families from housing need, and build up to 100,000 new affordable homes. One of the important new elements in the Strategy is a Canada Housing Benefit, which puts choice and buying power in the hands of low-income renters. This benefit, labeled a "game-changer" by Pedro Barata of the United Way of Greater Toronto and the Co-Chair of the NHC, came directly out of the modeling done by the NHC.

SECTION THREE

WHAT ARE THE LEGAL RULES?

"Charities play a key role in Canadian society and provide valuable services to Canadians... the Government is following through on its commitment to better support charities in the important work that they do—allowing them to more fully share their perspectives and experiences as we work together to build strong and caring communities."

Bill Morneau, Minister of Finance, October 2018

The Law, Charities and Public Policy Work

The most important federal law regulating charities and their policy work is the *Income Tax Act*. Other federal laws that touch on charity policy advocacy are the Elections Act and the Lobbying Act. The provinces also have their own lobbying statutes that may affect advocacy work funded by charities.

The Income Tax Act

In Canada, charities, including charitable foundations, are regulated through the federal *Income Tax Act (ITA)*. There is no other federal law or Act that specifically regulates charities. References to the purposes and activities of charitable organizations are found in the *ITA* because it is the statute that confirms the tax benefits received by donors and establishes the conditions under which charities can provide tax receipts to donors. According to the *ITA*, charities must ensure that their activities in the area of public policy dialogue and development are undertaken in pursuit of their charitable purposes. They cannot engage in partisan political activities.

The common law is what defines certain purposes that are agreed to be charitable, specifically the advancement of education or religion, and the relief of poverty. According to common law, charities can also pursue more general purposes which are beneficial to the community in a way the law regards as charitable. These cover a wide range of purposes beneficial to the public such as promotion of health or protection of the environment. Charities cannot be established to pursue a so-called "political" purpose. This has been a longstanding view in common law. The *ITA* takes the common law understanding of what purpose is charitable and does not seek to define it further. Canada does not have a separate Charities Act as do some other jurisdictions (United Kingdom, Australia, New Zealand).

In 2018, after years of discussion on the issue of whether and how charities can pursue so-called "political" activities, the federal government amended the *ITA* and removed the term "political" activity. Charities, including charitable funders, have full ability to pursue their charitable purposes by engaging in non-partisan activities that support the development of public policy.

Specifically, the Act was changed to:

- Remove the *ITA* provisions relating to the non-partisan political activities of charities, including the provision that effectively limited charities to devoting only 10 per cent of their resources to non-partisan political activities;

- Maintain the prohibition on charities providing direct or indirect support to, or opposition to, a political party or candidate for public office; and

- Clarify that charitable organizations, like charitable foundations, must be constituted and operated for exclusively charitable purposes.

These provisions were made effective on December 13, 2018. So-called "political" activities are now described as "public policy dialogue and development" activities. These are considered to be charitable. Public policy dialogue and development activities generally involve seeking to influence the laws, policies or decisions of a government, whether in Canada or a foreign country. There are no quantitative limits on these activities (limits on the resources spent by the charity to pursue the activities). And there is no obligation on charitable funders to report the amounts that they provide as grants to other charities for their public policy work.

The Canada Revenue Agency (CRA), which is charged with implementing the *ITA* and monitoring charities, has explained how it will interpret the new provisions regarding charities and their public policy activities through a Guidance document: [Public Policy Dialogue and Development Activities](#)[5] The PPDDA draft guidance provides a helpful list of what the CRA considers to be public policy dialogue and development activities. It also defines what is prohibited and defines direct or indirect support or opposition for any political party or candidate for public office.

This guidance underlines the importance of a charity's statement of charitable purpose, consistent with the *ITA's* focus on charities operating for exclusively charitable purposes. It is the charity's purpose that will direct the CRA's evaluation of any public policy activity. By stated charitable purpose, the CRA clarifies that it means a

purpose that a) can be found in the governing documents of the charity (letters patent, articles of incorporation or constitution); b) is charitable according to law, and; c) is for public benefit. An organization's purposes should define the scope of its activities. If the wording is too broad or vague, it will not be clear that a purpose is charitable (falls within a charitable purpose category and provides a public benefit) and defines the scope of activities.

Because it is important to ensure that a funder's stated purpose is clear if it engages in public policy development activities, it would be advisable for any foundation to consult the [CRA's Guidance](#) on how to draft purposes. This guidance (CG-019) provides a recommended approach to drafting purposes for organizations intending to apply for charitable registration, and for registered charities that are amending their existing purposes. While the format described for drafting purposes is recommended by the CRA, purposes prepared in a different way may also be acceptable for charitable registration.

Public Policy Activities During Elections

According to the CRA, charities can at any time support or oppose a law, policy, or decision of government that a political party or candidate also supports or opposes. A charity can do this inside or outside of an election period, as long as in doing so the charity does not refer to or otherwise identify the political party or candidate.

The actions a political party or candidate may independently take do not transform the activities of a charity into direct or indirect support of or opposition to that party or candidate.

Charities' public policy activities do not become partisan if a political party or candidate:

- is commonly known or understood to have a specific view on the same issue

- publicly communicates a view on the same issue

- adopts a policy approach suggested by the charity, puts part of the charity's policy research or commentary on their website or other communications platform, or uses part of the charity's research in an activity

- comments positively or negatively on the charity or the charity's public policy activities

A charity should pay attention to activity that might constitute advertising of a policy position, particularly during an election campaign period. This is regulated under the Canada Elections Act. The Elections Act defines election advertising to include any advertising message transmitted to the public during an election period that promotes or opposes a registered party or candidate, including one that takes a position on an issue with which a registered party or candidate is associated ("issue advertising"). If a charity wants to communicate with the public on an issue, it may be regarded as a third-party advertiser even if the communications are not explicitly linked to any party. However, the definition of election advertising is specific to: signs, newspaper ads and other print media; radio and TV ads; and election messages posted online that have a placement cost. It does not include: telephone calls, texts or emails; messages posted on social media platforms for which there is no placement cost; content posted on a charity's website; transmission of an editorial, debate, speech, interview, column, letter, commentary or news; or door-to-door canvassing, unless canvassers distribute election advertising such as pamphlets. Third-party advertisers must register if they spend $500 or more on partisan or election advertising during the campaign period.

Lobbying Public Office Holders

If a charity as part of its public policy activity contacts a public office holder to discuss legislation, regulation, policy or programs, it may need to register as a lobbyist and declare its activity. This is required if the person contacting the public office holder is paid (i.e is not a volunteer). The federal requirement applies when the cumulative lobbying activities of all employees constitute 20% or more of one person's duties over a period of a month.

Lobbying of federal public office holders is regulated by the federal Lobbying Act, administered by the Office of the Commissioner of Lobbying of Canada. Equivalent provincial legislation governs lobbying of provincial government officials. Several provinces have lobbyist acts. Municipal governments are not directly covered by either federal or provincial lobbying regulations, but some municipal governments have established their own lobbyist. For example, Toronto has established its own Office of the Lobbyist Registrar.

Provincial Laws

Charities should be aware that some provinces may have rules regarding the use of charitable assets that differ from the requirements of the *Income Tax Act*. In Ontario the Office of the Public Guardian and Trustee plays a role in helping to protect charitable assets. This includes reviewing applications by organizations who wish to be given charitable status to check that the activities of the organization are, in fact, those which the law defines are "charitable".

PUBLIC POLICY WORK: WHAT YOU CAN... AND CAN'T DO

Charities under federal law can engage in many public policy activities, if these activities advance their charitable purpose (their stated objectives).   Charities can carry on their own activities or fund other charities to do so.

Charities can...

- **Provide information** – to the public in order to inform, build awareness or persuade the public on a policy issue. Such information must be truthful, accurate, and not misleading.

- **Conduct and distribute research** – and discuss it with the media and with others as they see fit.

- **Express opinions** – as a way of participating in developing public policy, as long as they draw on research and evidence.

- **Advocate** – to keep or change a law, policy, or decision, of any level of government in Canada, or a foreign country.

- **Mobilize others** – call on supporters or the general public to contact politicians of all parties to express their support for, or opposition to, a particular law, policy, or decision of any level of government in Canada or a foreign country.

- **Speak or Present** – in writing or verbally to elected officials, public officials, political parties, and candidates, and appear at parliamentary committees, to bring their views to the public policy development process. If the charity engages in paid lobbying, it should be mindful of the requirements for registration under relevant Lobbying Acts.

- **Provide forums and convene discussions** – invite competing candidates and political representatives to speak at the same event, or request written submissions for publication, to discuss public policy issues that relate to the charity's purposes.

- **Communicate on social media** – express views and offer an opportunity for others to express their views on public policy issues, on social media or elsewhere.

- **Republish or reiterate** the positions of the government or opposition parties on the policy issue, in a neutral way (e.g. without indicating a preference or criticizing only one party).

- **Hold candidates' debates,** provided all candidates are given an equal opportunity to present their views and answer questions.

Charities cannot...

- **Support, oppose or devote resources** directly or indirectly, to any political party or candidate for public office. This is a specific prohibition on partisan activity.

CONCLUSION

"Foundations in Canada are in a unique position to impact societal change and foster social innovation. Unique because unlike most nonprofit and charitable organizations, foundations have an asset base, independent of government, that can be used, invested, or disbursed to support societal change through a variety of policy engagement tools."

Peter Elson and Sara Hall

In a time of rising political polarization, as well as social, environmental, and cultural challenges, effective public policy is vital. With an explicit and encouraging statement by the federal government in 2018 that charities have the expertise and the knowledge of community needs to contribute to policy development in uniquely valuable ways, it is all the more important that charitable funders consider how to involve themselves, whether they do it themselves or do it through their community partners.

This is a crucial moment for the charitable sector to become more engaged in public policy work in Canada. Both government and philanthropy have a common goal of improving the quality of life of citizens. Public policies are the essential means to this end. The involvement of foundations in policy dialogue and development is a lever for systemic change that can have enormous positive impacts. The key message of this guide is that it is possible and indeed necessary for more foundations to engage in this work. The field of action that is permitted under the law is broad, as long as it serves a charitable purpose. And the public benefit created by foundation engagement is invaluable.

📁 SECTION FOUR

RESOURCES

Canadian

Creating Better Public Policy: The Roles of Canadian Charities, Allan Northcott, *The Philanthropist* Vol. 25, Issue 4, 2014.

The Moral Imperative for Policy Advocacy, Roger Gibbins, *The Philanthropist*, 2016.

Grantmakers and Governments: The Possibilities of Partnership, Philanthropic Foundations Canada, 2017.

Policy Matters: Grantmaking foundations and public policy engagement, Peter Elson and Sara Hall, Montreal Research Laboratory on Canadian Philanthropy, 2015.

Advocacy Toolkit: A Guide for Nonprofits to Meaningfully Engage Your Community, Ontario Nonprofit Network, 2019.

Other Countries

Advocacy Funding: The Philanthropy of Changing Minds, Grantcraft, 2018.

Focus on Foundations, Bolder Advocacy, a program of Alliance for Justice.

The Power of Advocacy, Philanthropy Australia, 2018.

Voice, Influence, Action: Funding Advocacy for Impact, J.R.McKenzie Trust, New Zealand, May 2019.

Law and Regulation

Final Report of the Consultation Panel on the Political Activities of Charities. Canada Revenue Agency, 2017.

Government Recognizes the Valuable Role Charities Play in Building a Strong and Caring Canada, statement by the Hon Bill Morneau, Minister of Finance, October 31, 2018.

New Public Policy Advocacy Rules for Charities, Imagine Canada, November 2018.

CRA Guidance

Public Policy Dialogue and Development Activities by Charities, CRA Draft Guidance 2019.

Meeting The Public Benefit Test, CRA Guidance CPS-024, 2006.

How To Draft Purposes for Charitable Registration, CRA Guidance CG-019.

Federal Elections Act

Political Financing Handbook for Third Parties, Financial Agents and Auditors, June 2019.

Federal Lobbying Act

Ten Things You Should Know About Lobbying :A Practical Guide for Federal Public Office Holders, 2012.

Provincial Law

Ontario Office of the Public Guardian and Trustee

For information on provincial lobbyist acts see the site of **the Public Affairs Association of Canada**