

# Briefing Paper

April 2016



## The EU Referendum and the third sector in Wales

### Introduction

1. A referendum on the question "should the United Kingdom remain a member of the European Union or leave the European Union?" will be held on 23 June 2016. The options for voters will be to 'remain a member of the European Union' and 'leave the European Union'
2. This briefing paper provides:
  - regulatory guidance for charities that may be considering public involvement in the debate leading up to the referendum;
  - WCVA's position and role; and
  - information about the European Union (EU) referendum.

### Wales and the EU

3. The UK is one of 10 member states who pay more into the EU budget than they get out, only France and Germany contribute more. In 2014/15, Poland was the largest beneficiary, followed by Hungary and Greece. However Wales is a net beneficiary of EU membership i.e. we get out more money from the EU than we contribute towards membership. The UK also gets an annual rebate that was negotiated by Margaret Thatcher and money back, in the form of regional development grants and payments to farmers, which added up to £4.6bn in 2014/15. According to the latest Treasury figures, the UK's net contribution for 2014/15 was £8.8bn - nearly double what it was in 2009/10. To put that in context, it is about £24m a day or about 1.4% of total public annual spending. The National Audit Office, using a different formula, which takes into account EU money paid directly to private sector companies and universities to fund research, and is measured over the EU's financial year, shows the UK's net contribution for 2014 was £5.7bn.
4. In the current EU programming period 2014-2020 Wales receives £1.8bn through the European Structural and Investment Funds, which will derive a total investment of £3.2bn in businesses, communities and individuals across Wales. These funds support investments in transport, research and innovation, renewable energy, business competitiveness, regeneration, skills and young people. Wales also receives £490m under the Rural Development Plan, which, with co-financing from the Welsh Government, is a programme of investment of around £900m for rural communities across Wales; Welsh farming also directly benefits from around £230m annually from the EU's Common Agricultural Policy (CAP). There is a strong

difference of opinion between the referendum campaigns on whether or not this funding could be guaranteed if the UK was to leave the EU.

5. Wales also benefits from improvements to health and well-being that have been put in place by EU legislation, particularly concerning air and water quality and quality of bathing water, food standards, waste and recycling.
6. A [recent poll for ITV and Cardiff University's Wales Governance Centre](#)<sup>1</sup> indicated that 41% of those polled in Wales said they would vote to leave, whilst 36% said they wanted to stay in. The results of the Assembly elections in May could have an impact on the behaviour of Welsh voters in the EU referendum.

## The EU and the third sector in Wales

7. There are over 30,000 third sector organisations in Wales, employing 33,496 people in 2013, equivalent to 2.5% of all employees in Wales. WCVA estimates that over 4,300 organisations provide services in Wales. Large groups of organisations exist in housing, advice and advocacy, social services, preschool, child and youth services, health services, hospice care and community development. In addition, many groups provide a local infrastructure which improves the wellbeing of individuals. The sector's contribution to the sustainable and inclusive growth of the Welsh economy is through the employed workforce as well as through volunteering, building social capital, bringing communities together and enabling people's voices to be heard.
8. The European Commission values the role of the third sector in providing advocacy for its citizens, recognising the legitimate, independent perspectives that the sector can make to local, national and international policy debates, raising issues on behalf of their beneficiaries. The Commission has introduced measures to enable civil society organisations to engage more readily in debates about EU policy and practice, including for example, a minimum eight week consultation period.
9. The founding principles of the European Social Model see social justice and solidarity as important goals in their own right, as well as being essential to economic growth and competitiveness. This commitment to equality, fairness, solidarity and social justice, and many of the focal areas of action for the EU on tackling poverty, promoting equality and sustainability correlate to values at the heart of the third sector.
10. For example, environmental non-governmental organisations (NGOs) in Wales have highlighted that European environmental laws, implemented in national legislation within the Member States, has enabled more ambitious policies on cross-border issues to be adopted than would otherwise have been possible with Member States acting alone. A substantial decline in industrial sources of air and water pollution, a fall in greenhouse gas emissions, major increases in recycling rates and a significantly improved system of protection for species and habitats across EU Member States have been highlighted as key achievements attributable to this approach that would not have happened to the same level by Member States acting alone<sup>2</sup>.

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<sup>1</sup> General Election and EU Referendum Voting Intentions: The Latest Welsh Evidence (22.03.16)

<sup>2</sup> Source: Institute of European Environmental Policy

## WCVA and the referendum

### Our activities

11. WCVA has a 16 year track record of working with the sector to deliver EU Structural and Investment Funds projects in Wales and formally representing the sector on the All Wales Programme Monitoring Committee (PMC). These funds have arguably been a catalyst to involving the third sector as key partners in local, regional and national regeneration programmes.
12. During this time WCVA has secured and delivered over £150m worth of funding going directly to the sector either through project funding or through consortia with local county voluntary councils (CVCs) and other partner organisations. WCVA itself was responsible for co-ordinating and writing the community regeneration priority of the Objective 1 strategy and as a result, the third sector's involvement in the delivery of that programme was fundamental.
13. During the EU Structural Funds programme 2007-2013 in Wales, research undertaken by WCVA<sup>3</sup> demonstrates that third sector organisations have directly supported over 100,000 people to get back into work, created over 150 new social enterprises and created over 1200 new jobs, while many more have been sustained and safeguarded, creating social and economic opportunities in some of our most deprived communities.
14. WCVA's own projects, part-funded by the European Social Fund (ESF) 2007-2013, worked with 450 organisations, delivering 900 projects, which supported 35,000 people, of which 5,500 gained sustainable employment and over 13,000 qualifications were achieved.
15. WCVA was approved by the European Commission and the Welsh European Funding Office (WEFO) as an intermediate body for the administration of EU Structural and Investment Funds in Wales for 2014-2020. As such, WCVA has a responsibility to communicate the benefits of the investment; this is a non negotiable condition of EU funds, as set out in the funding agreement letter.
16. We are a founding member along with our sister councils in Scotland and England of the European Network of National Associations (ENNA); and play a supporting role for Tom Jones OBE in his capacity as Welsh representative of civil society on the European Economic and Social Committee (EESC), the EU advisory body to the European Commission, the Council of the EU and the European Parliament, thus acting as a bridge between the EU's decision-making institutions and EU citizens.

### Our position

17. WCVA believes that that the EU referendum is a key constitutional issue with cross generational significance. A decision to leave the EU would have many consequences for Wales and the third sector covering all areas of life.
18. WCVA is not advocating a 'yes' or 'no' stance, not because we do not believe in the seriousness of this issue, but because we are aware that the views from the sector will be many and varied, and WCVA does not believe there should be a single

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<sup>3</sup> [Our people, communities and economy](#) (WCVA, May 2014)

sector voice on this issue. In addition it is impossible to foresee, and therefore take a stance, on what the future relationship between the UK and the EU might look like, given the high degree of uncertainty surrounding the renegotiation process.

19. In accordance with our charitable objects and articles of association, WCVA's role is to promote the voluntary sector in Wales. We do this by providing services, education, training, information advice and support to our members and the wider third sector in Wales. WCVA considers its role to be to inform the sector, offer guidance to the sector to act in compliance with [the Charity Commission's regulatory guidance for charities](#) and to provide a stimulus for open and honest debate.

## Regulatory guidance for charities

20. The Charity Commission has issued specific guidance for charities that may be considering public involvement in the debate leading up to the European Union (EU) referendum on 23 June 2016. You can read the guidance [here](#), which should be read in conjunction with *Speaking out: guidance on political activity by charities (CC9)*, and *Charities, Elections and Referendums*. Links to these documents can be found [here](#).

21. Charities must be aware of what the law allows them to do and not to do and they must not engage in political activity unless they can demonstrate compliance with the Commission's guidance.

22. Charities must think about whether political campaigning and engaging in political activities in connection with the EU referendum would support the delivery of their charitable purposes. Charities must also identify and properly manage conflicts of interest and other risks arising in the context of the EU referendum. Any such decisions and the reasons for those decisions must be properly recorded.

23. The guidance contains five elements to consider:

- i. Does this political activity support, and is it incidental to, your charitable purposes?
- ii. Managing conflicts of interest and other risk
- iii. Recording your decisions
- iv. The role of the Commission if things go wrong
- v. Registering with the Electoral Commission

24. The Information Commissioner's Office (ICO) has also issued reminders to campaigning groups and political parties that they must comply with data protection and electronic marketing rules in the lead up to the referendum. Contacting an individual by text, phone call, email or fax to promote a political view in order to gain support at the ballot box is "direct marketing" and this is regulated by law.

25. Before deciding whether to engage in the referendum debate, Trustees may wish to ask themselves the following questions:

- Does the EU have a direct impact (positive or negative) on the work of your charity and its beneficiaries?
- Would the outcome of the EU referendum have a direct impact on the work of your charity and its beneficiaries?

- What evidence do you have to demonstrate this?
- Would engaging in an EU referendum debate, even in a limited way, help to further your charitable purpose or purposes?
- Is it a reasonable and effective use of your charity's resources (time and money)?
- What are the reputational risks of engaging publicly in this debate? How will you manage these?
- How will you ensure your independence and impartiality is not compromised?
- Do you have plans in place for the post-EU referendum period? How will the charity position itself if the result is a vote to remain in the EU or a vote to leave?

## WCVA's view on the Charity Commission's guidance

26. The guidance provides a clear statement that involvement by charities in the debate will amount to a political activity. This is a helpful reminder to charities that they must follow the stricter rules on campaigning and engaging in political activities. The guidance also highlights that the possibility of a loss of funding is not in itself a justification for political activity directed at a 'remain' vote. This is important, because the key issue is how remaining or leaving the EU would affect a charity's purposes.
27. However the guidance suggests that only in 'exceptional' circumstances will it be appropriate for charities to advocate a particular outcome in the referendum. This fails to recognise the otherwise generally accepted view that the EU referendum is a constitutional issue with cross generational significance.
28. WCVA, alongside our sister council The National Council for Voluntary Organisations (NCVO), fully appreciates that the Commission wishes to ensure that trustees engage prudently in any advocacy and campaigning activities, particularly where these amount to political activities. But we are concerned that this guidance suggests that the Commission's message to charities is that they cannot advocate a particular outcome in almost any circumstances, even if they have considered appropriate evidence and risks and come to a reasonable decision that doing so has an impact on the charity's purposes.
29. A much more encouraging approach would have mirrored [the guidance issued by the Office of the Scottish Charity Regulator \(OSCR\) in advance of last year's referendum on Scottish independence](#).
30. This guidance endorsed the ability of charities to campaign for a yes or no vote, provided this was supported by virtue of a clear link to the purposes of the charity. The guidance also made clear that this would not in itself be advancing a political party, which, in WCVA's view, was a reasonable approach in the context of a debate on a major constitutional policy choice, with political parties often falling on different sides of the divide. These arguments apply just as much to the EU referendum, if not more so.

## Campaigning organisations

31. Organisations wishing to explore the possibility of formally registering as a campaigning organisation can obtain advice on how to comply with the rules from the Electoral Commission. Please contact us on 0333 103 1928 or at [pef@electoralcommission.org.uk](mailto:pef@electoralcommission.org.uk). The Electoral Commission keeps a [register of all referendum campaigners](#).

## Background information

32. The 2015 election manifesto for the Conservative Party promised to hold a referendum by the end of 2017 on whether or not the UK should stay in or leave the EU.
33. On 20 February 2016 Prime Minister David Cameron outlined the scope of a deal agreed with the European Council of four key concessions for the UK's continued membership of the EU. The agreement, which will take effect immediately if the UK votes to remain in the EU, includes changes to:
- **Child benefit** - Child benefit payments to migrant workers for children living overseas to be recalculated to reflect the cost of living in their home countries
  - **Migrant welfare payments** - The UK can decide to limit in-work benefits for EU migrants during their first four years in the UK. This so-called "emergency brake" can be applied in the event of "exceptional" levels of migration, but must be released within seven years - without exception.
  - **Eurozone** - Britain can keep the pound while being in Europe, and its business trade with the bloc, without fear of discrimination. Any British money spent on bailing out Eurozone nations will be reimbursed.
  - **Protection for the City of London** - Safeguards for Britain's large financial services industry to prevent Eurozone regulations being imposed on it
  - **Sovereignty** - There is an explicit commitment that the UK will not be part of an "ever closer union" with other EU member states. This will be incorporated in an EU treaty change.
  - **'Red card' for national parliaments** - It will be easier for governments to band together to block unwanted legislation. If 55% of national EU parliaments object to a piece of EU legislation it will be rethought.
  - **Competitiveness** - The settlement calls on all EU institutions and member states to "make all efforts to fully implement and strengthen the internal market" and to take "concrete steps towards better regulation", including by cutting red tape.
  - **Some limits on free movement** - Denying automatic free movement rights to nationals of a country outside the EU who marry an EU national, as part of measures to tackle "sham" marriages. There are also new powers to exclude people believed to be a security risk - even if they have no previous convictions.

## Campaign groups

34. Britain Stronger In Europe, Vote Leave, Grassroots Out and Leave.EU will each play a key role in the build-up to the vote on Europe. [Britain Stronger in Europe](#) and [Vote Leave](#) have been designated as the official Leave and Remain campaigns for the official campaign period of 15 April to 23 June.

## Who wants the UK to stay in the EU?

35. David Cameron wants Britain to stay in the EU, now he has got some powers back from it. Sixteen of his cabinet also back staying in. The Conservative Party has pledged to be neutral in the campaign - but the Labour Party, SNP, Plaid Cymru and the Liberal Democrats are all in favour of staying in. As mentioned above, according to polls, the public seems pretty evenly split on the issue.
36. In general 'yes' campaigners believe Britain gets a big boost from EU membership - it makes selling things to other EU countries easier and, they argue, the flow of

immigrants, most of whom are young and keen to work, fuels economic growth and helps pay for public services. They also believe Britain's status in the world would be damaged by leaving and that we are more secure as part of the bloc.

37. [Britain Stronger In Europe](#) is the main cross-party group campaigning for Britain to remain in the EU, and is led by former Marks and Spencer chairman, Lord Rose.

### Who wants the UK to leave the EU?

38. In general the 'no' campaigners believe Britain is being held back by the EU, which they say imposes too many rules on business and charges billions of pounds a year in membership fees for little in return. They also want Britain to take back full control of its borders and reduce the number of people coming here to work. One of the main principles of EU membership is "free movement", which means you don't need to get a visa to go and live in another EU country. They also object to the idea of "ever closer union" and any ultimate goal to create a "United States of Europe".
39. [Vote Leave](#) is a cross-party campaign that grew out of Business for Britain, headed by former Conservative chancellor Lord Lawson. Key figures include former Conservative adviser Dominic Cummings and Matthew Elliott, who ran the successful No2AV campaign and has the backing of the five cabinet ministers and other Conservatives such as Boris Johnson and Priti Patel. It also has the backing of Labour Leave, which is headed by Labour donor John Mills.
40. [Grassroots Out](#) is an umbrella group including the relatively new Grassroots Out group - founded by Conservative MPs Peter Bone and Tom Pursglove and Labour MP Kate Hoey in January.
41. [Leave.EU](#) describes itself as "Britain's fastest-growing grassroots organisation" and claims to have gained 175,000 members since it was launched.
42. It is funded by UKIP donor Arron Banks and other business people, it has the backing of longstanding Eurosceptic groups, some Conservative MPs and UKIP, plus others such as the former Respect MP George Galloway.

### Next steps

43. WCVA will post information about key developments, and will seek to reflect a diverse range of views, through the [EU Referendum pages of our website](#). If you would like to share your organisation's position, please e-mail [policy@wcva.org.uk](mailto:policy@wcva.org.uk) and keep an eye on the website for up-dates.