

FREQUENTLY ASKED QUESTIONS:

ISSUE	QUESTION	ANSWER
Agendas	Who has the final say on what goes on the agenda?	<p>The chair. It is good practice for the clerk and chair to construct the agenda together, and the clerk should sign the document.</p> <p>Councillors can of course suggest agenda items, and providing there is no reason why an item should not be included (e.g. the topic had been dealt with less than 6 months previously) it should go on. If there is a dispute between chair and clerk over an item, the chair's opinion should prevail.</p>
Allotments	I want to find out about allotments in my area, how do I go about this	The ownership and management of allotment sites formally managed by MKC was transferred to the Parish/Town Councils in May 2007. If you have a query about an allotment please contact your parish clerk. <i>For contact details of Parish Clerks contact Community Liaison. 01908 252486 or community.liaison@milton-keynes.gov.uk</i>
Clerks Duties	My Chair keeps asking me to write or telephone various people – it's taking up a lot of my time. Is this right?	No, you don't work for the Chair, you work for the council. You only need do what the council has asked you to do – usually the requests are made at meetings. If the Chair is concerned about an issue he/she should make it an agenda item.
Closure of footpaths etc	Do the Parish/Town Councils need to be informed of temporary traffic orders, e.g. temporary closure of public footpaths?	Parish/Town Councils are not statutory consultees for the purpose of temporary traffic orders – mainly as they are usually required on the grounds of public safety so there is no right of objection (unlike a permanent stopping up of highway, where a local council has power of absolute veto). <i>Up to date information regarding road and footpath closures is distributed to parish clerks as and when received.</i>
Code of Conduct	If a Councillor signs their acceptance of office but does not sign the register of interests is this a breach of the code of conduct?	<p>Failure to fill in the register of interest form (or more strictly – to give the information required in the form) is a breach of the code of conduct.</p> <p>The Parish Councillor should be asked for the form (preferably face to face) so that we know whether this is an oversight or a deliberate refusal to comply with the code. Sending a complaint to the Standards Board in any situation other than a deliberate refusal is likely to be viewed as a waste of the Board's time.</p>
Complaints	How can a Councillor make a complaint against a Clerk?	<p>As the Clerk is an employee, they should be subject of a formal procedure that should have been agreed in advance of them joining the Parish Council.</p> <p>The Chair of the Parish Council should be requested to put an item on the agenda. The Clerk, press and public needs to withdraw during this item.</p>
Complaints	How can a Councillor make a complaint against the Parish Council?	As a member of the Parish Council, the complaint would be against individual Parish Councillors/issues and should be addressed to the Standards Board for England. Tel: 0800 1072001. Address: PO Box 36656, London, SE1 0WN. Email: newcomplaints@standardsboard.co.uk
Complaints	How do you make a complaint about a Parish Councillor?	<p>Complaints can be made to the Standards Board for England. If behaviour is in breach of the Code of Conduct, i.e.:</p> <ul style="list-style-type: none"> unlawfully discriminating against someone

		<ul style="list-style-type: none"> • failing to treat people with respect • doing something to prevent those who work for the authority from being unbiased • revealing information that was given to them in confidence, or stopping someone getting information they're entitled to • damaging the reputation of their office or authority • using their position improperly, to their own or someone else's advantage or disadvantage • misusing their authority's resources • allowing their authority's resources to be misused for the activities of a registered political party • failing to report another member's misconduct to us • failing to register financial or other interests • failing to reveal a personal interest at a meeting; • taking part in a meeting or making a decision where they have an interest that is so significant that it is likely to affect their judgement • failing to register any gifts or hospitality that they have received in their role as a member worth over £25 <p>Standards Board can be contacted on: General Enquiries Telephone: 01618 175 300 Fax: 01618 175 499 Email: enquiries@standardsboard.co.uk Complaints Telephone: 0800 107 2001 E-mail: referrals@standardsboard.co.uk</p>
Data Protection	Can details of Parish Councillors names and addresses be passed on to the public if requested?	Yes. They are public.
Data Protection	As a Clerk holding records on my computer at home (such as allotment holders and their allotments rents) should I be registered under the Data Protection Act?	Yes. For more information on the Data Protection Act please visit www.directgov.gov.uk
Elections	What is the position with a parish council that refuses to fill a place by co-option despite valid applications? Is there provision for electors to force an election?	<p>If the vacancy has arisen as a result of a councillor resigning etc, the vacancy is declared and then notified to the public. A bye-election will be called if at least 10 electors claim a poll within 14 days of that notification (as a general rule). If no poll is claimed within that time limit, the decision to fill the vacancy then rests with the parish council.</p> <p>A council must declare a vacancy within a reasonable time (weeks rather than months). If there is more than one candidate there must be an election. If there is not, then under the Local Elections (Parishes and Communities) Rules 1986 where a casual vacancy occurs and a poll is not claimed the vacancy must be filled by the parish council co-opting a person "as soon as practicable". If the parish council haven't done that then the remedy must be by way of a judicial review for an order requiring it to do so.</p> <p>The electors' right to call an election is time limited. The only way to be able to challenge the failure to co-opt is by way of judicial review.</p> <p>For more information please contact the Monitoring Officer or</p>

		the Standards Board.
Election of Chair to Parish Councils	What is the procedure of electing a Chair to Parish Councils?	The Local Government Act 1972, s15 states “(1) The chairman of a parish council shall be elected annually by the council from among the councillors. (2) The election of a chairman shall be the first business transacted at the annual general meeting of the parish council and if apart from subsection (8) below, the person presiding at the meeting would have ceased to be a member of the parish council, he shall not be entitled to vote in the election except in accordance with subsection (3) below. (3) In the case of an equality of votes in the election of a chairman the person presiding at the meeting shall give a casting vote in addition to any other vote he may have. (4) The chairman shall, unless he resigns or becomes disqualified, continue in office until his successor becomes entitled to act as chairman (5) A parish council may pay the chairman for the purpose of enabling him to meet the expenses of his office such allowance as the council think reasonable (6) The parish council may appoint a member of the council to be vice-chairman of the council (7) The vice-chairman shall, unless he resigns or becomes disqualified, hold office until immediately after the election of a chairman at the next annual general meeting of the council. (8) During their term of office the chairman and vice-chairman shall continue to be members of the council, notwithstanding the provisions of this Act relating to the retirement of parishes councillors.”
Election of Chair to Parish Meetings	What is the procedure of electing a Chair of a Parish Meeting?	The Local Government Act 1972, s. 15(10) states “In a parish not having a separate parish council, the parish meeting shall, subject to any provisions of a grouping order, at their annual assembly elect a chairman for the year who shall continue in office until his successor is elected”.
Electoral Register	Can a member of the public view the Electoral Register at a Parish/Town Council’s offices?	No, they can’t view it there. They can only view it where there are MK Council staff to supervise. They can however look at a condensed version of it in the library.
Erecting notice boards	Who do I need to contact regarding putting up notice boards?	Generally you need to contact the land owner. If the land is owned by MKC then you would need MKC permission. Therefore you would need to check with Highways whose land it is and at what depth utilities are etc. And need to speak to Planning Officer regarding location and size etc.
Expenses / Remuneration	If a Councillor is on invalidity benefit, can he claim expenses without it affecting his benefit?	If a Councillor were being paid, this would affect any benefits received. As far as expenses are concerned – they should be declared to the tax office and to benefits office with documentation to show he is only being reimbursed for money that has already been spent ie no net gain. Expenses will affect the benefit.
Finance	Can Parish Meetings recover VAT?	A Parish Meeting cannot recover VAT as they are not a local authority.
Finance	Is it possible for a Parish/Town Council to invest reserves with the Treasury Management section at MKC?	No. It is unlikely that with the relatively small amounts involved (on MKC terms) that the interest rates we would offer would be beneficial to the PC, i.e. we would have an admin charge to levy. Conclusion, go to the high street banks – return will be better.
Finance	Where can we get a loan	The Public Works Loan Board (PWLB) is a statutory body

	from to finance a new parish office?	<p>within the UK Debt Management Office, an executive agency of H M Treasury.</p> <p>PWLB's function is to lend money from the National Loans Fund to local authorities and other prescribed bodies, and to collect the repayments. They can be contacted at:</p> <p>Public Works Loan Board UK Debt Management Office Eastcheap Court 11 Philpot Lane London EC3M 8UD Tel: 0845 357 6610 Fax: 0845 357 6509 Email: pwlb@dmo.gsi.gov.uk</p>
Finance	When should council cheques be signed and who should sign them?	<p>Cheques should be signed at council (or finance committee) meetings. The Local Government Act 1972 s150 (5) states "Every cheque or other order for the payment of money...shall be signed by at least two members of the council".</p> <p>In some councils the clerk signs as well, but this is superfluous. Also, some banks require that the clerk is named as a signatory on the mandate in order for the clerk to deal with transactions like transferring monies from one account to another or receiving the statements. [Matters Arising Issue 12/13]</p>
Finance	Should all payments, even expenses and salaries be published in the minutes?	Yes, after all, the residents have a right to know how their money is spent.
Finance	Should our council pay for the clerk's attendance at conferences etc?	Yes, if the event will be beneficial to the council, but it is up to the clerk to demonstrate the potential benefits.
Finance	Our village hall needs new equipment – can the Parish Council put this through their books in order to reclaim VAT?	No, HM Revenue & Customs are currently investigating VAT reclaim by the parish sector. They view this method of 'saving' VAT by ordering works for other organisations as tax evasion, and there could be serious consequences for any parish council involved in this kind of scheme.
Freedom of Information Act	Can MKC share information originally owned by Parish/Town Councils?	MKC would be exempt from providing Parish/Town Council owned information under section 21 of the Freedom of Information Act. However, guidance from the Information Commissioner (Awareness Guidance No 6 – Information Reasonably Accessible to the Applicant by Other Means), states that although a public authority may be within its rights to refer an applicant for information to another public authority which has a statutory duty to provide the information, it will often be as easy for the first authority to provide the information.
Gifts	What legislation/power can be used against Christmas gifts for caretaker/cleaner/auditor?	s.111 1972 Local Government Act should be shown against Christmas gifts.
Horses	Is there a law that prohibits horses riding on footpaths or fouling on footpaths?	According to the Highway Code, "You must not take a horse on to a footpath, pavement or cycle track. Use a bridleway where possible" <i>Laws HA 1835 sect 72 & R(S)A sect 129(5)</i> . Unfortunately environmental health is unable to enforce horse fouling.
Insurance	Will Milton Keynes	The Council liability policy will not cover the Christmas tree.

	Council's public liability insurance cover a Christmas tree and decorations being put up?	Whoever grants permission for the tree to be erected should ensure that the organisation [installing the tree] has insurance that will indemnify the Council in case of a claim for injury/damage(s).
Insurance	How can I ensure the sports pavilion in our parish is insured at the correct value?	BALC advises that you ask the insurance company to revalue the pavilion if there have been any changes. Or you could use a valuation company.
Letterhead	Who should use the council's official letterhead paper?	The clerk should be the only one who keeps the official headed paper (whether as printed stationery or on computer). Individual councillors, including the chairman, are not responsible for communicating on behalf of the council. They are of course at liberty to write to anyone they wish, but only in a personal capacity. – [BALC website]
Meetings	When our village hall is licensed, can we still have our council meeting there?	It seems that the new regulations will license premises for a series of events rather than as a permanent arrangement i.e. the hall will be licensed for particular periods rather than all the time. Thus, councils can legally carry on using halls as meeting places. It has been pointed out that most village halls would be in breach of their charitable trusts if licences are considered permanent, as the trusts often stipulate that children should not be allowed on premises where alcohol is served.
Meetings	Can a Councillor vote on an item when they will not be present at the meeting, ie. By post or proxy?	The Councillor cannot vote if they are not present, they can ask a question via writing through the Chair but not vote. – [LGA 1972 Sch12 (para 39(i) refers]
Meetings	What happens if a Councillor fails to attend Parish Council meetings?	If a member fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the council, he ceases to be a member of the council, unless the failure was due to some reason approved by the council <i>before</i> the expiry of that period. Approval cannot be given after the six month period has expired. Absence due to service with the Armed Forces during war or any emergency does not in any event vacate the office. Attendance at meeting of a committee or sub-committee of the council, or at a joint committee of the council and another local authority is deemed to be attendance at a meeting of the council. – [The Parish Councillor's Guide June 2003 p72] Summing up - if a Councillor has not attended the Parish Council meeting for 6 months but has attended a meeting of a committee or sub-committee of the council – the latter is deemed to be attendance at a meeting of the council.
Meetings	If there are seventeen councillors the quorum is six.	A third of councillors or three (whichever is the greater) usually forms a quorum. This should be set out in your standing orders. A meeting must remain quorate at all times, so if you need to leave early inform the chairman and clerk in good time.
Meetings	If a member has to leave a council meeting due to an interest, leaving the meeting inquorate, is the vote 'allowable'?	If a member leaves a meeting due to an interest thus making the meeting potentially inquorate and a vote is taken, the meeting is still quorate as the member who has left the meeting is still considered as present and the vote is 'allowable' and is a decision. – [BALC]
Meetings	If a vote is taken in an	If a vote is taken in an inquorate meeting then this is not a

	inquorate meeting, is it 'allowable'?	'decision' but a 'recommendation' that must be ratified by a Council meeting.
Meetings	Can the Parish/Town Council hold its annual meeting any time of the year?	<p>The parish council must, in every year, hold an annual meeting¹. In a year involving the election of parish councillors the annual meeting must take place on the fourth day after the date of the election or within fourteen days thereafter. In other years it may be held on any day in May as determined by the parish council itself². The annual meeting may be held at such time as the parish council decides, but if no hour is fixed it must begin at 6pm in the evening.</p> <p>¹ L.G.A. 1972, Sch. 12, para. 7(1) and 23(1) ² <i>ibid.</i>, para. 7(2) and 23(2).</p> <p>[Parish Councillor Guide. Eighteenth Edition by Paul Clayden]</p>
Meetings	What happens if under unavoidable circumstances a Parish/Town Council cannot hold its annual meeting in May?	The meeting could be open to challenge if there is anything controversial, but the important thing is that all reasonable steps are taken to make sure that the meeting happens. If the actual date slips over into June, a court may accept that. What a court would not accept is nothing happening to get the annual meeting organised.
Meetings	Should a parish council meeting be closed to allow the public (or members of the council who are not Councillors) to speak?	<p>The Chair should call a temporary adjournment from the meeting for public discussions. No decisions can be made in this time. The meeting should then resume where the agenda comes in force again.</p> <p>Many local councils set aside a period when the public can ask questions or even make statements. This is an excellent practice as long as the period is defined, and it is clearly understood that the public must not take part at any other time. [Local Council Administration – Sixth Edition. Charles Arnold-Baker]</p>
Meetings	Is it okay to summons councillors to meetings by email?	Yes, this is now considered acceptable. Also, the word 'summons' should always be used, to differentiate from a mere invitation. Councillors have a duty to attend.
Meetings	Can the Chairman make a decision on behalf of the council between meetings if there is an emergency?	No-the council cannot legally delegate to an individual councillor, not even the chairman.
Meetings	The Public can speak at all council meetings	No-the public have a right to attend but not to speak; the meetings are for essentially for councillors to gather together and make decisions. However, many councils do encourage members of the public to speak and ask questions in a short period before, after and during an adjournment of the meeting. These contributions should not form part of the official minutes.
Minutes	When should councillors see the minutes?	The clerk should send out copies of the draft minutes as soon as practicable following the meeting, so councillors can see what actions need to be taken. These draft minutes (usually in abbreviated form) are often published in newsletters or websites, so the public can keep up to date. It must be made clear however that these are draft and could be amended before ratification.
Minutes	Who can change the minutes?	The minutes can be amended at the next meeting, prior to ratification. Only minor corrections are allowed. Often the clerk

		circulates the draft minutes so that everyone knows what actions are to be taken, but this is not an opportunity for them to be rewritten! If there are doubts about the result of a resolution, it's sensible for the clerk to read out (at the time) exactly what he or she has recorded.
Parishes Order 2000	When was the decision made for Milton Keynes to become fully Parished?	Records show that <u>Milton Keynes Parishes Order 2000</u> was to take effect from 3 May 2001 but due to Foot & Mouth it was effective from June 2001.
Pensions	Must we pay our clerk a pension?	If your council has five or more employees then yes, all must be offered the chance to have a pension, whatever their age or hours worked. This must be the local authority scheme. If there are fewer than five, your council may offer a pension scheme (again the local authority one) but does not have to. Be aware that if a pension is offered at interview this will form part of the contract. When taking on new staff this means that (together with NI contributions) a council should budget for a further quarter on top of the salary figure. [Matters Arising Issue 12]
Declaring a personal or prejudicial interest.	Should an officer declare a prejudicial or personal interest?	Officers only have a duty to declare pecuniary interests to their authority under the LGA 1972. This is as defined under the old regime; and it is therefore still a criminal offence not to do so. There is no duty other than simply to declare the above in writing. There are no other duties unless your own adopted officers' code of conduct or contract requires it.
Personal Liability	What is my personal liability as a councillor?	Generally, decisions made in council or committee are collective ones, so the responsibility is of the council as a whole, and individual members and officers are immune from personal liability. However, liability could fall on a councillor who votes in favour of or acquiesces in expenditure, which is contrary to law, or a proposition that results in a loss or deficiency by wilful misconduct. If you are worried that an action by the council might be ultra-vires, it would be sensible to vote against, and ask that your vote be recorded in the minutes. In this way you will at least distance yourself from any adverse consequences later.
Precepts	Can a Parish Meeting raise a precept?	A Parish Meeting can raise a precept through the Chair.
Precepts - Reserves	What is the recommended reserve for a council?	NALC recommends for a small council, 3-4 months of average spending, and 6 months for a large council.
Public Service Leave	Is a parish councillor entitled to 'public service leave'? Previously district councillors could request leave under Section 29 of the Employment Protection (Consolidation) Act 1978, but not sure whether this applies to parishes and whether it is still in force?	<u>Law</u> Section 29 of the Employment Protection (Consolidation) Act 1978 has been repealed and replaced by section 50 of the Employment Rights Act 1996 (the Act). Section 53 states that an employer shall permit an employee of his who is a member of a local authority to take time off during the employee's working hours for the following purposes: <ul style="list-style-type: none"> - Attendance at a meeting of the local authority or any of its committees or sub-committees - The doing of any other thing approved by the body or

		<p>anything of a class so approved for the purpose of the discharge of the functions of the local authority or of any of its committees or sub-committees.</p> <ul style="list-style-type: none"> - Attendance at a meeting of the executive of that local authority or committee of that executive - The doing of any other thing by an individual member of that executive for the purposes of the discharge of any function which is to any extend the reponsibility of that executive. <p>The amount of time off which an employee is to be permitted to take under this section and the occasions on which and any conditions subject to which time off may be so taken, are those that are reasonable in all the circumstances having regards in particular to:</p> <ul style="list-style-type: none"> - how much time off is required for the performance of the duties of the office or as a member of the body in question and how much time off is required for the performance of the particular duty - How much time off the employee has already been permitted under this section or for time off for trade union duties and activities. - The circumstances of the employer's business and the effect if the employee's absence on the running of that business. <p>The meaning of a local authority is defined within the Local Government Act 1972 which says that a local authority is a county council, a district council, a London borough council or a parish. Therefore section 50 would apply to a parish councillor and he would be entitled to time off by his employer for public duties.</p> <p>Under section 51 of the Act an employee may present a complaint to an employment tribunal that his employer has failed to permit him to take time off as required by s.50. This should be made within a period of three months beginning from the date the failure to permit time off occurred. If the employment tribunal find in the employee's favour then they may make an award of compensation to be paid by the employer to the employee.</p>
Register of Interest Forms	Do I need to declare my home address?	Yes – you must declare your home address and any property that you own or rent should be declared if it falls within the parish.
Retirement of the Clerk	Must our council pay the clerk a lump sum when he retires? And how much could it be?	It's entirely up to the council whether or not to pay a gratuity to a clerk of retirement age without a local authority pension. But remember there is a strict ceiling on the amount that can be paid (BALC can help you calculate this). A clerk with 12 years service for example, could be entitled to about £2,000.
Schools	Is it still a Statutory Right for parishes to have a councillor on the school Governing Bodies in their area?	<p>Under the School Standards and Framework Act 1998 (Schedule 9 paragraph 15 (3)), parish and town councils currently have the power to nominate a school governor for a primary school.</p> <p>On 1st September 2003 the School Governance (Constitution) (England) Regulations take effect. The new regulations do not provide for a parish or town council to nominate a primary school governor. Rather there is to be a community</p>

		<p>representative on the governing board. This representative may be a local councillor but is selected by the local education authority and the governing body.</p> <p>The new system is to be fully effective by 1st September 2006 which means that the existing governor can serve out their term of office until it ends but they cannot stay after 31st August 2006. [BALC]</p>
Standards	<p>This year existing Town Councillors were elected back into office in an uncontested election. Do I need to re-issue Declarations of Interest forms, or are the existing forms which they all completed several years ago adequate?</p>	<p>Yes - It is good practice to get them to re-sign and date their declarations even if they haven't changed as they are required to make a declaration of their interests within 28 days each time they are elected.</p>
Standards	<p>Please clarify the procedures for declaring a personal interest?</p>	<p>"A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest" - [Code of Conduct]</p> <p>Not all interests that are declared at a meeting would need to be entered in the register of members' interests. For instance, if the personal interest arose as a result of a planning application affecting the property of a relative that would need to be declared at the meeting but would not need to be included in the register of interests as the property interests of a relative are not required to be registered.</p> <p>A really difficult and sensitive situation would be where a person might want to declare an interest because of an item of council business which affects a person with whom the Councillor is having a personal relationship but that relationship is not one that he/she wants others to know about. There are no easy ways around that situation!</p>
Standards / Co-option	<p>If a Parish Council turns down a candidate for co-option can the candidate ask the principle authority to intervene?</p>	<p>No. The principle authority cannot intervene; it is up to the Parish Council to satisfy itself as to suitability of candidates. However a candidate could seek an election should a vacancy arise in future and should he win, the Parish Council cannot then stop him being a member.</p>
Standards / Employment	<p>Is a spouse of a Councillor allowed to apply to be the Parish Clerk?</p>	<p>Yes, But it is advised that the Councillor should not be on the interview panel.</p> <p>When the matter of the clerk's salary is discussed, a prejudicial interest should be declared.</p>
Standing Orders	<p>Should we have standing orders?</p>	<p>Yes, there are the rules by which your council functions. You should have the document readily available. However, if it has been lost or is out of date, it is essential that new ones are drawn up and a copy given to each councillor. Model standing orders are available from the BALC office.</p>
Unitary Authority	<p>When did Milton Keynes become a Unitary Authority?</p>	<p>The Council's successful bid to become a unitary authority took effect from 1 April 1997.</p> <p>The Borough encompasses the older towns of Bletchley, Newport Pagnell, Olney, Stony Stratford, Woburn Sands and Wolverton, together with numerous villages and, of</p>

		<p>course, the city of Milton Keynes.</p> <p>There are many theories about the choice of name for Milton Keynes; one popular misconception is that it derived from the names of two eminent economists, Milton Friedman and John Maynard Keynes. In fact it took its name from the village of Milton Keynes, which lies to the east of the city centre, and was so called because of its position between two ancient local centres (Middleton) and from the Keynes family, which once owned the manor. [MK Web]</p>
Vote of no confidence	Some councillors want a vote of no confidence in the chair. Is this a good idea?	No. Firstly there is no point; the chair can remain in the chair until the next annual meeting whatever the result of the vote, and squabbling councillors diminish the reputation of the council in the eyes of the public. Wait till next May and then elect someone else.

19th June 2008