

### **What does this guidance cover?**

- The matters below are covered by the Neighbourhood Planning (Referendums) Regulations 2012 (the Regulations).
- This guidance covers key issues that apply in relation to publicity during the period leading up to any Neighbourhood Plan Referendum. This period runs from the date when Milton Keynes Council publishes the information statement (publication date), which is a minimum of 28 working days before the date of the referendum to the date of the referendum.
- Specific restrictions in relation to any individual's role as an elected or co-opted councillor.
- Restrictions on how much may be spent by campaigners by way of expenses incurred in the conduct of any campaign either in support of or in opposition to the referendum question.

### **What are the key terms?**

- "Councillor" – means any Milton Keynes Council elected or co-opted councillor
- "Council" – means Milton Keynes Council

### **KEY POINTS - PUBLICITY:**

- The matters set out below regarding restriction on publication of promotional material are covered by Regulation 5 of the Regulations, which is applicable to the Council and its Councillors and therefore the following key points should be adhered to.
- Councillors can create their own publicity, provided Council resources are not used. Resources of a campaign group or the relevant parish/town council may be used.
- Council business will continue during a referendum period. This includes publicity around normal Council business and events. However, this must be carefully thought through to ensure Council "machinery" is not used or allowed to be used or manipulated by anyone in relation to the referendum.
- Councillors representing the referendum area should not be quoted in any press releases issued (if any) by the Council relating to the referendum in their capacity as ward councillors. Councillors of Milton Keynes Council who are also parish/town councillors for a referendum area are entitled to campaign as parish/town councillors. They must be clear in any comment or published material that they act as a parish councillor.
- No posters or leaflets must be displayed on Council premises (including street furniture) or vehicles.
- Views on the referendum question, which could be seen as in favour of or against the proposal, must not be published by the Council
- Press releases issued by the Council should not be used to support or oppose the referendum question

- Before arranging any events in the referendum area involving Councillors, Council officers should take advice from Milton Keynes Council’s Legal Services and Electoral Services teams.
- Councillors in the Neighbourhood Plan Area need to maintain a clear distinction between their official duties as a serving Councillor and their involvement with any campaign relating to the referendum. For example, they should guard against giving any impression of use of Council resources for referendum or private purposes. During the referendum period Councillors may continue to deal with ward work and represent their constituents.
- Particular care must be taken by Councillors who hold positions of responsibility within a council where, by virtue of their role, they could be seen to be supporting or opposing a referendum question.

#### **KEY POINTS – CAMPAIGNING:**

- Town and Parish Councils are not directly restricted by the publication restrictions placed by the Neighbourhood Planning (Referendums) Regulations 2012
- However, under Section 4(1) of the Local Government Act 1986 the Town and Parish Councils are required to have regard to The Code of Recommended Practice on Local Authority Publicity (the Code). Whilst the Code predated the introduction of neighbourhood plans, the section below is considered to be relevant and should be taken into account:  
*“In general, local authorities should not issue any publicity which seeks to influence voters. However, this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.”*
- Regulation 6 of the Neighbourhood Planning (Referendum) Regulations 2012 allows any individual or body to conduct a referendum campaign with a view to promoting or procuring a particular outcome in relation to the question to be asked in a referendum and to incur referendum expenses which must not exceed a certain limit (for referendum expenses see Key Points – Referendum Expenses section below).
- The Council is not directly responsible for actions of any individual Town or Parish Council

#### **KEY POINTS - REFERENDUM EXPENSES:**

- A maximum of £2,362 plus £0.059 for each entry in the relevant register of electors may be spent by campaign organisers in connection with a referendum campaign. The exact amount allowed for each referendum area will be published in the Information Statement or may be obtained from Milton Keynes Council’s Elections team (elections@milton-keynes.gov.uk)
- Expenses mean the expenses incurred by or on behalf of any individual or body during the referendum period in relation to:
  - Advertising of any nature

- Unsolicited material addressed to voters
  - Information about the referendum, information about the question, arguments for and against
  - Market research or canvassing
  - Provision of any property, services or facilities in connection with press conferences or dealings with the media
  - Transport (by any means) of persons to anywhere with a view to obtaining publicity in connection with a referendum campaign
  - Rallies and other events, including public meetings.
- Expenses also include any notional expenses, where property, services or facilities are provided free of charge or at a discount.

**Campaigning groups are encouraged to register with and submit a statement of expenses to the Counting Officer (elections@milton-keynes.gov.uk)**

It is an offence for a campaign organiser to exceed the referendum expenses limits and if found guilty would be liable to a fine of up to £5000 and/or imprisonment of up to 12 months.

## QUESTIONS AND ANSWERS

<p><b>1. What does the law say?</b></p>	<p>The relevant law in relation to neighbourhood planning referendums is set out in the Neighbourhood Planning (Referendum) Regulations 2012:</p> <ul style="list-style-type: none"> <li>• Regulation 5 - prohibits the local planning authority (Milton Keynes Council) from publishing any promotional material other than that required to be published under Regulation 4 (Information Statement and specified documents, or factual information about the referendum) during the referendum period.</li> <li>• Regulations 6 and 7 of the Regulations set out the limit that may be spent on referendum expenses and the penalty for non-compliance.</li> </ul>
<p><b>2. When do the restrictions apply?</b></p>	<p>The restrictions apply during the relevant period, which takes place from the date on which the 'Information Statement' is published by Milton Keynes Council until the date of the referendum and is a minimum of 28 days before the date of the referendum.</p>
<p><b>3. What does publicity mean?</b></p>	<p>The meaning of publicity is wide and includes any communication, in whatever form, addressed to the public as a whole or to a section of the public. Publicity may include:</p> <ul style="list-style-type: none"> <li>• speeches, interviews, items on a Council's or parish council's websites or notice boards, press releases, newsletters, leaflets, and newspaper articles issued by or on behalf of a Council or by or on behalf of a campaign group or parish council; and</li> <li>• publicity issued by organisations that receives funds from the Council. For example, a breach of rules may occur if activity group funded by the Council organises an event that attacks or supports a referendum campaign. The Council also cannot fund other organisations to produce publicity which it is unable to issue itself.</li> </ul>
<p><b>4. What are the restrictions on a Council's publicity?</b></p>	<p>The Council is not permitted to publish or to assist others to publish material, which appears to be designed to affect public support for a referendum campaign. The intention behind the publication does not matter – what is important is whether it “appears” to be designed to affect support. This covers broadcast items, as well as written material.</p> <p>It can cover printing, even if the same information published at another time would be considered reasonable. It is therefore safer to avoid giving support and facilities for campaign material during the referendum period.</p>
<p><b>5. Do publication restrictions apply to Town and Parish Councils?</b></p>	<p>Town and parish councils are not directly restricted by the publication restrictions in relation to neighbourhood planning referendums.</p>

<b>6. What are Council Resources?</b>	Examples of Council's resources include: IT, telephones, fax machines, photocopiers, stationery, headed notepaper, postage, transport and staff time.
<b>7. What are the restrictions on the use of Council Resources?</b>	The Council's Constitution provides that all Councillors and Officers are responsible for ensuring that they use the resources and assets entrusted to them in a responsible and lawful manner and that they belong to the whole Council and not to any individual, service or service group. Therefore, using the Council's resources in respect of the referendum campaign would amount to a breach of the Council's Constitution.
<b>8. What is meant by "Use of Council Resources?"</b>	<p>The use of Council resources for referendum campaign may cover:</p> <ul style="list-style-type: none"> <li>• publication of campaigning material;</li> <li>• any other activity intended to promote purely campaign, for example, the use of the Council's: <ul style="list-style-type: none"> <li>- postal system to distribute campaign material;</li> <li>- email address to send out referendum campaign material;</li> <li>- staff time to carry out research to assist in promoting a referendum campaign.</li> </ul> </li> </ul>
<b>9. Why are the restrictions imposed?</b>	<p>Restrictions on the Council's publicity are imposed to ensure that the Council is not able to unduly influence the result of the referendum and to prevent Council business carried out during the referendum period being used to secure advantage for a referendum campaign.</p> <p>The restrictions are not imposed to prevent the carrying out of the Council's normal business during this period. It is important to ensure that publicity or Council activities are not perceived as seeking to influence public opinion or to promote a referendum campaign.</p>
<b>10. What happens to press releases during this period?</b>	<p>No press releases about the referendum can be made during the referendum period without the authorisation of the Counting Officer. When considering whether to authorise any such press release, the Counting Officer will take the following factors into account:</p> <ul style="list-style-type: none"> <li>• The content and style of the material;</li> <li>• The likely effect on those to whom it is directed;</li> <li>• Whether material promotes or opposes a view on a referendum question.</li> </ul>
<b>11. Can the Council comment on misleading campaign material?</b>	If damaging misinformation has been circulated as part of a referendum campaign, it is acceptable for the Council to correct the record. The Council may therefore publish press releases which contain factual information, with the sole purpose of refuting or correcting any inaccuracy in material published. However, prior to taking any steps advice must be obtained from the Counting Officer.

<p><b>12. Can the Council's website be used for the purposes of the referendum campaign?</b></p>	<p>Council's website should not contain any reference to a referendum campaign.</p>
<p><b>13. What are the rules for Council staff?</b></p>	<p>Council's staff:</p> <ul style="list-style-type: none"> <li>• Should be mindful of the greater need for sensitivity during the referendum period and follow the guidance as set out in this document.</li> <li>• Must always be careful not to give the impression of supporting a referendum campaign.</li> <li>• Should appear neutral. In those instances where the officer's work is confined to a very specific geographical area and where the public knows them in their official capacity, those members of staff should not canvass or act in any visible manner in that area in support of a referendum campaign.</li> <li>• Not wear any campaign badges/ stickers whilst carrying out their work, or have campaign stickers etc. on work items (for example, clipboards).</li> <li>• Not express personal opinions about a referendum to the general public, tenants and residents (and their representatives), councillors, or Members of Parliament.</li> <li>• Should take extra care not to allow themselves to be photographed with campaigners, as such photos may be re-printed in a campaign leaflet, which could be seen as an endorsement of the campaign by the Council Officer, especially if the photo is of a senior officer of the Council.</li> </ul>
<p><b>14. Are there any special rules for Milton Keynes Council's officers in politically restricted posts must abide by?</b></p>	<p>Staff in politically restricted posts will know the legal rules that apply to them. Any members of staff that are unsure about whether or not they hold a politically restricted post should speak to their line manager or the HR department.</p>
<p><b>15. Can Councillors talk to the press and media during a referendum period?</b></p>	<p>The restrictions apply to official Council organised publicity including press releases or events and the use of the Council's resources. The Councillors are also asked not to include Council's contact details in any literature, to avoid inquiries relating to a referendum campaign being directed via Council employees.</p> <p>It is important that ward councillors who represent the referendum area maintain a clear distinction between their official duties as a serving Councillor and their involvement with any campaign relating to the referendum. As such, they should ensure that they do not give impression that they are acting in their capacity as a "Councillor" and</p>

	that there is no impression that Council resources may be used for referendum or private purposes.
<b>16. What about publicity for events?</b>	The restrictions apply to any events organised by the Council. Where possible, it is better to avoid proactively scheduling PR events and photo opportunities in the referendum area during the referendum period.
<b>17. What about events that cannot be re-scheduled for operational reasons?</b>	<p>Any Council event held in a referendum area and which cannot be postponed until after the referendum needs to be organised in such a way as to minimise the likelihood of criticism being raised that the real purpose of the event is to publicise a particular campaign.</p> <p>Any representatives attending the event should be asked not to use the event for campaign purposes. In the circumstances where representative from one campaign is to attend the event, then (where possible) representatives of other campaigns should also be invited.</p>
<b>18. What about posters and leaflets?</b>	<p>No campaign posters or leaflets may be displayed on Council notice boards, premises (including street furniture etc.), or vehicles.</p> <p>Any publicity material relating to the referendum published on behalf of any campaigning group should include the printer imprint i.e. state who the material was printed and published by.</p>
<b>19. What about meetings during this period?</b>	<ul style="list-style-type: none"> <li>• Any meeting in relation to a referendum, which might be seen as having the potential to be seen as contentious, should be avoided;</li> <li>• Where the Council controls the scheduling of such a meeting and it is considered that it can reasonably be deferred until after the referendum without significant detriment, then the meeting should be re-arranged to take place after the referendum;</li> <li>• Other meetings which support the Council's functions can still take place, as long as they are not used, or could reasonably be considered to give rise to the perception that they are being used, in connection with a referendum campaign.</li> </ul>
<b>20. Can Councillors send out correspondence to constituents?</b>	Councillors may respond to correspondence they may receive in the normal way and deal with casework as a result of surgeries. However, there should be no reference to a referendum in letters or e-mails, which are being sent to constituents.
<b>21. Can Council premises be used for campaign meetings?</b>	Campaigners may, on reasonable notice, use meeting rooms maintainable out of public funds, if this does not impact on the normal use of the room and provided that the cost of the room is paid by the campaigners at the commercial rate ( including the cost of preparation, heating, lighting, staffing and similar costs and costs of damages). Use of Council's staff time to facilitate a booking is permitted.

<p><b>22. Are school visits by campaigners different?</b></p>	<ul style="list-style-type: none"> <li>• The management of schools, including permitting access and visits, is usually performed by the independent governing body. If a school visit is requested by campaigners, the governing body would be advised to seek advice from Milton Keynes Council. The governing body will query the reasons for campaigners' request to access to schools during the school day, as there are few potential voters to influence.</li> <li>• The same rules will apply to Council's staff. They will not normally support or facilitate a visit, and will need to be careful about any photographs that are taken.</li> </ul>
<p><b>23. Can Parish and Town Councils campaign for a 'Yes' or a 'No' vote?</b></p>	<p>The Regulations allow any individual or body to conduct a referendum campaign with a view to promoting or procuring a particular outcome in relation to the question to be asked in a referendum and to incur referendum expenses (not exceeding a certain limit) and parish and town councils are not excluded from this provision.</p> <p>However, as it is set out within this guidance, this is subject to a caveat that:</p> <ul style="list-style-type: none"> <li>• There is a campaign limit and therefore any expenditure incurred should be properly recorded. To avoid potential referrals or complaints to Thames Valley Police, parish/town councils who wish to campaign should register as a campaign group and submit expense returns to the Council's Democratic Services team.</li> <li>• Where paid-for advertising is used, it should be clearly identified as being advertising (and should include an imprint to make it clear who has published any such material).</li> <li>• Any Council's public realms, street furniture, land etc. should not be used for advertising.</li> </ul>
<p><b>24. Can the campaigner or a campaign group claim expenses from the Council?</b></p>	<p>The Regulations set out the maximum amount of expenses that can be incurred in conducting a neighbourhood plan referendum campaign. However, these expenses are not reimbursed by the Council.</p>
<p><b>25. What are the sanctions for breaching publicity restrictions?</b></p>	<ul style="list-style-type: none"> <li>• Severe sanctions apply to the Council and individual Councillors and officers for inappropriate behaviour during a referendum period: <ul style="list-style-type: none"> <li>- The Council can be subject to action by its external auditors if unlawful expenditure occurs.</li> <li>- If a Councillor uses Council's resources for inappropriate purposes, they may be a breach of the Council's Constitution and in turn Members Code of Conduct.</li> </ul> </li> </ul>



	<ul style="list-style-type: none"><li>- If a Council's employee behaves in an inappropriate way, they may be in breach of the Employee Code of Conduct and be subject to disciplinary action.</li> <li>- For campaigners, referendum expenditure is clearly set out in this guidance. Expenditure in excess of referendum expense limits may be a criminal offence.</li></ul>
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**Who do I speak to if I am not sure what to do?**

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