

STANDARDS COMMITTEE

18 April 2005

(DRAFT) PROTOCOL REGARDING MEMBER PARTICIPATION IN THE CONSIDERATION OF GRANT AID APPLICATIONS FROM LOCAL ORGANISATIONS

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: Chris Ashcroft Tel No: 01962 848284 cashcroft@winchester.gov.uk

RECENT REFERENCES:

ST36 – Lobby Groups, Dual Hatted Members and the Code of Conduct (7 February 2005)

EXECUTIVE SUMMARY:

The Standards Board for England has recently published more detailed guidance on a number of difficult areas where there might be a conflict of interest for a Member. One area covered is the situation when a Council is awarding grant aid to bodies with whom one or more of the participating Members may have connections to the management organisation. The guidance considers the balance between circumstances when it is reasonable for a Member to represent outside interests and still participate in a decision at Council – and those when it is not reasonable to do so.

A copy of the Standards Board booklet containing the guidance was circulated to Committee Members in February 2005 and is attached again for Committee Members only. This report appends a Draft Protocol which is based upon that guidance and which, hopefully, Members will find useful when considering their level of involvement with a particular body.

One issue which should be highlighted is the distinction drawn in the booklet between when a Member is on a body which is advisory, as opposed to one which takes the decision. The guidance suggests that when serving on an advisory body, it could be acceptable to fully participate despite having an interest, because "...there would be no question of improper decision making." This advice is not entirely without doubt because, if the interest were personal and prejudicial, the Member should take no part whether in an advisory or decision making capacity. It is, perhaps, suggesting that a less rigorous test of the nature of the interest could be applied when a Member is not part of a decision making body.

In any event, the issue is of less concern to the City Council at this time, because grant applications go direct for decision to either Cabinet or, if they relate to the Winchester Town area, to the Winchester Town Forum (although this latter arrangement needs to be confirmed by Council on 13 April 2005). Therefore, the attached draft guidance reflects this situation.

It is also worth mentioning that our local practice in recent times has been to adopt the same approach for Members with a link to the management of an organisation applying for grant aid, whether the meeting concerned has been acting in an advisory or decision-making capacity.

RECOMMENDATION:

That the Committee considers the Draft Protocol and, subject to any comments, recommends its adoption to Council for inclusion in Part 5 of the Constitution.

OTHER CONSIDERATIONS:

1 CORPORATE STRATEGY (RELEVANCE TO):

1.1 To ensure the Council's work practices are consistent with corporate values.

2 RESOURCE IMPLICATIONS:

2.1 None.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Appendix 1 – (Draft) Protocol regarding Member Participation in the Consideration of Grant Aid Applications from Local Organisations



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1. Introduction

- 1.1 The Standards Board for England recognises that, from time to time, any Member who is active as part of the local community will become involved with local organisations. Indeed, the Modernisation Agenda encourages this 'cross-membership', not least because it can lead to more joined-up working to the benefit of councils, organisations and the community.
- 1.2 That involvement may range from a basic knowledge of the leading people in an organisation and its broad aims, to the Member being part of the management committee, perhaps occupying the position of chairman, secretary or treasurer.
- 1.3 Whatever the level of involvement, this Protocol aims to provide practical guidance to help Members determine the extent of their interest and the appropriate action to take in varying circumstances.

2 National Guidance

- 2.1 Firstly, reference should be made to the Members General Principles of Conduct (as contained in Part 5 of the Constitution) and particularly Numbers 1,2, 3 and 6, which respectively refer to serving in the public interest, situations where honesty or integrity may be questioned, decisions to be made on merit and Members making decisions based upon the issues before them.
- 2.2 Secondly, Members should have regard to the Code of Conduct, particularly Paragraph 10, which aims to balance the need to prevent conflict between public duties and private interests, whilst not unnecessarily obstructing Members in their work.
- 2.3 Finally, the Standards Board publication 'Lobby Groups, Dual-hatted Members and the Code of Conduct' is a useful publication which addresses a range of issues relevant to this matter.

3 Practical Examples

- 3.1 Having regard to the advice in all the above documents, the following examples and suggested action cover some of the most likely situations in which Members will find themselves. In the light of the most recent Standards Board guidance, the Protocol does not distinguish between whether or not the Member has been appointed to the body concerned as a Council representative, because it is now considered that the potential for conflict can arise in either case.
- 3.2 Another point to consider at the outset is whether the organisation(s) involved have been included in the Register of Interests which each Member completes at the beginning of the Municipal Year. At the very least, a personal interest must always be declared in respect of these bodies.

- 3.3 The following examples are based upon those situations where applications for grant aid have been made from specific organisations for a specific project and are before a meeting for consideration/determination. They do not relate to decisions on broad policy issues (eg establishing the Council's policy on its administrative process for grants applications) as in those cases all Members may participate fully, having declared a personal interest if appropriate.
- 3.4 The first example is where an application comes before a meeting from an organisation about which a Member has knowledge in a general sense and perhaps has even met representatives of that organisation in the past whilst on other Council business (but never discussed specific grant aid). Nor does the Member belong to that organisation in any capacity. In all those circumstances, there is no need for any declaration of interest or to limit participation in the decision making process.
- 3.5 If a Member belonged to the organisation purely in an 'ordinary' capacity (eg was not an officeholder or otherwise active, and/or would not benefit more than many other local people through a grant) then it may be acceptable to participate fully in the decision. However, the test of what the reasonably informed member of the public may think must be applied. At the very least, declaring a personal (but not prejudicial) interest would be necessary and in some circumstances it may be prudent to speak but not vote. If a Member was still uncertain and wished to avoid all doubt in the matter, then they should declare a personal and prejudicial interest and leave the meeting.
- 3.6 Where a Member is either an officeholder or otherwise clearly active in the organisation, then a personal and prejudicial interest exists and this should be declared, followed by leaving the meeting. It would not be acceptable for the Member to make any comments before leaving (even to clarify matters of fact), nor to sit in the public gallery, whether to speak as part of any public participation or simply to observe.
- 3.7 Where a Member does not sit on the committee but attends the meeting either as a Ward Member or an observer, similar considerations apply. A personal and prejudicial interest is not diluted by the fact that a Member does not sit on the committee that is hearing/determining the application – they should not be present in the meeting room in any capacity. Again, the revised guidance about being a Council appointed representative making no difference should be borne in mind.
- 3.8 Members who do not sit on the committee and who have either a personal interest or no interest whatsoever, may attend to observe. At the discretion of the Chairman, they may also address the meeting regarding a grant application, having first declared any personal interest they may have.
