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## Report of the Director of Resources and the Assistant Chief Executive (Corporate Governance)

### Standards Committee

Date: 21<sup>st</sup> April 2009

Subject: MICE Money and Members' Code of Conduct

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#### Electoral Wards Affected:

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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### Executive Summary

1. The purpose of this report is to advise Members of the Standards Committee of some amendments to the "Members Improvements in the Community and the Environment" (MICE) scheme approved by the Executive Board on 1<sup>st</sup> April 2009.
2. It was recently identified that it is likely that any submission for MICE money in connection with an organisation with whom a Member has a relationship (for example, as an employee, a member of the management board or a trustee of a local charity) is likely to be capable of giving the Member a prejudicial as well as a personal interest under the Members' Code of Conduct, as a grant application clearly affects the financial position of the organisation. Although the Member is not making the final decision, and is only making a proposal to officers, they must still ensure that they are not seen to be improperly influencing the decision, as this would breach another paragraph of the Code of Conduct.
3. A report was presented to the Corporate Governance Board on 12<sup>th</sup> January 2009, and then to the Executive Board on 1<sup>st</sup> April 2009 which proposed amendments to the scheme to address the above issues.
4. Members of the Standards Committee are asked to note the information in this report and the decision of the Executive Board.

## **1.0 Purpose Of This Report**

- 1.1 The purpose of this report is to advise Members of the Standards Committee of some amendments to the "Members Improvements in the Community and the Environment" (MICE) scheme approved by the Executive Board on 1<sup>st</sup> April 2009.

## **2.0 Background Information**

- 2.1 The MICE scheme was introduced in 1987 and provides an allocation of funds for locally determined projects to be used for qualifying proposals by Ward Members within an annual financial limit. Grants can be made between June and March, with any unspent money being carried over to the next phase of the scheme. Members have an allocation of £3000 each, or £9000 per ward. Members can make applications individually or with one or two of their ward colleagues. There are two separate application forms which can be used for these purposes. Once the Member(s) has completed the application form and made their recommendation, officers check that it falls within one of the categories of eligible projects.
- 2.2 There are a set of guidance notes available for Members which explain which types of projects are eligible for the scheme, how the submissions are approved, and what conditions will be applied to the grant.
- 2.3 A report was provided to the Corporate Governance Board on 12<sup>th</sup> January 2009 regarding the scheme and implications for Members' arising from the Code of Conduct. In particular there were concerns that Members may have personal and potentially prejudicial interests in the MICE money applications if they had an involvement with the organisation concerned. These concerns about the process are set out below.

## **3.0 Main Issues**

### Advice provided to Members completing the submission form

- 3.1 For a project to be eligible it must be within a Member's own ward, or in an adjacent ward where there is cross-boundary benefit, or where there is city-wide benefit. Projects must provide benefit to non-profit making organisations or communities within the ward and not confer private benefit to individuals.
- 3.2 The submission form must be signed by the relevant Councillors before being submitted to the Director of Resources for consideration. However, one or two ward Members can submit proposals on behalf of all three ward Members as long as a nomination form has been signed and returned to the Resources Department. This arrangement will then stand until the next phase of the MICE money scheme, it is revoked in writing, or the Member is deselected for some reason.
- 3.3 When completing their submission form, Members are asked to provide details of the project, including any correspondence from the organisation. However there is not a requirement for Members to detail their relationship (if applicable) with the organisation in question.

## Approval process

- 3.4 Once the application is received, officers within Financial Development and Legal, Licensing and Registration check to make sure:
- There are sufficient funds available for the proposal to qualify within the Members' limit;
  - That the proposal meets the eligibility criteria;
  - That it is within the legal powers of the Council to make the grant; and either
    - If appropriate, that the Service Director with responsibility for the property of functions which will benefit from or be affected by the submission approves it as being within current Council policies, in the interests of the Council, and as procuring best value and involving no more expenditure than is proportionate to the benefit to be achieved, and is satisfied that there are no other reasons (including alternative proposals) which make it inappropriate to approve the proposal;
    - That the Director of Resources, after consultation with that Service Director, is satisfied that there is no financial reason why the proposal should not be approved; or
    - That any Committee with responsibility for the property or function which will benefit from or be affected by the submission approves it (after consulting with the Director of Resources).

## Implications for the Members' Code of Conduct

- 3.5 According to the Members' Code of Conduct, Members have a personal interest in any business of the Council where it relates to or is likely to affect:
- (a) an interest that they must register; or
- (b) an interest that is not on their register, but where the well-being or financial position of the Member, members of their family, or people with whom they have a close association, is likely to be affected by the business more than it would affect the majority of inhabitants of the ward affected by the decision.
- 3.6 Their personal interest will also be a prejudicial interest in a matter if all of the following conditions were met:
- (a) the matter does not fall within one of the exempt categories;
- (b) the matter affects the relevant body's financial interests or relates to a licensing or regulatory matter; and
- (c) a member of the public, who knows the relevant facts, would reasonably think the Member's personal interests is so significant that it is likely to prejudice their judgement of the public interest.
- 3.7 Therefore it is likely that any submission for MICE money in connection with an organisation with whom the Member has a relationship (for example, as an employee, a member of the management board or a trustee of a local charity) is likely to be capable of being prejudicial as well as personal, as a grant application clearly affects the financial position of the organisation. Although the Member is not making the final decision, and is only making a proposal to officers, they must still ensure that they are not seen to be improperly influencing the decision, as this would breach another paragraph of the Code of Conduct.

3.8 The Standards Board for England define the term 'improperly influencing a decision' as using your position or attempting to use your position improperly to further your own interests in a way that is not open to ordinary members of the public. As the ability to make submissions for MICE money is only open to Elected Members, making a submission when you have a prejudicial interest could be interpreted as improper influence.

3.9 The Standards Board advise Members with prejudicial interests that they can still influence decisions, without breaching this section of the Code of Conduct, in the following ways:

- By making written representations in their private capacity. The Standards Board recommends that the existence and nature of the interest should be disclosed in such representations, and the Member must not seek preferential consideration of their representations. The representations should also be addressed to officers, rather than to other Members of the Council.
- By using a professional representative to make applications on their behalf.
- By arranging for another Member of the Council to represent the views of their constituents on matters in which they have a prejudicial interest.

#### Options for amendment

3.10 In order to address these potential issues for Members' in relation to the Code of Conduct, a series of options were presented to the Corporate Governance Board for discussion. These included:

- Amending the submission forms to provide Members with an opportunity to explain whether they have any connection with the organisation.
- Requiring Members to ask organisations to formally apply to them requesting a grant, and details could then be passed on to officers without the Member making any comments as to its merits. The details of the project could be requested from the organisation directly, instead of from the Member with the interest.
- Requiring Members to ask their ward colleagues to apply for the grant on the organisations behalf. The only difficulty may be if the ward colleague considered the Member with the interest to be a 'close personal associate', and therefore also have an interest by association. Therefore applications for this type of funding by Members who have prejudicial interests may sometimes be unavoidable.
- The Council could consider ensuring that as many potentially eligible projects as possible are made aware of the scheme and how to apply to ensure that ward Members are not only provided with potential submissions from organisations they are connected with.

3.11 The Corporate Governance Board considered the above proposed amendments and decided that the Assistant Chief Executive (Corporate Governance) should meet with the Chief Officer (Financial Development) to discuss possible solutions to this issue, and, following this, the scheme should be rewritten and taken to Executive Board for approval.

3.12 A report was presented to the Executive Board for their consideration on 1<sup>st</sup> April 2009 which proposed that the following amendments were made to the procedure:

- the application forms for grant awards be amended to provide Members with the opportunity to explain whether they have any connection with the organisation;
- where Members have a prejudicial interest in a MICE application, they can ask their ward colleagues to apply for the grant on the organisations behalf;
- the guidance notes provided to Members on making applications for funding from the MICE scheme will be updated accordingly; and
- the availability of MICE grants will be publicised on the internet with details of how to apply, to ensure that ward Members are not only provided with potential submissions from organisations they are connected with.

3.13 The report also explained that the guidance notes for the MICE money scheme have recently been reviewed following consideration of the scheme by the Corporate Governance Board, specifically in relation to potential conduct issues.

#### **4.0 Implications For Council Policy And Governance**

4.1 The guidance notes on the MICE money scheme show that there are strict financial and legal controls in place to ensure that grants are provided to appropriate projects, and that the money is used correctly. The amendments to the procedures agreed by the Executive Board on 1<sup>st</sup> April 2009 should ensure that Members do not breach the Members' Code of Conduct by submitting recommendations for funding to bodies in which they have a prejudicial interest.

#### **5.0 Legal And Resource Implications**

5.1 The legal implications are listed within the report itself. There are no resource implications to the information within this report.

#### **6.0 Conclusions**

6.1 It was recently identified that it is likely that any submission for MICE money in connection with an organisation with whom a Member has a relationship (for example, as an employee, a member of the management board or a trustee of a local charity) is likely to be capable of giving the Member a prejudicial as well as a personal interest under the Members' Code of Conduct, as a grant application clearly affects the financial position of the organisation. Although the Member is not making the final decision, and is only making a proposal to officers, they must still ensure that they are not seen to be improperly influencing the decision, as this would breach another paragraph of the Code of Conduct.

6.2 A report was presented to the Executive Board for their consideration on 1<sup>st</sup> April 2009 which proposed that the following amendments were made to the procedure to address these issues:

- the application forms for grant awards be amended to provide Members with the opportunity to explain whether they have any connection with the organisation;
- where Members have a prejudicial interest in a MICE application, they can ask their ward colleagues to apply for the grant on the organisations behalf;
- the guidance notes provided to Members on making applications for funding from the MICE scheme will be updated accordingly; and
- the availability of MICE grants will be publicised on the internet with details of how to apply, to ensure that ward Members are not only provided with potential submissions from organisations they are connected with.

6.3 The report also explained that the guidance notes for the MICE money scheme have recently been reviewed following consideration of the scheme by the Corporate Governance Board, specifically in relation to potential conduct issues.

## **7.0 Recommendations**

7.1 Members of the Standards Committee are asked to note the information in this report and the decision of the Executive Board.

## **Background Documents**

- Report of the Assistant Chief Executive (Corporate Governance) to the Corporate Governance Board, "MICE Money and the Members' Code of Conduct", 12<sup>th</sup> January 2009
- Minutes of the Corporate Governance Board - 12<sup>th</sup> January 2009
- Report of the Director of Resources to the Executive Board, "MEMBERS IMPROVEMENTS IN THE COMMUNITY & ENVIRONMENT (MICE) AND WARD BASED INITIATIVE (WBI) SCHEMES", 1<sup>st</sup> April 2009
- Members Improvements in the Community and the Environment: Notes for the Guidance of Councillors