

Executive Leader Meeting & Advisory Panel      17 February 2003  
Report of the Director of Resources

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## Corporate governance & the role of the S151 Officer

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### Purpose

- 1      The purpose of this paper is to advise Members of:
  - the role and responsibilities of the S151 Officer in relation to a new statement of professional practice issued by the Chartered Institute of Public Finance Accountants (CIPFA) *Role of the Finance Director in Local Government* further to:
    - current legislative duties as set out in;
      - \*      S151 of the Local Government Finance Act 1972
      - \*      S113 of the Local Government Finance Act 1988
      - \*      S114 of the Local Government Finance Act 1988
      - \*      the Accounts & Audit Regulations 1996
    - new statutory responsibilities arising from:
      - \*      the Local Government Act 2000
      - \*      the White Paper (Parts I & II) *Strong Local Leadership, Quality Public Services*
      - \*      the imminent introduction of a new statutory instrument to consolidate the Accounts & Audit Regulations 1996
    - corporate governance requirements as high lighted in a review of management arrangements at the Council by the District Auditor;
  - the practical implications of the proper exercise of the duties and responsibilities of the S151 Officer in relation to the local management of Council services across all Directorates.

### Introduction

- 2 The role of the S151 Officer<sup>1</sup> lies at the heart of any effective and well governed local authority. The challenges posed by the pace of change and the introduction of new legislative and public interest duties as well as national policy initiatives, emphasise the vital role the S151 Officer should play in the strategic management and delivery of Council services. However, the District Auditor has identified that the range of duties and responsibilities of this role are not well known or clearly understood in general at York and that not enough has been done to date to promote greater awareness amongst Members and officers.
- 3 This report has been prepared to clarify and help raise awareness of the role and functions of the S151 Officer and the operational implications of this for Directorates. It sets out practical examples of matters where the S151 Officer must act and/or intervene as well as areas that do not fall within the scope of his responsibilities.

## Background

- 4 In recent years the Council has faced huge challenges set by the rapid pace of change both in the way in which services are delivered and in terms of its own organisational structures and relationships. It has also had to respond effectively to:
  - the increasing emphasis on performance management and improvement alongside changes in funding and grants;
  - the need to plan more openly and explicitly and make local authorities closer, more relevant and directly accountable within the wider community;
  - the need to develop meaningful Public Service Agreements (PSA) with central government as well as develop partnership initiatives more locally as part of a more strategic approach to procurement and service delivery in future years;
  - the expansion of audit and inspection regimes, including Best Value and more recently the Comprehensive Performance Assessment (CPA) process.
- 5 Public expectations of high quality, value for money services have risen along with a greater consciousness of the rights of citizens and service users. Issues of corporate governance, accountability and standards remain high on the agenda, demanding that officers and Members behave - and are seen to behave - with due propriety at all times.

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<sup>1</sup> *The term S151 Officer has been used as a short hand expression to refer to the role and duties of the 'Responsible Financial Officer' as defined by CIPFA (ie the function of the most senior finance officer employed by an organisation).*

- 6 At the same time, the introduction of devolved financial management arrangements in York have changed the nature of relationships between the centre and Directorates. Operational staff now have far greater freedom to take budgetary and financial planning decisions and

front line service providers have more autonomy in terms of how and when they access financial support services across the authority. Options for extending these freedoms will be considered as part of the forthcoming review of the Constitution.

- 7 Whilst, it is good practice to align service responsibility, decision making and control at operational budget holder level, devolution can create organisational pressures and tensions. The S151 Officer plays a key role in helping the organisation balance local service needs with corporate interests whilst ensuring compliance with all financial, statutory and constitutional requirements. High standards of professional practice and governance must also be observed in discharging those duties and responsibilities on behalf of the Council and local tax payers.
- 8 CIPFA published a revised *Statement on the Role of the Finance Director in Local Government* in January 2003 setting out the role of the S151 Officer, in relation to:
- the statutory definition and duties of the 'Responsible Financial Officer' as set out in case law, the Local Government Acts 1972 & 1988 and the Accounts & Audit Regulations 1996;
  - the new legislative requirements and organisational management implications arising from the Local Government Act 2000 and Part II of the White Paper *Strong Local Leadership: Quality Public Services* (2001);
  - corporate governance requirements set out in the joint CIPFA/SOLACE framework document *Corporate Governance in Local Government: A Keystone for Community Governance* (2001);
  - existing Standards of Professional Practice (SOPPs) as determined by the International Federation of Accountants.

## The role & functions of the S151 Officer in practice

- 9 CIPFA identify five main ways in which the S151 Officer should contribute to the effective management and governance of a local authority<sup>3</sup>. These are set out in Exhibit 1 overleaf. As this shows, much of the role focuses on providing effective leadership, managed innovation and collaboration in contributing to the effective corporate management of the organisation. However, it is equally important that the S151 Officer is also able to intervene with confidence when

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<sup>3</sup> ***Statement on the role of the Finance Director in the modern local authority***  
(CIPFA 2002)

corrective action is required, given his particular statutory duties and responsibilities as set out in case law, primary legislation, professional codes of practice and standards of competence and behaviour.

## Exhibit 1 The role of the S151 Officer in a modern local authority



- 10 A précis of the main activities of the S151 Officer in relation to each of these principal roles is given in Exhibit 2 overleaf. This indicates which of the responsibilities and activities are new additions or enhancements to the core role of a local authority Director of Finance. As this shows, 4 of the 7 core items listed represent new or significantly enhanced areas of activity, representing a 60% increase in responsibility and an associated increase in workload. A full schedule of the key activities and associated tasks has been included as Appendix 1 to this report. It should also be noted that whilst the responsibilities of the S151 Officer cannot be delegated, many of the activities and tasks associated with ensuring the proper discharge of the finance function at York are properly devolved to Finance Managers within Directorates and other authorised representatives<sup>4</sup> as appropriate, such as the Chief Internal Auditor. A schedule exemplifying central and devolved activities is attached as Appendix 2.

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<sup>4</sup> Authorised representatives include Finance Managers, Principal Accountants, the Chief Internal Auditor and any member of the Finance Management Team

Exhibit 2 Key activities map

<p align="center"><b>Corporate management &amp; leadership</b></p>	<p align="center"><b>Financial management, administration &amp; stewardship</b></p>	<p align="center"><b>Advising officers in their operational roles</b></p>
<ul style="list-style-type: none"> <li>* Contribute to the effective leadership, planning &amp; strategy formulation activities of the authority</li> <li>* Contribute to the corporate &amp; strategic management of the authority</li> <li>* Effective management of Council resources</li> <li>* Contribute to cross-organisational development agendas</li> </ul>	<ul style="list-style-type: none"> <li>* corporate risk profiling &amp; management <b>(ENHANCED)</b></li> <li>* internal control environment and associated control systems &amp; mechanisms <b>(EXISTING)</b></li> <li>* clear financial management arrangements &amp; regulation</li> </ul>	<ul style="list-style-type: none"> <li>* Promoting understanding of financial management</li> <li>* Financial strategies support policy and service objectives</li> <li>* Effective management of Council resources</li> <li>* Proper budget management</li> <li>* Financial advice &amp; information</li> <li>* Advice on performance management &amp; measurement</li> </ul>
<p align="center"><b>Supporting &amp; advising the democratic process</b></p>	<p align="center"><b>robust 'prudential financial framework' governing the strategic and operational management of Council investments, funding &amp; assets <b>(NEW)</b></b></p>	<p align="center"><b>Effective &amp; responsive financial services</b></p>
<ul style="list-style-type: none"> <li>* Protocols regarding the respective roles and responsibilities of councillors and officers for financial management</li> <li>* Advice to Councillors on overall financial strategy</li> <li>* Supporting councillors in identifying priorities, preparing funding plans/budgets and how resources will be used</li> <li>* Helping councillors to monitor financial performance</li> <li>* Providing timely, accurate and impartial advice and information to the Executive and Scrutiny functions</li> </ul>	<ul style="list-style-type: none"> <li>* 'prudential' borrowing arrangements, treasury management, pensions &amp; trust funds <b>(NEW &amp; ENHANCED)</b></li> <li>* anti-fraud and anti-corruption strategies &amp; measures <b>(ENHANCED)</b></li> <li>* financial systems &amp; administration (ie payments, benefits, billing) <b>(EXISTING)</b></li> <li>* financial accounting and grant claim preparation <b>(EXISTING)</b></li> </ul>	<ul style="list-style-type: none"> <li>* Responsive and accessible customer oriented front line services (Council Tax &amp; NNDR, Benefits, Customer Accounts, Cashiers etc)</li> <li>* Staff training &amp; development</li> <li>* Leadership by example</li> <li>* Accurate, timely and legal payments</li> <li>* Accurate, prompt, efficient &amp; sensitive income collection</li> <li>* financial information is available, accurate, clear, relevant, robust &amp; objective</li> <li>* maintaining good working relationships with external agencies &amp; partners</li> <li>* meeting the needs and expectations of internal stakeholders</li> <li>* maintaining high standards of performance</li> <li>* Head of profession for all finance staff</li> </ul>

Source CIPFA *The Role of the Finance Director in Local Government*

- 11 The role and functions of the S151 Officer are directly informed by a comprehensive framework of statutory duties and responsibilities. In summary, the S151 Officer:
- is a role prescribed by law. All local authorities must assign S151 duties to one officer who must be a qualified member of a recognised accountancy body;
  - must ensure compliance with all statutory requirements for accounting and internal audit (including supporting records and all systems of internal checks and control);
  - manage the financial affairs of the authority in all its dealings and transactions and in so doing secure the proper stewardship of Council (and Members) responsibilities;
  - must report under S114 powers to the Executive, the District Auditor and all Members of an authority if there is, or is likely to be any item of unlawful expenditure or an unbalanced budget;
  - owes a personal duty of care to local tax payers in managing Council resources on their behalf. In discharging this responsibility the S151 Officer must balance the needs and interests of both current and future taxpayers.
- 12 It should also be noted that the changes envisaged in Part II of the White Paper will add significantly to the S151 Officer's role, responsibilities and workload once the relevant legislation is enacted (due in 2003/04). A detailed schedule of current legislative demands along with a summary of the additional functions and responsibilities arising from the enactment of White Paper proposals is included as Appendix 3 to this paper.
- 13 In addition to the legislative framework, the S151 Officer and any authorised representatives are also required to comply with all relevant non-statutory proper practice encompassed in corporate governance standards, professional codes of accounting practice, other local codes of practice such as the Council Constitution and scheme of delegation in discharging his duties. These requirements are discussed below.

### *Corporate governance & standards*

- 14 Since the publication of the Cadbury report in the 1990s, the corporate governance agenda has become an increasingly pivotal concern for local authorities in terms of:
- the overall modernising agenda, demise of traditional committee system and impetus for community planning;
  - meeting the requirements of the Local Government Act 2000 in terms of need to review internal arrangements and relationships with key stakeholders;
  - the need to demonstrate best value and innovation but within a strengthened regime of audit, inspection and regulation;

- the pace and scale of change in technological advances and impact on existing service delivery mechanisms and supporting financial and information systems;
- the growing emphasis given to codifying standards of officer and Member behaviour and professional competencies.

15 CIPFA and SOLACE have jointly produced a framework setting out the elements of corporate governance, encompassing the principles of good community focus, risk management, standards & conduct, service delivery and structure & processes. The framework is summarised in Exhibit 3 overleaf. As this shows, the statutory duties and professional responsibilities of the S151 Officer are key to supporting the integration, management and delivery of much of the corporate governance framework at York. Clearly, the function of the S151 role is in itself also equally informed by the application of these principles, in addition to being bound by:

- the Council's Constitution incorporating schemes of delegation, financial regulations and standing orders
- accounting Standards of Professional Practice (SOPPs) covering the main operational responsibilities associated with the performance of the financial management function and competencies/standards expected in relation to each of these, specifically published standards in relation to:
  - Ethics
  - Auditing
  - Budgetary planning & control
  - Financial transactions management
  - Financial reporting
  - Suspected fraud & corruption
  - Tax management
  - Treasury management

*(Copies of these documents are available on request).*

16 The statutory regulation and requirements placed upon the S151 Officer, along with these SOPPs, in effect codify what is expected of the S151 Officer as a qualified accountancy professional and member of the Institute. Non-compliance with standards by CIPFA members may result in disciplinary action by the Institute over and above any action that an employing authority may take in relation to the actions or competence of the appointed officer.

**Exhibit 3 The elements of corporate governance**

<p align="center"><b>The principles of good community focus</b></p>		<p align="center"><b>Principles of good service delivery</b></p>
<p>Working for and with the community and providing leadership to:</p> <ul style="list-style-type: none"> <li>* demonstrate inclusivity by communicating and engaging with all sections of the community to encourage active participation</li> <li>* report to all stakeholders and demonstrate accountability for the authority's performance and effectiveness in the delivery of services and use of resources</li> <li>* demonstrate integrity in building effective relationships and partnerships with other public agencies and the private/voluntary sectors in delivering appropriate local services based on need</li> <li>* demonstrate openness in all dealings</li> <li>* develop and articulate a clear and up to date vision and corporate strategy in response to community needs</li> </ul>	<p align="center"><b>Principles of good standards &amp; conduct</b></p>	<p>Arrangements and decision making that:</p> <ul style="list-style-type: none"> <li>* demonstrates accountability in the delivery of local services</li> <li>* ensures effectiveness through setting targets and measuring performance</li> <li>* demonstrates integrity in dealing with service users and developing partnerships to ensure the 'right' provision of services locally</li> <li>* demonstrates openness and inclusivity through consulting with key stakeholders inc service users</li> <li>* are flexible, up to date and can be adapted to accommodate changes and better meet the needs and demands of customers</li> </ul>
<p align="center"><b>Principles of good risk management &amp; control</b></p>	<p>Members &amp; senior officers must:</p> <ul style="list-style-type: none"> <li>* lead by example</li> <li>* define the standards of personal behaviour expected from Members and staff and all those involved in service delivery and put in place arrangements to ensure:             <ul style="list-style-type: none"> <li>- accountability: through systems for investigating breaches and disciplinary problems and taking action as needed</li> <li>- effectiveness: by monitoring compliance</li> <li>- objectivity &amp; impartiality: to maintain relationship integrity</li> <li>- standards: through documenting and communicating what is expected to promote openness &amp; inclusivity</li> </ul> </li> </ul>	<p align="center"><b>Effective &amp; responsive financial services</b></p>
<p>Maintain a systematic strategy, framework and processes for managing risks, that:</p> <ul style="list-style-type: none"> <li>* includes making public statements to stakeholders about the authority's risk management strategy, framework and processes to demonstrate accountability</li> <li>* includes mechanisms for monitoring and reviewing effectiveness against agreed standards, targets and the operation of systems controls</li> <li>* demonstrates integrity by being based on robust systems for identifying, profiling, controlling and monitoring all significant strategic and operational risks</li> <li>* displays openness and inclusivity involving those associated with planning &amp; delivering services</li> <li>* includes mechanisms to ensure that risk management and control processes are monitored for continuing compliance to ensure that changes in circumstances are accommodated and it remains up to date</li> </ul>		<p>Political and managerial structures and processes governing decision making and the exercise of power &amp; authority include arrangements that:</p> <ul style="list-style-type: none"> <li>* define the roles &amp; responsibilities of Members &amp; officers to ensure accountability, clarity and the good order of Council business</li> <li>* ensure there is proper scrutiny and review of all aspects of performance and effectiveness</li> <li>* demonstrate integrity through ensuring a proper balance of power &amp; authority</li> <li>* document clearly such structures and processes to ensure that they are communicated and understood to demonstrate openness and inclusivity</li> <li>* ensure such structures and processes are kept up to date and adapted to accommodate change</li> </ul>

Source CIPFA & SOLACE Framework Document 2002



- 17 It should be noted that the S151 Officer is one of three corporate roles at the Council that are statutorily defined, the other two being the Head of Paid Service and the Monitoring Officer. Whilst this paper does not seek to report on the relevant responsibilities and duties of these latter positions, a short briefing note covering the main functions associated with these two roles is included as Appendix 4 for completeness.

## Implications for Directorates

- 18 Clearly, the role of the S151 Officer and work of his authorised representatives does have very practical implications for Directorates, mainly in relation to responsibilities for:
- ensuring proper accounting controls, systems, and administration are maintained and whatever arrangements are deemed necessary are made to ensure the proper management and administration of the Council financial affairs;
  - securing a proper control environment including an effective internal audit function to minimise the risk of financial loss, the inefficient use of resources and the potential for fraud;
  - reporting all known breaches of financial regulations and standing orders and actions leading to expenditure incurred ultra vires or poor financial probity/stewardship issues;
  - intervening in decision making if it is likely that any proposed action will lead to unbudgeted or unlawful expenditure;
  - ensure the income and expenditure of the organisation is properly and regularly monitored in line with budgeting setting and reporting requirements;
  - advise officers and Members of value for money issues or the poor or inappropriate use of Council assets;
  - take any appropriate action necessary to safeguard the fiduciary interests of the Council and current and future tax payers.
- 19 There are therefore particular matters and/or issues of concern that will always necessitate investigation and action by the S151 Officer irrespective of usual line management arrangements, including
- significant overspends or lack of proper financial control;
  - suspected or known fraud and/or on-going fraudulent activity;
  - instances where expenditure has been made or committed without the requisite powers to spend or otherwise in contravention of financial regulations and standing orders;
  - instances of significant waste and/or inefficient use of resources.
- 20 Although there are no hard and fast rules as such, Exhibit 4 overleaf sets out some worked examples of the kinds of circumstances in which the S151 Officer will be concerned to intervene and the action that will

taken typically in each case. Clearly, these are examples only and the S151 Officer will exercise flexibility and discretion in pursuing any course of action deemed appropriate and necessary.

- 21 Equally there are circumstances in which it would be inappropriate for the S151 Officer to act where he has no statutory or organisational responsibility to do so and where the managerial responsibility for these things clearly resides within Directorates in the first instance in accordance with the Council Constitution and scheme of delegation. Principally in relation to:
- the day to day management and control of devolved budgets within Directorates other than Resources;
  - reporting the financial implications of any service decision or arrangements as part of the normal decision making process and ensuring that local Finance Teams are suitably consulted and involved in that process at all times;
  - identifying local savings and growth options within Directorates other than Resources to inform the annual budget setting and planning processes;
  - local implementation of internal and external audit recommendations or recommendations arising from any other reviews of devolved financial management arrangements and administration.
- 22 Clearly, notwithstanding the above, appropriate action will be taken by the S151 Officer as required where a member decision at committee is made requiring the investigation and reporting of any financial matter on behalf of the Council.

## Conclusions

- 23 The role and responsibilities of the S151 Officer are extensive and integral to the strategic management of the organisation as a whole. Whilst the responsibilities of the S151 Officer cannot be delegated some functions and duties are devolved to authorised representatives such as Directorate Finance Managers and the Chief Internal Auditor. Nonetheless it is evident that there is a general lack of knowledge and awareness of the powers and duties of the S151 Officer at York and the practical implications of this in the exercise of local management and decision making activities.

## Exhibit 4 Typical examples of necessary intervention & action by the S151 Officer

Item	Issue (s)	Matters for further investigation	Possible actions
<b>Significant and unauthorised variations on budget</b>	Poor financial management & administration  Breach of financial regulations & standing orders	Were proper procedures in place and were they followed? Investigate: <ul style="list-style-type: none"> <li>possibility of breakdowns in overall control environment or weaknesses in existing systems of financial management (checking &amp; authorisation procedures, budget monitoring &amp; reporting arrangements)</li> <li>adequacy of local management arrangements</li> <li>evidence of capability issues</li> <li>evidence of improper or malicious behaviour by individual(s) involved</li> </ul>	Depending on outcomes of any particular investigation one or more of the following actions may be proposed: <ul style="list-style-type: none"> <li>necessary changes and improvements in procedures and control and future compliance and reporting issues</li> <li>recommendations for disciplinary action</li> <li>review of capability</li> <li>report to Members and/or Standards Committee as required</li> <li>notify the District Auditor</li> </ul>
<b>Significant known financial control and systems weaknesses</b>	Poor financial management & administration	Investigate nature/implications/known impact of specific weakness/problem in question and assess risks to the organisation	As above subject to materiality of risk
<b>Fraudulent activity</b>	Gross misconduct (Employees' Code of Conduct)  Breach of Council regulations and standing orders	Investigate nature and circumstances of specific fraud in question and assess risk of re-occurrence: <ul style="list-style-type: none"> <li>extent of the fraud</li> <li>collusion or individual action</li> <li>internal/external (involvement of third parties)</li> <li>adequacy of internal checks and controls</li> </ul> <p>NB usually carried out by the CIA on behalf of S151 Officer</p>	One or more of the following actions may be proposed: <ul style="list-style-type: none"> <li>necessary changes and improvements in procedures and control and future compliance and reporting issues</li> <li>recommendations for disciplinary action</li> <li>referral to the Police for further investigation</li> <li>civil prosecution</li> <li>report to Members and/or Standards Committee as required</li> <li>notify the District Auditor</li> </ul>
<b>Financial commitments entered into without powers to spend or in contravention of regulations and standing orders (including all pre-contract work and agreements)</b>	Ultra vires (acting beyond statutory powers)  Breach of Council regulations and standing orders	Were proper procedures in place and were they followed? Investigate: <ul style="list-style-type: none"> <li>possibility of breakdowns in overall control environment financial management systems</li> <li>adequacy of local management arrangements</li> <li>evidence of capability issues</li> <li>evidence of improper or malicious behaviour by individual(s)</li> </ul>	Depending on outcomes of any particular investigation one or more of the following actions may be proposed: <ul style="list-style-type: none"> <li>necessary changes and improvements in procedures and control and future compliance and reporting issues</li> <li>recommendations for disciplinary action</li> <li>review of capability</li> <li>report to Members and/or Standards Committee as required</li> <li>notify the District Auditor</li> </ul>
<b>Waste and inefficiency</b>	Poor financial management practice  Procurement and/or service delivery arrangements	Investigate nature and circumstances of the case in hand to rule out possibility of fraud and identify learning points and capability issues to improve future management of the service/facility	Depending on outcomes of any particular investigation one or more of the following actions may be proposed: <ul style="list-style-type: none"> <li>systems and process improvements</li> <li>change in service provision</li> <li>recommendations for disciplinary action</li> <li>review of capability</li> <li>report to Members</li> <li>notify the District Auditor</li> </ul>

- 24 There are a number of circumstances in which the S151 Officer is statutorily bound to intervene and take action across the organisation notwithstanding normal line management arrangements. However, such action would be extraordinary and should only prove necessary in extreme and exceptional circumstances.

## Recommendations

- 25 It is recommended that Members note:
- the role and responsibilities of the S151 officer and how these relate to the management of the organisation as a whole and the practical impact of these within Directorates as set out in paragraph 9 to 16 and Exhibits 1, 2 and 3 above;
  - the need to ensure awareness and understanding of the role of the S151 Officer is properly promoted within Directorates and with Council Members;
  - the circumstances in which it would be necessary for the S151 Officer to intervene in the activities of other Directorates and the action that may be taken typically as set out in paragraphs 18 - 20 and exemplified in Exhibit 4 above;
  - the circumstances in which it would not be appropriate for the S151 Officer to intervene or involve himself in the work of Directorates as a matter of course as set out in paragraph 21 above.

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### Background papers

White Paper Strong Local Leadership: Quality Public Services (ODPM)  
The Role of the Director of Finance in Local Government (CIPFA)  
Corporate Governance Framework (CIPFA & SOLACE)  
Review of Corporate Governance Arrangements at York (District Audit)  
Consultation on the Account & Audit Regulations 2003 (CIPFA)  
Standards of Professional Practice: Ethics, Auditing, Budgetary planning & control, Financial transactions management, Financial reporting, Suspected Fraud & corruption, Tax management, Treasury management (CIPFA)

## Appendix 3

### Statutory framework

The current statutory framework of duties and responsibilities of the S151 Officer are set out in the case law and primary legislation scheduled below.

- **Case law (Attorney General vs De Winton 1906)** that held that the senior financial officer employed within an authority is not simply a servant of the Council but holds a fiduciary responsibility to local tax payers and as such owes a duty of care to the public in managing Council resources on their behalf;
- **S151 of the Local Government Act 1972** that requires every local authority to “*make arrangements for the proper administration of their financial affairs and...secure that one of their officers has responsibility for the administration of those affairs*”. The duties of the S151 Officer<sup>2</sup> following from this are:
  - to ensure Council compliance with the statutory requirements for accounting and internal audit as set out in the 1972 Local Government Act, the Audit Regulations 1973 and subsequently the consolidated Accounts & Audit Regulations 1996;
  - to secure the proper stewardship of Council (and ultimately Members) responsibilities for securing the proper administration of the organisation's financial affairs;
  - the proper exercise of a wide range of delegated powers both formal and informal as designated by the Council's Constitution;
  - to manage the financial affairs of the local authority in all its dealings and transactions;
  - to act with due recognition of the fiduciary responsibility owed to local taxpayers at all times. In effect this means that the S151 Officer has a personal responsibility for the stewardship and safeguarding of public money and must balance the needs and interests of both current and future tax payers in discharging these responsibilities.
- **S113 of the Local Government Act 1988** whereby the responsible officer designated within an authority under S151 of the 1972 Act must be a qualified member of a recognised accountancy body;
- **S114 of the Local Government Act 1988** as amended by the Local Government Act 2000, which extends the duties and responsibilities of the S151 Officer to require that he must (in consultation with the Monitoring Officer) report to the Executive, the District Auditor and all Members of an authority if there is or is likely to be unlawful expenditure or an unbalanced budget (*ultra vires*);

*Continued overleaf*

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***Legal opinion from Eversheds to CIPFA on the role of the Finance Director in Local Government (2002)***

## Statutory framework (continued)

- **the Accounts & Audit Regulations 1996** the S151 Officer should determine the authority's accounting system, the form of its accounts and supporting records and ensure that they are observed, that the accounts and supporting records of the authority are maintained in accordance with proper accounting practice and are kept up to date. The S151 Officer must maintain an adequate and effective system of internal audit of accounting records and control systems. This must include:
  - measures to ensure that financial transactions are recorded as soon and as accurately as possible;
  - measures to enable the prevention and detection of inaccuracies and fraud and the ability to reconstitute any lost records;
  - identification of the duties of officers with financial responsibilities and the proper segregation of duties in relation to significant transactions;
  - proper approval and write off procedures for uncollectable amounts, including bad debts and accounting arrangements for recording these.
  
- **the Local Government Act 2000** which extends the traditional role of the S151 Officer to advising as to whether particular decisions are likely to be contrary to the policy framework or budget (along with the Monitoring Officer) in addition to advising all members and officers about vires, maladministration, financial impropriety and probity. The statutory guidance also states that the S151 Officer should:
  - have access as necessary to meetings and papers and that Members must consult with them regularly (along with the Monitoring Officer);
  - contribute to the corporate management of the organisation in particular to the provision of financial advice;
  - maintain financial administration and stewardship;
  - support and advise Members and Officers in their roles;
  - provide financial information to the media, the public and the community.
  
- **White Paper (Part II)** which introduces significant additional statutory duties on the S151 Officer to:
  - set, monitor and report on prudential limits for borrowing in discharging responsibilities for capital finance;
  - publicly report to Council on the robustness of the budget and the adequacy of reserves when the Council Tax is set;
  - keep the finances of the authority under review during the year and ensure corrective action is taken if there is evidence that financial pressures will result in budget overspends.

## White paper proposals

The various changes set out in Part III of the White Paper will add to the S151 Officer's role, responsibilities and workload once the relevant legislation is enacted (due 2003/04) by:

- extending trading powers under S16 of the 1999 Local Government Act, to allow 'high performing' Councils to invest in providing goods and services to other organisations, avoiding current restrictions on cross boundary tendering and spare capacity regulations;
- allowing local authorities to charge for discretionary services and for 'high performers' to retain penalty fees for future service investment and development;
- changing the current system of Standard Spending Assessments (SSA) and including more performance related funding and grants such as the PSA initiative;
- relaxing existing capital controls and extending local authorities borrowing powers through the introduction of a new system of 'prudential' limits, performance measures and professional codes of practice for capital finance;
- property revaluations for Council Tax purposes to be conducted every ten years, to begin in 2005 for billing in the financial year 2007/08;
- abolishing the Council Tax Subsidy Limitation Scheme and the devolution of policy choices and decision making over Council Tax discounts and exemptions determinations to local authorities on the basis that Councils will meet the full costs of any discretionary discounts and exemptions awarded;
- implementing the planned cycle of business rate revaluations in 2005 and at five year intervals thereafter: transitional relief will become a permanent consideration in revaluation and must be self financing;
- introducing a system of rate reliefs for small businesses, non-profit making organisations and traders in deprived urban areas;
- removing rent rebates from the Housing Revenues Account and the introduce a revised subsidy system;
- introducing a system of Business Improvement Districts (BIDs) whereby local authorities will be able to raise additional levies on nationally set business rates but only with a majority vote in favour of such a move amongst the local business community;
- encouraging the extended use of stakeholder consultation in determining service priorities, setting the budget, funding allocations and the preparation of investment and borrowing plans.