CIPFA The Chartered Institute of Public Finance & Accountancy

CIPFA Statement on

the role of the chief financial officer

of the Police and Crime Commissioner and the Chief Finance Officer of the Chief Constable

July 2012

CIPFA is one of the leading professional accountancy bodies in the UK and the only one which specialises in the public services. It is responsible for the education and training of professional accountants and for their regulation through the setting and monitoring of professional standards. Uniquely among the professional accountancy bodies in the UK, CIPFA has responsibility for setting accounting standards for a significant part of the economy, namely local government. CIPFA's members work (often at the most senior level) in public service bodies, in the national audit agencies and major accountancy firms. They are respected throughout for their high technical and ethical standards, and professional integrity. CIPFA also provides a range of high quality advisory, information, and training and consultancy services to public service organisations. As such, CIPFA is the leading independent commentator on managing and accounting for public money.

Contents

\ foreword

Following the general election in May 2010, the Coalition Government announced that "we will introduce measures to make the police more accountable through oversight by a directly elected individual, who will be subject to strict checks and balances by locally elected representatives".

The Police Reform and Social Responsibility (PRSR) Act 2011 established new policing arrangements with a Police and Crime Commissioner (PCC) and the Chief Constable (CC) being separate corporations sole. The PCC is responsible for the totality of policing of their police area[1].In specific terms this will mean securing the maintenance of an effective and efficient police force, holding the CC to account, appointing and dismissing the CC, setting the PCC's and Force's budget and precept, commissioning and making community safety grants. The CC is responsible for delivering policing having regard to the requirements of the PCC as set out in his/her Police and Crime Plan and other statutory needs including the Strategic Policing Requirement.

The Policing Protocol Order 2011 sets out high level financial responsibilities of the PCC and CC. The PCC is accountable to the public for the management of the Police Fund which is held by the PCC. The CC is responsible for managing budgets provided to him/her by the PCC. The PRSR Act requires a Chief Executive and a Chief Finance Officer (CFO) to be appointed by the Police and Crime Commissioner and a Chief Finance Officer to also be appointed by the Chief Constable.

A Financial Management Code of Practice (FMCP) was published by the Home Office in January 2012 under section 17 of the Police Reform and Social Responsibility Act 2011 and section 39a of the Police Act 1996. This explains financial governance arrangements and the relationship and responsibilities of the CFO posts. Within the FMCP is a recommendation that the PCC and the CC establish an independent Audit Committee.

Under paragraph 28 of Part 1 and schedule 6 of the PRSR Act 2011, Police and Crime Panels have to be appointed. The local authorities across the force area need to work together to establish and maintain the Panel. The Role of the Panel is to support and challenge the PCC. It has responsibility to review a draft Police and Crime Plan, the PCC's Annual Report and it can also make reports and recommendations. The Panel has specific responsibility for reviewing the proposed level of the precept (which needs to include the revenue and capital budgets) and the PCC's appointment of the CC.

The PRSR Act 2011 and the FMCP introduced fundamental changes to accountability and governance arrangements with an elected PCC having responsibility for the totality of policing in their area. A key feature of the new requirements for accountability and governance is an emphasis on what must be in place rather than how it is to be achieved. The delivery of the CFO role needs to recognise and work within this approach. These arrangements are unique to Policing, and their success will depend on building effective working relationships. The elected Commissioner will be a very powerful individual, but at the same time the Chief Constable is established as a Corporation Sole in his/her own right, with significant legal, accounting and audit consequences. This represents a particular challenge for the two CFOs. Without a clear understanding of the respective roles, and a commitment to an open and mutually supportive relationship, tensions could develop with implications for the delivery of the CFOs' statutory responsibilities.

The delivery and implementation of the principles in this Statement need to reflect these changes. Fundamentally, the PCC is accountable both to the electorate and to the Police and Crime Panel. The CFO to the PCC provides information

1 Policing Protocol Order 2011 (SI 2011/2744) Para 11 to the PCC to enable him/her to respond to PCP requests for information and reports. The PCC CFO is not an advisor to the Panel.

The PRSR Act 2011 and the FMCP is applicable to England and Wales. In Scotland policing is being brought together under a single body within the Scottish Government.

This Statement on the Role of the CFO applies to England and Wales only. It builds heavily on CIPFA's Statement on the Role of The CFO in Public Services[2] and applies the principles and Roles set out in that document to CFOs appointed by the Police and Crime Commissioner (PCC) and the Chief Constable (CC).

The CFO occupies a critical position in any organisation, holding the financial reins of the business and ensuring that resources are used wisely to secure positive results. While the global financial crisis and economic downturn have made these tasks even more challenging, they have also underlined the fundamental importance of the role. Achieving value for money and securing stewardship are key components of the CFO's role in public service organisations, a duty enshrined in legislation for the CFOs appointed by PCC's and CC's.

The purpose of this Statement is to support CFOs in the fulfilment of their duties and to ensure that the PCC and CC have access to effective financial advice at the highest level. There is a 'comply or explain' requirement in the Annual Governance Statement in relation to the requirements of this CIPFA Statement.

In this Statement, the term 'Force' is used to refer to the Chief Constable (unless separate reference to this post is appropriate) and includes all Force officers and police staff under the direction and control of the Chief Constable.

The CFO to the PCC and the CFO to the CC need to work closely together. This working relationship is of fundamental importance. Both CFOs need to ensure that their responsibilities can be fully delivered and assurances and information exchanged to fulfil the statutory and professional responsibilities of the CFO. The CC must give the PCC such information on policing matters that the PCC requires and the PCC CFO must have full access to all relevant financial information. The details on how this is achieved should be set out in a locally agreed Information Sharing Protocol (ISP) to be agreed by both CFOs. Continual close working arrangements and sharing of information between both CFOs is essential.

The CFO to the PCC and the CFO to the Chief Constable need to ensure that the statutory responsibilities and role and responsibilities outlined in this Statement are fully reflected in local working arrangements and that adequate resourcing is provided and delivered to fulfil those responsibilities.

2 http://www.cipfa.org.uk/panels/finance_director/download/Role_CFO.pdf

\ statement on the role of the chief finance officer

of the Police and Crime Commissioner and the Chief Finance Officer of the Chief Constable

This Statement on the Role of the Chief Financial Officer (CFO) appointed by the PCC and the CFO appointed by the CC gives detailed advice on how to apply CIPFA's overarching Public Services Statement. Unless otherwise indicated the term CFO in this Statement applies to both CFOs.

The CFO is bound by professional standards and specific legislative responsibilities. The role and responsibilities of the CFO were developed by case law in England and Wales. In Attorney General v De Winton 1906, it was established that the CFO is not merely a servant of the authority, but holds a fiduciary responsibility to local taxpayers. Section 151 of the Local Government Act 1972[3] requires local authorities including now PCCs and CCs to make arrangements for the proper administration of their financial affairs and appoint a CFO to have responsibility for those arrangements.

The PRSR Act 2011 under paragraph 6 of Schedule 1 requires every PCC outside London to appoint a CFO. An identical duty is placed on the Mayor's Office for Policing and Crime (MOPC) and the Commissioner of the Metropolis by Section 127 of the Greater London Act 1999. Under paragraph 4 of Schedule 2 and paragraph 1 of Schedule 4 to the Police Reform and Social Responsibility Act 2011 the Chief Constable is also required to appoint a CFO. The Police and Social Responsibility Act 2011 requires both CFOs to comply with relevant provisions within the Local Government Acts.

A Home Office "Financial Management Code of Practice for the Police Service of England and Wales" (FMCP) received statutory endorsement in January 2012. This outlines CFO responsibilities and emphasises the importance of effective, co-operative and constructive relationships between the CFOs of the PCC and the CC.

This Statement sets out how the requirements of legislation and professional standards should be fulfilled by the CFO in carrying out his/her role. The Statement is not intended to be exhaustive and does not negate the personal responsibility of finance professionals to ensure that they comply with all professional standards and legislative requirements. This Statement codifies the key responsibilities of the CFO in order to assist those carrying out that role and ensure that they meet the key personal duties of the role. The Statement refers to CIPFA's Statement of Professional Practice with which all CIPFA members are required to comply. For members of other accountancy bodies this represents best practice within the public sector. All professional accountants should also have regard to their own body's Code of Ethics as well as that produced by International Federation of Accountants (IFAC).

Mentioned within this Statement and the FMCP are a number of key documents including Financial Regulations, an Information Sharing Protocol and other documents providing the overall governance framework. These should be continually reviewed to ensure a consistent approach to accountability and governance.

Contained with the appendices for completeness is a description of the legislative framework. References to the post of Chief Constable in this Statement include the Commissioner of Police of the Metropolis and the Commissioner of the City of London Police.

This Statement reflects the requirements of the PRSR Act 2011 and other relevant legislation. It will be kept under review. Changes to the statement will be published if these are required following any additional legislation and/or further advise is available on the roles of the PCC and CC.

3 for the Greater London Authority and its four functional bodies (Transport for London, the London Development Agency, the Metropolitan Police Authority and London Fire and Emergency Planning Authority.) the chief finance officer is not a s151 officer but a s127 officer (GLA Act 1999). For the City of London, the Chamberlain's relationship with the Police Authority is the same that applies to other Chief Finance Officers.

\ statement approach and structure

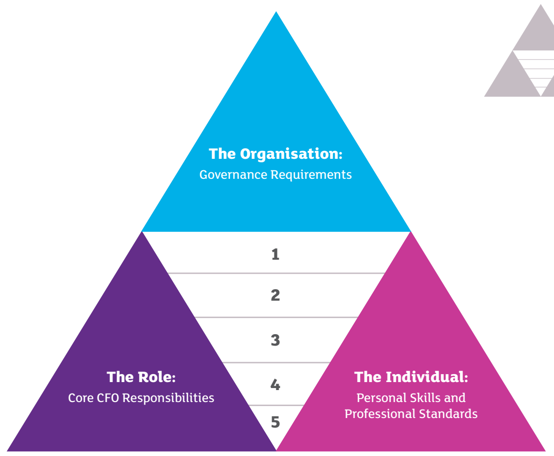
The Statement sets out the five principles that define the core activities and behaviours that belong to the Role of the CFO and the organisational arrangements needed to support them. Successful implementation of each of the principles requires the right ingredients in terms of:

- The Organisation;
- The Role; and
- The Individual.

For each principle the Statement sets out the governance arrangements required within an organisation to ensure that CFOs are able to operate effectively and perform their core duties. The Statement also sets out the core responsibilities of the PCC CFO and CC CFO. . Many of the day-to-day responsibilities may in practice be delegated or even outsourced, but the CFO should maintain oversight and control.

Summaries of personal skills and professional standards detail the leadership skills and technical expertise, organisations can expect from their CFO. These include the key requirements of CIPFA and the other professional accountancy bodies' codes of ethics and professional standards to which the CFO as a qualified professional is bound. The personal skills described have been aligned with the most appropriate principle, but in many cases can support other principles as well.

The leadership team is mentioned in this Statement. In a police context, this refers to teams within the offices of the PCC and the CC with responsibility for strategic direction and control. Operational matters (as mentioned in the Policing Protocol) are the responsibility of the Chief Constable.



The provision of overall resourcing together with financial standards and financial statutory responsibilities comes within the scope of this Statement. The CFO must be able to influence and be informed of all key business decisions affecting financial resources, subject to the operational responsibilities of the Chief Constable. Each CFO (depending on whether they are the CFO to the PCC or the CC) must have direct access to the PCC or the CC and their leadership teams.

The Policing Model outlined in this statement is complicated by the separate corporations sole for the PCC and the CC. Consequently, the importance of being clear in which capacity an individual is acting is fundamental.

The Chief Financial Officer to the PCC and the CC:

1 is a key member of the Leadership Team, helping it to develop and implement strategy and to resource and deliver strategic objectives sustainably and in the public interest;

2 must be actively involved in, and able to bring influence to bear on, all material business decisions (subject to the operational responsibilities of the Chief Constable) to ensure immediate and longer term implications, opportunities and risks are fully considered, and aligned with the financial strategy; and

3 must lead the promotion and delivery of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.

To deliver these responsibilities the Chief Financial Officer to the PCC and the CC:

4 must, in close working liaison with the PCC, PCC Chief Executive and the Chief Constable, ensure that the finance function is resourced to be fit for purpose; and

5 must be a professionally qualified accountant and be suitably experienced and ensure professional knowledge is kept current through continuing professional development.

\ principle 1

The Chief Finance Officer of the PCC and CC is a key member of the Leadership Team, helping it to develop and implement strategy and to resource and deliver the PCC's strategic objectives sustainably and in the public interest.

Key member of the Leadership Team

The Leadership Team in public services organisations takes many forms. Leadership teams in a policing context include those of the PCC and the CC. Increasingly, it also now includes for many, leadership teams for collaborated services. These can cover all aspects of policing including frontline services.

Decisions on overall resourcing for policing, together with the setting of strategic objectives for policing, subject to Home Office and regulatory requirements, are the responsibility of the PCC.

In recognition of the centrality of financial issues to organisational success, it is UK government policy that all government departments should have a professional CFO reporting directly to the permanent secretary with a seat on the departmental board, with a status equivalent to other Board members. HM Treasury recommends 'It is good practice for all other public sector organisations to do the same and to operate the same standards'.[4] CIPFA fully supports the Treasury's recommendation.

The PCC and CC are both required to have a suitably qualified CFO with defined responsibilities and powers.[5] The governance requirements in the Statement are that the CFO should be professionally qualified, report directly to the PCC or the CC (depending on the specific CFO concerned) and be a member of the Leadership Team. This Statement requires that if different organisational arrangements are adopted reasons should be explained publicly in the Annual Governance Statement.

Developing and implementing organisational strategy

All public organisations face competition for limited public funds and have to balance expenditure needs against the burden of local taxation. Many will have allocated cash limits, while others have tax raising powers. All will be concerned to examine opportunities, with suitable assessment of legal powers and risk, for building income streams, whether through attracting external grants, charging for services, or commercial activity. Strategic planning needs to be based on an understanding of the external political landscape, service and regulatory requirements, demand and cost drivers, and the need to manage and fund longer term commitments on a sustainable basis. Finance translates ambitions and goals into a common language, so the CFO must share in the strategy development and implementation responsibilities of the Leadership Team. The CFO must be in a position to provide unfettered advice in order to inform decision making. The CFO must also have access to all other members of the Leadership Team and ensure that they have the financial capabilities necessary to perform their own Roles effectively.

The CFO must encourage continuous improvement and development. As well as having a fundamental concern for probity and control, the CFO must be proactive in ensuring that change and risk issues are appropriately managed, focussed on outcomes, and provide advice on resourcing plans for change and development. As a key member of the Leadership Team, the CFO must also behave in ways that are consistent with agreed values and objectives.

4 HM Treasury 'Managing Public Money' Annex 4.1. 2007

5 The officer appointed as the CFO must, by virtue of section 113 of the Local Government Finance Act 1988 in England and Wales,(applied in the case of the MPA, via s129 of the GLA Act 1999), be a member of a specified accountancy body[13].

Helping resource and deliver objectives

The CFO might hold different responsibilities beyond finance. Whilst these can develop the individual as a corporate manager, the CFO's core financial responsibilities must not be compromised through creating too wide a portfolio. Dilution and/or overload in the Role of the CFO can result in poor financial outcomes. Setting out the core CFO responsibilities in this Statement is intended to allow CFOs to assess their job description to ensure that their core finance responsibilities can be properly performed.

PCCs and CCs engage with partners through a range of collaborative or commissioned relationships in order to realise their goals. Partnership working and the focus on community outcomes mean that the CFO needs to understand the financial risks and potential liabilities that may impact and have appropriate involvement in partnerships' business decisions. The CFO must therefore work, in close working liaison, to develop strong and constructive working relationships with key decision makers in partner organisations.

PCCs as the holders of the Police Fund and CCs as managers of resources provided to them by PCCs have a responsibility to operate within available resources and to remain financially sound over the short, medium and longer term. Schemes of consent/delegation should detail funds provided to the CC and conditions under which they are provided including purpose, reporting and monitoring arrangements and the flexibility to apply funds to different areas. The CC has a responsibility to operate within these available funds and conditions and will need to determine internal delegation arrangements to ensure effective local management. The CC also needs to implement reporting arrangements to the PCC and should ensure prior approval of the PCC before incurring a liability that the PCC might reasonably regard as novel, contentious or repercussive.

Delegation arrangements need to be consistent with the separate corporations sole ensuring that funds are only delegated to staff employed by the PCC. The CFO cannot delegate his/her ultimate responsibility for financial governance and management.

The PCC will need to establish what financial monitoring information is required by the Police and Crime Panel. This could include information on the annual PCC/group accounts and the PCC accounts. The PCC CFO is not an advisor to the Police and Crime Panel, the PCC CFO should supply the PCC with information to enable the PCC to report to the PCP and respond to questions from the PCP. The Panel is responsible for securing their own independent financial advice. The PCC CFO and CC CFO should consider submitting the Annual PCC/Group and CC accounts to the Audit Committee for review prior to the approval of the accounts by the PCC and CC.

Maximising public value involves an appreciation of community needs, expectations and preferences, and the planning process must allow for involvement and influence. The internal process to determine priorities needs to grapple with maximising service efficiencies and value for money, service rationing and difficult trade-offs between different groups of service users, as well as between present and future benefits. The overarching long term need is to match financial resources to PCC purposes and policies, within constraints of affordability. Taken with the responsibility to the community and taxpayers for financial stewardship, this means that the CFO must contribute actively to cross organisational issues and to corporate decision making to achieve an agreed balance between the available resources and PCC objectives.

Public finance is complex and highly regulated, and the CFO must contribute expert technical advice and interpretation. CFOs must act in the public interest, even if necessary against a perceived organisational interest. This professional obligation is given statutory backing, and a fiduciary duty is established in case law. In Attorney General v De Winton 1906, it was established that the CFO is not merely a servant of the authority, but holds a fiduciary responsibility to the local taxpayers.

Section 151 of the Local Government Act 1972 requires that every local authority "makes arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs". This applies to PCCs and CCs.

The CFOs' duties in England and Wales were significantly extended by section 114 of the 1988 Act which requires a report to all the Local Authority members to be made by that officer, if there is or is likely to be unlawful expenditure or an unbalanced budget. Such reporting under s.114 of the 1988 Local Government Act, or for the MPA, s130 of the GLA Act 1999 should be made to the PCC, CC and the External Auditor. Both PCCs and CCs are required to establish an independent Audit Committee and any such report should also be made to members of this Committee, and the Police and Crime Panel together with the Internal Auditors.

Before either CFO decides to exercise their S114 powers they should consult with the other CFO, the PCC Chief Executive, and the CC and seek independent legal advice. As holders of the 'red card', the CFO must always exercise professional responsibility in order to intervene in spending plans to ensure the balance of resources is maintained so that the PCC and the CC remain in sound financial health. For this, the CFO must have direct access to the PCC or CC (dependent on which CFO is concerned), the PCC Chief Executive, other leadership team members, the Audit Committee and also internal and external audit.

Governance requirements — Principle 1

- Ensure that a clear Statement is set out on the respective roles and responsibilities of the Leadership Team and its members individually.
- Ensure that the CFO reports directly to the PCC or the CC (depending on which CFO is concerned), is a member of the Leadership Team with a status at least equivalent to other members.
- If different organisational arrangements are adopted, explain the reasons publicly, together with how these deliver the same impact.
- Determine a scheme of consent/delegation (PCC CFO in consultation with the CC CFO), and ensure that it is monitored and updated.
- Ensure that PCC and CC governance arrangements allow the CFO:
  - to bring influence to bear on all material business decisions (accepting the operational responsibilities of the Chief Constable); and
  - provide direct access to the PCC and CC (as above), other leadership team members, the Audit Committee and internal and external audit.
- Ensure the scope of the CFO's other management responsibilities do not compromise financial responsibilities.
- Ensure that consideration has been given to nominated deputy provision if either CFO is unable to discharge his/her responsibilities.
- Ensure the financial skills required by members of the Leadership Team enable their roles to be carried out effectively.

Core CFO responsibilities — Principle 1

- Contributing to the effective leadership of the PCC and CC, maintaining focus on its purpose and vision through rigorous analysis and challenge.
- Contributing to effective corporate management, including strategy implementation, cross organisational issues, integrated business and resource planning, risk management and performance management.
- Supporting effective governance through development of:
  - corporate governance arrangements, risk management and reporting frameworks; and
  - corporate decision making arrangements.
- Contributing to change programmes including identifying service efficiencies and value for money opportunities.
- Leading development of medium term financial strategies and the annual budgeting process to ensure financial balance and a monitoring process to ensure its delivery.
- Ensuring that there are sound medium and long term financial plans for both revenue and capital to support the development of PCC and CC plans and strategies and that these are subject to regular review to confirm the continuing relevance of assumptions used.
- Ensuring that advice is provided on the levels of reserves and balances in line with good practice guidance[6]. (PCC CFO responsibility in consultation with the CC CFO)
- Ensuring compliance with relevant CIPFA Codes including the Prudential Framework for Local Authority Capital Finance and CIPFA's Treasury Management Code. (PCC CFO responsibility in consultation with the CC CFO)
- Ensuring that budget calculations are robust and reserves adequate, as required by s25 of the Local Government Act 2003, and in line with CIPFA guidance. (PCC CFO responsibility in consultation with the CC CFO)

6 CIPFA LAAP Bulletin on Local Authority Reserves

Personal skills and professional standards — Principle 1

- Role model, energetic, determined, positive, robust and resilient leadership, able to inspire confidence and respect, and exemplify high standards of conduct.
- Adopt a flexible leadership style, able to move through visioning to implementation and collaboration/consultation to challenge as appropriate.
- Build robust relationships both internally and externally.
- Work effectively with other Leadership Team members with political awareness and sensitivity.
- Support collective ownership of strategy, risks and delivery.
- Address and deal effectively with difficult situations.
- Implement best practice in change management and leadership.
- Balance conflicting pressures and needs, including short and longer term trade-offs.
- Demonstrate strong commitment to innovation and performance improvement.
- Maintain an appropriate balance between the deeper financial aspects of the CFO Role and the need to develop and retain a broader focus on the environment and stakeholder expectations and needs.
- Comply with the IFAC Code of Ethics for Professional Accountants, as implemented by local regulations and accountancy bodies, as well as other ethical standards that are applicable to them by reason of their professional status. The fundamental principles set out in the Code are integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour. Impartiality is a further fundamental requirement of those operating in the public services.

\ principle 2

The CFO must be actively involved in, and able to bring influence to bear on, all material business decisions (subject to the operational responsibilities of the Chief Constable) to ensure immediate and longer term implications, opportunities and risks are fully considered, and align with the overall financial strategy.

Responsibility for financial strategy

No organisation can achieve its goals effectively without proper structures for allocating and optimising the use of resources. The centrality of finance means the CFO must play the lead Role in advising and supporting the leadership team in turning policy aspirations into reality by aligning financial planning with the vision and strategic objectives for the organisation.

Within the overall corporate governance and management structure, the CFO has direct responsibility for leading development and implementation of the financial strategy necessary to deliver PCC strategic objectives sustainably. The CFO must work closely with the Leadership Team to establish a medium to long term strategy that ensures the financial sustainability of the organisation.

The CFO must also assist in the development and management of resource allocation models to optimise service outputs and community benefits within funding constraints and any tax raising limits. In implementing these models, the CFO must ensure that the financial and risk implications of policy initiatives are analysed and appropriately addressed. Models must encompass capital investment programmes and annual operations, as well as financial targets and benchmarks. They must also take into account future commitments, identification of possible service efficiencies and value for money opportunities, resources available and the desirable levels of reserves, to ensure that the PCC's finances remain sustainable.

The PCC CFO and the CC CFO need to establish working arrangements to ensure that both are aware of material business decisions being considered and both can contribute depending on the decision involved. This requires close co-operation and working arrangements to be established between both CFO's to facilitate information and knowledge sharing. The FMCP requires a locally agreed Information Sharing Protocol (ISP) to be agreed.

The statutory guidance[7] issued by the Secretary of State under the Local Government Act 2000 (England and Wales) advises that local authorities, need to ensure that the CFO and the Monitoring Officer[8] have access as necessary to meetings and papers and that members must consult with him/her regularly[9]. Whilst PCCs and CCs do not operate under these arrangements, this guidance represents best practice and the principles of access and consultation should be followed.

Influencing decision making

PCCs and CCs must be rigorous in their decision making, be explicit about the reasons for their decisions and record the supporting information and expected impact. This requires the CFO to be actively involved in, and able to bring influence to bear on all material business decisions (subject to the operational responsibilities of the Chief Constable) whenever and wherever they are taken.

The CFO must be able to advise the Leadership Team directly in order to discharge responsibilities in relation to the PCC's and CC's financial health and long term viability. The CFO must therefore be a persuasive and confident communicator with the status and credibility to challenge others, and influence material business decisions. The CFO's advice and reports to the Leadership Team must be clear, concise, relevant and timely, highlighting issues that the team needs to be aware of, and options for action.

The CFO must also work to develop strong and constructive working relationships by creating mutual respect and effective communication. Providing information and advice as a public servant might call on an understanding of ethics, the wider public interest, and diplomacy.

7 New Council Constitutions, Local Government Act 2000 – guidance to English local authorities, chapter 8 – officers' roles under executive arrangements, DETR, October 2000

8 The Monitoring Officer for the PCC is his/her Chief Executive

9 In Wales the statutory guidance does not include this reference but implies that this should be the case.

The Local Government Act 2003 emphasises the importance of sound and effective financial management. In relation to capital financing there is a statutory requirement for the PCC to set and arrange their affairs to remain within prudential limits for borrowing and capital investment. Advice on fulfilling this responsibility is set out in CIPFA's Prudential Code[10]. This, and the detailed governance arrangements is a responsibility of the PCC CFO in consultation with the CC CFO. The PCC CFO might consider briefing the Audit Committee on Treasury Management Strategy and monitoring during the year.

The PCC CFO has a statutory responsibility to report at the time the budget is considered and the precept set, on the robustness of the budget estimates and the adequacy of financial reserves. This duty to report will need to be fulfilled by publishing in public a budget report with this information. This should be reported to the Police and Crime Panel as part of the consideration of the budget and precept.

The Secretary of State in England or the National Assembly for Wales have reserve powers to specify in regulations a statutory minimum level of reserves that will be used if Authorities fail to remedy deficiencies or run down reserves against the advice of the CFO. This applies to PCCs.

The CFO also has a key role to play in fulfilling the requirements of the statutory duty[11] to keep the PCC and CC finances under review during the year and take action if there is evidence that financial pressures will result in a budget overspend or if there is a shortfall in income.

Financial information for decision makers

At all levels those taking decisions must be presented with relevant, objective and reliable financial analysis and advice, clearly setting out the financial implications and risks.

The CFO has an important role in ensuring necessary financial information and advice is provided to the Leadership Team and decision makers at all levels. Meaningful financial analysis and robust and impartial interpretation is a key component in performance management, asset management, investment appraisal, risk management and control.

Although not a specific responsibility of CFOs alone, they should be alert to the 'Wednesbury' rules[12] which emphasise the importance of ensuring that when developing policy all relevant matters are properly considered. The judgement in the case stated that an authority's action in exercise of a statutory discretion would be regarded unreasonable, in excess of the powers given by Parliament and therefore invalid if:

- in making its decision it took into account matters which it ought not to take into account,

or

- it did not take into account matters which it should have taken into account, or
- even if the two previous conditions were satisfied the conclusion was so unreasonable that no reasonable authority properly directing itself could ever come to it.
- In order to demonstrate that these principles have been observed it is important that policy decisions and the associated advice are as a matter of routine well and clearly documented.

10 The Prudential Code for Capital Finance in Local Authorities (Fully Revised Second Edition 2009)

11 Section 28, Local Government Act 2003

12 Associated Provincial Picture Houses v Wednesbury Corporation (1948).

Governance requirements — Principle 2

- Ensure that a medium term business and financial planning process is established to deliver PCC strategic objectives, including:
  – a medium term financial strategy to ensure sustainable finances;
  – a robust annual budget process that ensures financial balance; and
  – a monitoring process that enables this to be delivered.
- Ensure that these are subject to regular review to confirm the continuing relevance of assumptions used.
- Ensure that professional advice on matters that have financial implications is available and recorded well in advance of decision making and used appropriately.
- Ensuring that budget calculations are robust and reserves adequate, in line with CIPFA's guidance and s25 of the Local Government Act 2003.(PCC CFO responsibility in consultation with the CC CFO)
- Ensure that those making decisions are provided with information that is fit for the purpose, relevant, timely and gives clear explanations of financial issues and their implications.
- Ensure that timely, accurate and impartial financial advice and information is provided to assist in decision making and to ensure that the PCC meets its policy and service objectives and provides effective stewardship of public money and value for money in its use.
- Ensure that the PCC and CC maintain a prudential financial framework; keep commitments in balance with available resources; monitor income and expenditure levels to ensure that this balance is maintained and take corrective action when necessary.
- Ensure compliance with CIPFA's Code on a Prudential Framework for Local Authority Capital Finance and CIPFA's Treasury Management Code. (PCC CFO responsibility in consultation with the CC CFO)
- Ensure that appropriate management accounting systems, functions and controls are in place so that finances are kept under review on a regular basis. These systems, functions and controls should apply consistently to all activities including partnerships arrangements, outsourcing or where the authority is acting in an enabling role.
- Ensure the provision of clear, well presented, timely, complete and accurate information and reports to budget managers and senior officers on the budgetary and financial performance.

Core CFO responsibilities — Principle 2

Responsibility for financial strategy

- Ensuring that a financial framework is agreed and delivery is planned against the defined strategic and operational criteria.
- Maintaining a long term financial strategy to underpin PCC and CC financial viability within the agreed performance framework.
- Ensure financial management policies underpin sustainable long-term financial health and reviewing performance against them.
- Ensuring that commercial and collaborated opportunities are appraised and advising on financial targets and successful delivery.
- Ensuring that an effective resource allocation model is developed and maintained to deliver business priorities.
- Taking a leading role on asset and balance sheet management.
- Ensuring that the planning and budgeting processes are fully co-ordinated.

Influencing decision making

- Ensuring that opportunities and risks are fully considered and decisions are aligned with the overall financial strategy.
- Providing professional advice and objective financial analysis enabling decision makers to take timely and informed business decisions.
- Ensuring that efficient arrangements are in place and sufficient resources available to provide accurate, complete and timely advice to support strategy development.
- Ensuring that clear, timely, accurate information is provided as requested by the Police and Crime Panel.
- Ensuring that all necessary information is provided to the PCC when the Police and Crime Panel considers the budget and proposed precept. (PCC CFO responsibility in consultation with the CC CFO)
- Ensuring that capital projects are chosen after evaluating a fully costed business case complied with input from all relevant professional disciplines and can be funded in the financial strategy.
- Checking, at an early stage, that innovative financial approaches comply with regulatory requirements.

Financial information for decision makers

- Monitoring and reporting on financial performance that is linked to related performance information and strategic objectives that identifies any necessary corrective decisions.
- Ensuring that timely management accounts are prepared.
- Ensuring the reporting envelope reflects partnerships and other arrangements to give an overall picture.

Personal skills and professional standards	Principle 2

- Take all reasonable steps to ensure that:
  - budgets are planned as an integral part of strategic and operational management and are aligned with a structure of managerial responsibilities.
  - budgets are constructed on the basis of reliable data of past performance and rigorous assessments of future resources and commitments, and that policies and priorities are evaluated in an open, consistent and thorough manner.
  - responsibilities for budget management and control are unambiguously allocated, that commitments are properly authorised, and that budgets are related to clear objectives and outputs.
  - accounting and financial information systems make available, at the relevant time to all users the appropriate information for their responsibilities and for the objectives of the PCC and CC.
- Ensure that other appropriate management, business and strategic planning techniques are implemented.
- Link financial strategy and overall strategy (PCC CFO in consultation with the CC CFO).
- Demonstrate a willingness to take and stick to difficult decisions – even under pressure.
- Take ownership of the assessment of relevant financial risks.
- Network effectively to ensure awareness of all material business decisions to which CFO input may be necessary.
- Role model persuasive and concise communication with a wide range of audiences internally and externally.
- Provide clear, authoritative and impartial professional advice and objective financial analysis and interpretation of complex situations.
- Apply relevant statutory, regulatory and professional standards both personal and organisational.
- Demonstrate a strong desire to think innovatively and to add value.
- Challenge effectively, and give and receive constructive feedback.
- Operate with sensitivity in a political environment.

\ principle 3

The CFO must lead and encourage the promotion and delivery of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently, and effectively.

Promotion and delivery of good financial management

Good financial management is fundamental to establishing confidence in public services and sets good relationships with the taxpayer and other funders. The Leadership Team collectively needs to set the tone that financial management is core to achieving strategic aims, and to demonstrate that public money is used well. Nevertheless it is the CFO who must take the lead in establishing a strong framework for implementing and maintaining good financial management. The CFO should have a key role in assessing the existing organisational style of financial management and the improvements needed to ensure it aligns with the strategic direction.

The PCC and the PCC CFO are responsible for drawing up financial regulations for application to the PCC and CC. These should be prepared in consultation with the CC CFO and should be kept under review by both CFOs to ensure they are revised to reflect any change to organisational or administrative arrangements. They should be reviewed by the Audit Committee prior to approval by the PCC.

Financial management is the business of the PCC and CC. When the Leadership Team, managers and the finance function all fulfil their financial management responsibilities successfully, they collectively create the financially literate and adept organisation. The CFO must actively promote financial literacy, so that the Leadership Team and managers can discharge their financial management responsibilities, alongside their wider responsibilities in relation to risk and performance management.

Best Value and Value for money

The CFO has a key role to play in balancing control and compliance with value creation and performance. Better value for money and the identification of service efficiencies releases resources that can be recycled into higher priorities, without increasing taxation.

With the foundations in place, good financial management will focus on stretching limited resources to maximise value for the public service. Value for money (economy, efficiency and effectiveness) should be the concern of all managers, but the CFO will need to take a lead in coordinating and facilitating a culture of efficiency and value for money. This will involve approaches and techniques such as:

- Assisting the PCC and CC in the measurement of value for money, and the identification of service efficiencies, making sure that information is available to review value for money and performance;
- Advising on appropriate strategies for managing assets and stretching utilisation, and the productive use of other resources;
- Providing leadership and guidance in using and developing efficiency tools and techniques, including benchmarking, IT, shared services, process analysis and cost management, collaborating with others where this is more efficient, effective or economical; and
- Ensuring the rigorous financial appraisal and oversight of change programmes, income generation proposals and investment projects.

Safeguarding public money

The CFO must lead the implementation and maintenance of a framework of financial controls and procedures for managing financial risks, and must determine accounting processes and oversee financial management procedures that enable the PCC and CC to budget and manage within its overall resources. At the most fundamental level this means ensuring that there are robust systems of risk management and internal control, that financial control is exercised consistently, and that the PCC and CC implement appropriate measures to protect assets from fraud and loss.

The CFO also has a specific role with regard to stewardship. This includes ensuring that the governance structures codify financial control, internal control, risk management and assurance, as well as defining a framework of financial accountabilities and reporting. In addition to the CFO's responsibilities to the PCC and CC, a wider role also exists in relation to the general public. The PCC and CC are regarded as trustees of local citizens' money, and both CFOs have a prime obligation and duty to them to manage the PCC and CC resources prudently on their behalf as established in the 1906 de Winton case.

In effect this means that the CFO has a personal responsibility for the stewardship and safeguarding of public money and for demonstrating that high standards of probity exist. Strong financial management, accurate financial reporting and effective financial controls are therefore central to the CFO's Role. This role was strengthened by the Local Government Finance Act 1988 (in England and Wales), which requires the CFO to report inappropriate financial management as well as wrongdoing.

Section 114 of the 1988 Act (for the MPA, this is s130 of the GLA Act 1999) requires a report to be made by the CFO, in consultation with the PCC Chief Executive if there is or is likely to be unlawful expenditure or an unbalanced budget. Further guidance recommending courses of action to be followed when a report under s114 may be required is attached at appendix A to this Statement.

Consistency of standards and transparency in financial activities are essential. In this context, CIPFA's view is that the statutory Role of the CFO does not stop at the boundaries of the PCC and CC. It extends into its partnerships, collaborated and devolved arrangements, joint ventures and companies in which the PCC and CC have an interest. The CC CFO should oversee the non-operational dimensions (i.e. where police powers are not involved) of the Force's participation in such activities.

Assurance and scrutiny

Accountability for public expenditure is a core requirement for PCCs and CCs. The PCC has accountability to the electorate and to the Police and Crime Panel for the delivery of the Police and Crime Plan. The CC has accountability to the PCC for the delivery of policing. Both the PCC and CC have accountability to service inspectorates, External Auditors; the community and taxpayers.

Managing information flows is a key component of the CFO's Role as an ambassador for the PCC and CC on financial matters and in building relationships with other PCCs and CCs and other stakeholders. The CFO must provide information and advice to those who officially scrutinise and review the PCC and CC; funders, regulators, and External audit, and any group which exercises scrutiny.

Internal audit is an important independent internal scrutiny activity. The CFO must support the internal audit arrangements, whether provided internally or externally to the PCC and CC, and ensure that the Audit Committee receives the necessary advice and information.

Public service providers face a variety of regulatory requirements and standards for external reporting of financial and non-financial information. . The Role of the CFO in external reporting is to meet relevant reporting requirements and to apply professional good practice, conscious of the needs of users. External financial reporting must be of good quality, supported by analysis and documentation and should receive an unqualified audit opinion. This will be facilitated if the CFO maintains a constructive professional relationship with external auditors and inspectors.

The Accounts and Audit Regulations 2003 (England and Wales) and the Accounts and Audit (Wales) Regulations 2005, impose responsibilities on the finance director relating to accounting records and supporting information, control systems and the Statement of Accounts.

A key feature of the Regulations in England and Wales is the requirement for internal audit. Regulation 6 requires that a 'relevant body shall maintain an adequate and effective system of Internal audit of its accounting records and its system of internal control'.

The provisions of the Audit Commission Act 1998 in relation to external audit apply to both the PCC and the CC as separate corporations sole. The requirements of Regulation 6 of the Accounts and Audit (England) Regulations 2011 apply in relation to internal audit arrangements. The FMCP recommends that the PCC and CC agree that there should be joint internal audit arrangements including a joint Audit Committee. It would be good practice for the agreed arrangements to be set out in a jointly agreed protocol or memorandum of understanding. The Audit Commission is responsible for the appointment of external auditors to PCC's and CC's in England as bodies subject to audit listed in scheduled 2 of the Audit Commission Act 1998. In Wales, the Wales Audit Office is responsible for the appointment of external auditors to PCC's and CC's, in accordance with Section 12 of the Public Audit (Wales) Act 2004.

Governance requirements — Principle 3

- Make the CFO responsible for ensuring that appropriate advice is given on all financial matters, for keeping financial records and accounts, and for maintaining an effective system of financial control.
- Ensure that systems and processes for financial administration, financial control and protection of resources and assets are designed in conformity with appropriate ethical standards and monitor their continuing effectiveness in practice.
- Ensure that there is in place effective and appropriate internal financial controls covering codified guidance, budgetary systems, supervision, management review and monitoring, physical safeguards, segregation of duties, accounting procedures, information systems and authorisation and approval processes. Ensuring that these controls are an integral part of the underlying framework of corporate governance and that they are reflected in its local code.
- Address the arrangements for financial and internal control and for managing non-operational risk in Annual Governance Reports.
- Ensure that annual accounts are published on a timely basis to communicate activities and achievements, its financial position and performance.
- Ensure an effective internal audit function is resourced and maintained.
- Develop and maintain an effective Audit Committee.
- Ensure, together with the leadership team, that the PCC and CC make best use of resources and that taxpayers and/or service users receive value for money.
- Ensure that appropriate financial competencies are embedded in key person specifications and appraisals.
- Ensure the financial skills required by managers are assessed and developed to enable their roles to be carried out effectively.
- Ensure that roles and responsibilities for monitoring financial performance/budget management are clear, that they have adequate access to financial skills, and are provided with appropriate financial training on an ongoing basis to help them discharge their responsibilities.

Promotion of financial management

- Assessing financial management style and advising as to changes which may be needed to ensure it aligns with the PCC's strategic direction.
- Actively promoting financial literacy.
- Assisting the development of a protocol which clearly sets out the roles and responsibilities for financial management, including delegated authority/powers.

Value for money

- Challenging and supporting decision makers, especially on affordability and value for money, by ensuring policy and operational proposals with financial implications are notified to and as appropriate, for non-operational aspects, signed off by the finance function.
- Ensuring that appropriate asset management and procurement strategies are developed and maintained.
- Taking a leading role on the identification of value for money opportunities.

Safeguarding public money

- Applying strong internal controls in all areas of financial management, risk management and asset control.
- Signing the published Statement on Internal Financial Control in line with the Statement of Recommended Practice on Local Authority Accounting in the United Kingdom.
- Establishing budgets, financial targets and performance indicators to help assess delivery.
- Ensuring that effective systems of internal control are implemented, these may include financial regulations, contract regulations, standing financial instructions, operating manuals, and compliance with codes of practice to secure probity.
- Ensuring that the PCC and CC have put in place effective arrangements for internal audit of the control environment and systems of internal control as required by professional standards and in line with CIPFA's Code of Practice.
- Ensuring that delegated financial authorities are respected.
- Promoting arrangements to identify and manage business risks (except for operational responsibilities of the Chief Constable), including safeguarding assets, risk mitigation and insurance.
- Ensure that capital projects are managed with post completion reviews.
- Securing the application of appropriate discipline in financial management, including managing cash and banking, treasury management, debt and cash flow, with appropriate segregation of duties.
- Ensuring the effective management of cash flows, borrowings and investments of funds including those on behalf of others; ensuring the effective management of associated risks; pursuing optimum performance or return consistent with those risks. (PCC CFO responsibility in consultation with the CC CFO).
- Ensuring that appropriate measures exist to prevent and detect fraud and corruption.
- Ensuring that proportionate business continuity arrangements are established for financial processes and information.
- Ensuring that any partnership arrangements are underpinned by clear and well documented internal controls.

Assurance and scrutiny

- Ensuring that financial performance of the PCC and CC and its partnerships is reported to the PCC and CC and other parties as required.
- Ensuring that financial and performance information presented to members of the public, the community and the media covering resources, financial strategy, service plans, targets and performance, is accurate, clear, relevant, robust and objective. Apart from operational matters which are the responsibility of the Chief Constable.
- Supporting and advising the Audit Committee.
- Ensuring that clear, timely, accurate advice is provided on what considerations can legitimately influence decisions on the allocation of resources, and what cannot.
- Ensuring that published budgets, annual accounts and consolidation data for government-level consolidated accounts are prepared.
- Ensuring that the financial Statements are prepared on a timely basis, meet the requirements of the law, financial reporting standards and professional standards as reflected in the Code of Practice on Local Authority Accounting in the United Kingdom developed by the CIPFA/LASAAC Joint Committee.
- Certifying the annual Statement of Accounts (PCC CFO and CC CFO for their separate accounts) and the group accounts (PCC CFO)
- Ensuring that arrangements are in place so that other accounts and grant claims (including those where the PCC is the accountable body for community led projects) meet the requirements of the law and of other partner organisations and meet the relevant terms and conditions of schemes
- Liaising with the internal and external auditor.

Personal skills and professional standards	Principle 3

- CFOs should take all reasonable steps to ensure that:
  - effective systems and procedures operate to monitor progress against budgets and their objectives at regular intervals, and that appropriate reporting mechanisms are in place.
  - that payments, including taxation, are made on time, accurately and in accordance with legal requirements.
  - cash is handled with special care to avoid loss, particularly loss through theft and secure arrangements are in place to deal with the handling of electronic or other cash-less transactions.
  - the accounting and financial information systems provide an accessible, complete, comprehensive, consistent and accurate record of financial transactions.
  - all financial reports are relevant, reliable and consistent, are compatible with the accounting and financial information systems available, at the relevant time to all users, the appropriate information for their responsibilities and for the objectives of the PCC and CC.
  - within the specific legislative framework, systems exist to secure the efficient and effective management of taxes, in particular to ensure that tax liabilities and obligations are properly reported and accounted for.
  - treasury management is carried out in accordance with CIPFA's treasury management code and that effective treasury management arrangements are in place. (PCC CFO in consultation with the CC CFO)
- Generate 'buy-in' to, and support delivery of, good financial management.
- Assist in the promotion, and development of sustainable partnerships, and engage effectively in collaboration.
- Deploy effective facilitation and meeting skills.
- Build and demonstrate commitment to continuous improvement and innovative, but risk-aware, solutions.
- Place stewardship and probity as the bedrock for management of PCC and CC finances.

\ principle 4

The CFO must lead and direct, (as explained in this principle), a finance function that is resourced to be fit for purpose.

Meeting the finance needs of the business

The location(s) and functions of the finance function are a matter for discussion and agreement between the PCC and CC subject to the legal requirements of the separate corporates sole. The PCC CFO and the CC CFO have a responsibility to ensure that it is adequately resourced to be fit for purpose and each have a responsibility for leading and directing depending on where the functions are located.

A strong customer focus, both externally and internally, must be a key feature of the way the finance function does business. It must support the broader development agenda, by appraising investment options and change programmes and contributing creative financial solutions within an effective risk management framework.

The finance function must also have a firm grasp of the financial position and performance. The CFO must ensure that there is sufficient depth of financial expertise, supported by effective systems, to discharge this responsibility and challenge those responsible for activities to account for their financial performance. The resources available must be proportionate to the complexity of the financial environment.

Section 114(7) of the Local Government Finance Act 1988 requires authorities in England and Wales to provide their CFO with 'such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section (i.e. s114) to be performed'. This test has to be measured against the totality of the resource available to support the CFO's Role, wherever they are located.

Appropriately developed finance skills

The CFO must promote and encourage financial literacy, including championing training and development of relevant skills at all levels. However, the CFO has a particular responsibility for learning and development amongst finance staff in order to ensure that both current and likely future finance skill needs are addressed. The CFO needs to ensure that the competencies needed by the finance function are identified, including specialist skills, and that it can access the skills and experience needed to exercise stewardship of public finances, develop financial performance and contribute effectively to new organisational directions and innovation.

The CFO must ensure that responsibility for accountants and finance specialists Organisation-wide is properly discharged in order to ensure compliance with regulatory and professional standards. To exercise leadership on financial matters it is important that Roles and responsibilities are suitably outlined and documented.

Governance requirements — Principle 4

- Ensure that the finance function has the resources, expertise and systems necessary to perform its role effectively.
- Ensure that the role and responsibilities of the CFO, are suitably outlined and documented.

Core CFO responsibilities — Principle 4

- Ensuring that the finance function makes a full contribution to and meets the needs of the business.
- Ensuring that the resources, expertise and systems for the finance function are sufficient to meet business needs and negotiating these within the overall financial framework.
- Ensuring that robust processes for recruitment of finance staff are implemented and/or outsourcing of functions.
- Reviewing the performance of the finance function and ensuring that the services provided are in line with the expectations and needs of its stakeholders.
- Seeking continuous improvement in the finance function.
- Ensuring that finance staff, managers and the Leadership Team are equipped with the financial competencies and expertise needed to manage the business both currently and in the future.
- Ensuring that responsibility for all finance staff is properly discharged.
- Acting as the final arbiter on application of professional standards.

Personal skills and professional standards — Principle 4

- Ensure a vision is created and communicated for the finance function.
- Role model a customer focussed culture.
- Promote an open culture, built on effective coaching and a “no blame” approach.
- Promote effective communication between the finance department, PCC and with external stakeholders.
- Apply strong project planning and process management skills.
- Set and monitor meaningful performance objectives for the finance team.
- Role model, as required, for effective staff performance management.
- Coach and support staff, as required, in both technical and personal development.
- Promote high standards of ethical behaviour, probity, integrity and honesty.
- Ensure, when necessary, that outside expertise is called upon for specialist advice not available within the finance function.
- Promote discussion on current financial and professional issues and their implications.

\ principle 5

The CFO must be professionally qualified and suitably experienced.

Demonstrating professional and interpersonal skills

The CFO must be able to demonstrate their own professional standing to exercise financial leadership. As a member of a professional body, the CFO's skills, knowledge and expertise will have been tested by examination and must be continuously developed in a structured and monitored context. The CFO must adhere to the professional values of accuracy, honesty, integrity, objectivity, impartiality, transparency and reliability and promote these throughout the finance function.[13]

The CFO must communicate complex financial information in a clear and credible way. They should be able to operate effectively in different modes including directing, influencing, evaluating and informing. The CFO must also have the confidence to give impartial and objective advice even if it may be unwelcome, and be sufficiently forceful to intervene with authority if financial or ethical principles need to be asserted or defended.

The officer appointed as the CFO must, by virtue of section 113 of the Local Government Finance Act 1988 in England and Wales, be a member of a specified accountancy body[14]. This requirement is applied to the MOPC via s129 of the GLA Act 1999.

Applying business and professional experience

The CFO must have an understanding and commitment to the wider business, looking beyond narrow financial objectives, to inspire respect, confidence and trust amongst colleagues, inspectors and stakeholders. In practice this means being creative and constructive in strategic Roles and effective in management responsibilities, with a sound grasp of approaches such as performance management and project leadership.

The CFO must understand how and when to apply the tools and techniques of financial analysis in support of business decisions in order to evaluate proposals and to offer well founded and expert advice. Such techniques include strategic analysis, review of sector best practice, benchmarking, option appraisal, performance measurement, and risk assessment. However data is not always clear cut and the CFO must also be able to apply judgement to imperfect information.

The CFO must have a good understanding of public sector finance and its regulatory environment and comply with standards formulated through rigorous due process in support of the public interest to support the Leadership Team effectively. The CFO must also have a good understanding of the principles of financial management, and personally set a tone for the PCC and CC that finance matters and is a key part of everyone's job.

13 *IFAC: Code of Ethics*, 2005

14 Defined to mean a qualified member of one of the six bodies comprising the Consultative Committee of Accountancy Bodies (CCAB) in the UK and Ireland, that is
– Chartered Institute of Public Finance and Accountancy
– The Institute of Chartered Accountants in England and Wales
– The Institute of Chartered Accountants of Scotland
– The Institute of Chartered Accountants in Ireland
– Chartered Institute of Management Accountants
– The Association of Chartered Certified Accountants.

Governance requirements — Principle 5

- Appoint as an employee, or engage under a contract for services, a professionally qualified CFO whose core responsibilities include those set out under the other principles in this Statement and ensure that these are properly understood.
- Ensure that the CFO has the skills, knowledge, experience and resources to perform effectively in both the financial and non-financial areas of their role.

Personal skills and professional standards — Principle 5

- Be a member of an accountancy body recognised by the International Federation of Accountants (IFAC), qualified through examination, and subject to oversight by a professional body that upholds professional standards and exercises disciplinary powers.
- Adhere to international standards set by IFAC on:
  - Ethics
  - Continuing Professional Development.
- Demonstrate IT literacy.
- Have relevant prior experience of financial management in the public services or private sector.
- Understand public service finance and its regulatory environment.
- Apply the principles of corporate finance, economics, risk management and accounting.
- Understand personal and professional strengths.
- Undertake appropriate development or obtain relevant experience in order to meet the requirements of the non-financial areas of the role.

Appendix A

\ legislative requirements

SECTION 151 OF THE LOCAL GOVERNMENT ACT 1972 – ENGLAND AND WALES

This section requires that every local authority in England and Wales (this now includes PCC's and CCs) should

"make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs".

The words "proper administration" are not statutorily defined nor have they received judicial consideration. Section 58 of the Local Government Act 1958 had somewhat narrower wording requiring authorities to make "safe and efficient" arrangements for the receipt and payment of money.

- "proper administration" requires a somewhat wider consideration of all aspects of PCC and CC financial management and should include:
- compliance with the statutory requirements for accounting and Internal audit
- ensuring the PCC's and CC's responsibility for securing proper administration of its financial affairs *(Lloyd v McMahon (1982) AC 625)*
- proper exercise of a wide range of delegated powers both formal and informal *(Provident Mutual Life Assurance Association v Derby City Council (1981) 1 WCR 173)*
- responsibility for managing the financial affairs of the PCC and CC in all its dealings
- recognition of the fiduciary responsibility owed to local taxpayers *(Attorney General v De Winton (1906) 2 CH 106).*

This view is strengthened by Section 113 of the Local Government Finance Act 1988 which requires the responsible officer under Section 151 of the 1972 Act to be a member of a specified accountancy body.

SECTION 114 OF THE LOCAL GOVERNMENT FINANCE ACT 1988 – ENGLAND AND WALES

The responsible officer under Section 151 of the 1972 Act had his or her duties significantly extended by Section 114 of the 1988 Act which requires a report in the case of local government to all the Authority's members to be made by that officer, in consultation with the Monitoring Officer, if there is, or is likely to be unlawful expenditure or an unbalanced budget.

For PCCs and CCs a s114 report would be made to the PCC/CC and the External Auditor. Members of the Audit Committee should also be informed along with the PCC/CC Internal Auditor. The PCC CFO and the CC CFO both have this responsibility in relation to their corporations sole. If either of the CFOs intend to exercise their statutory powers under s114 they should inform the other (as well as the CE) as soon as possible.

Introduction

Section 114 (1) of the Local Government Finance Act 1988 places a duty on the Chief Finance Officer (CFO) as defined in that subsection to report certain matters to the authority (this now includes PCCs and CCs). Serious consequences could follow making such a report and this note recommends sound procedures and consultation with the PCC, PCC Chief Executive and CC prior to making the report.

The duty of the CFO to report is triggered if s(he) believes that a decision involves (or would involve) unlawful expenditure, a course of action is unlawful and is likely to cause a loss or deficiency.

In those circumstances the CFO is required to make a report and send a copy to the PCC, the CC and the External Auditor. The course of conduct which led to the report must not be pursued until the report has been considered. The PCC and the CC must consider the report within 21 days and decide whether they agree or disagree with the views in the report and what action it is proposed to take.

Likewise the CFO must report where it is believed that PCC's expenditure including that of the CC is likely to exceed available resources. The PCC and CC is prevented from entering into any agreements incurring expenditure until the report has been considered. This report should also be submitted to the External Auditor.

When the CFO issues a report, the CFO should also keep members of the Audit Committee informed along with the Police and Crime Panel and Internal Auditor.

All action in respect of such a report must be suspended until the PCC and the CC has considered the report. The PCC/CC must provide a report to the CFO and the External Auditor, explaining what action, if any, is to be taken and the reasons.

This guidance is intended to assist in the provision of sound legal (and financial) advice but in the last analysis the duty to report is placed on the CFO and nothing in this note derogates from that responsibility.

The legislation raises issues that could place the CFO in conflict with his or her employers. The consequences of submitting a report are unlikely to be in the long term interests of the PCC/CC, and its officers. The need to issue a s114 report would indicate that there are underlying problems with the overall performance of the PCC/CC. Every action should be taken to avoid conflict by providing timely advice and where possible offering alternative lawful solutions on financial matters. However, at the end of the day section 114 imposes a statutory duty on the CFO.

Preliminary matters

The origin of information giving rise to consideration of the need for a report could be the CFO's staff, the PCC/CC or someone from within the PCC's office, the Force, an officer, a member of the public or an Auditor, or inspector. The attention of the PCC/CC and all staff should be drawn to the duty of the CFO and to his or her responsibility for signalling possible subjects for investigation which may lead to a formal report. The topic should also be included in training programmes.

Making a report under sections 114 (2) and 114A(2) requires the CFO to make a decision that an act or omission is or could be unlawful; this decision should only be taken after full consultation with the PCC, PCC Chief Executive and the CC whereas a report under section 114 (3) requires a financial judgement on (essentially) the budget which the CFO could take alone though the CFO is nonetheless required by law to consult because other corporate and legal issues may well flow from the report and because there may be overlaps with the duty to report about unlawfulness under the Local Government and Housing Act 1989 section 5.

Circumstances of a developing situation (for example, shortage of budget resources or a prospective unlawful act) should be distinguished from the imminent or actual situation. Timing of a report will need careful thought and decision.

There may well be occasions when the CFO will be asked for a view on matters which are under consideration but which if developed might lead to a report. A mere preliminary enquiry or request should not lead to a formal report under the Act. If the situation develops the need to report must be reviewed.

It is not considered that the provisions of sections 114 (2) and 114A (2) relate to cases of discovered fraud (which could be the subject of criminal prosecution) – these should normally be dealt with under financial regulations.

A decision will be needed whether to report or not on items which could be regarded as outside sections 114 (2) and 114 A (2) such as trivial expenditure or loss of income although there may on occasions be circumstances in which such a report may be justified.

In the case of action under section 114 (3) the need for a report arises where a PCC/CC's total resources fall short of likely expenditure. It does not apply where, say, the CC's budget is overspent but can be funded from the reserves/budget held by the PCC.

Recommended Procedures

Having regard to the circumstances and the preliminary matters mentioned above the procedure for a report under section 114 (2) or 114 A (2) – an unlawful act or omission – is suggested as follows

- consult with the PCC, PCC Chief Executive and CC on the issue of unlawfulness
- if there is disagreement or doubt, the CFO should ask for Opinion of Counsel to be obtained
- if there is still disagreement after Counsel's Opinion, the PCC CE may provide assistance on procedures but CEs should not normally substitute their own advice, even where legally or financially qualified.

Under section 114 (3) where the matter is an unbalanced budget – real or potential – the CFO is in a better position to come to a decision unaided. However it is recommended

- an informal indication is given by the CFO at a very early stage and an attempt made to get immediate remedial action
- the likelihood of a report under section 114 (3) should be made known to the PCC/CC at the earliest practicable opportunity
- the CFO should consider informal consultation with the Internal and External Auditor
- at this point the CFO has to decide the course of action. If it is decided to proceed, go to next stage.

Where the CFO decides there is a case for a report

- if the action or expenditure is potential or prospective the CFO should draft a report stating the facts and reasons and discuss with the PCC, PCC CE and CC how to obviate the need for the report by remedial action. If successful the matter will rest
- where action as above is not successful, or where the act or expenditure has already happened, the CFO should draft a report as above in consultation with the PCC, PCC CE and CC. The report should clearly state that it is made under the relevant sub-section of section 114 or section 114 (A) of the Local Government Finance Act 1988 and the consequences. The CFO then 'makes' the report by signing it personally
- the statutory duty to make a report and send a copy to the PCC/CC and the External Auditor rests on the CFO. The Act does not say when a report is to be sent but implies it should be sent as soon as reasonably practicable
- where a decision is about to or has been made involving unlawful expenditure, a loss or deficiency or an unlawful item of account, the CFO must report to the PCC/CC and the External Auditor
- reports are likely to be made in highly contentious circumstances and as such could be the target for legal challenge. They must therefore be subject to most careful drafting, rehearsing all relevant matters and arguments besides clearly advising as to the options or decisions sought.

Whatever the decision, the CFO must have taken all steps necessary to arrive at and justify that decision. The CFO should ensure that there is a proper record of the considerations leading to the decision.

The PCC/CC must consider within 21 days the CFO's report and until it does so it must take no action on the decision which is the subject of the report. After considering the report, the PCC/CC must prepare a report which specifies what action (if any) has been taken in response, what action it is proposed to take in response and when it proposes to take that action and the reasons for taking the action. A copy of that report must be sent to the External Auditor.

Other Matters

Once the CFO has sent the report addressed to the PCC/CC and to the External Auditor, his/her reporting duty has been completed. If the PCC/CC acts positively on the report, well and good; if not, any further formal action is to be taken by the External Auditor pursuant to section 6 of the Audit Commission Act 1998 or by the issue of an 'advisory notice' under section 19A or by applying to the Court for a declaration under section 17 of the 1998 Act.

The authority's standing orders and financial regulations should be compatible with the reporting procedures.

In the light of these provisions it is clearly essential that all reports, containing financial matters should be cleared with the CFO. The CFO should also have access to all decision records and minutes.

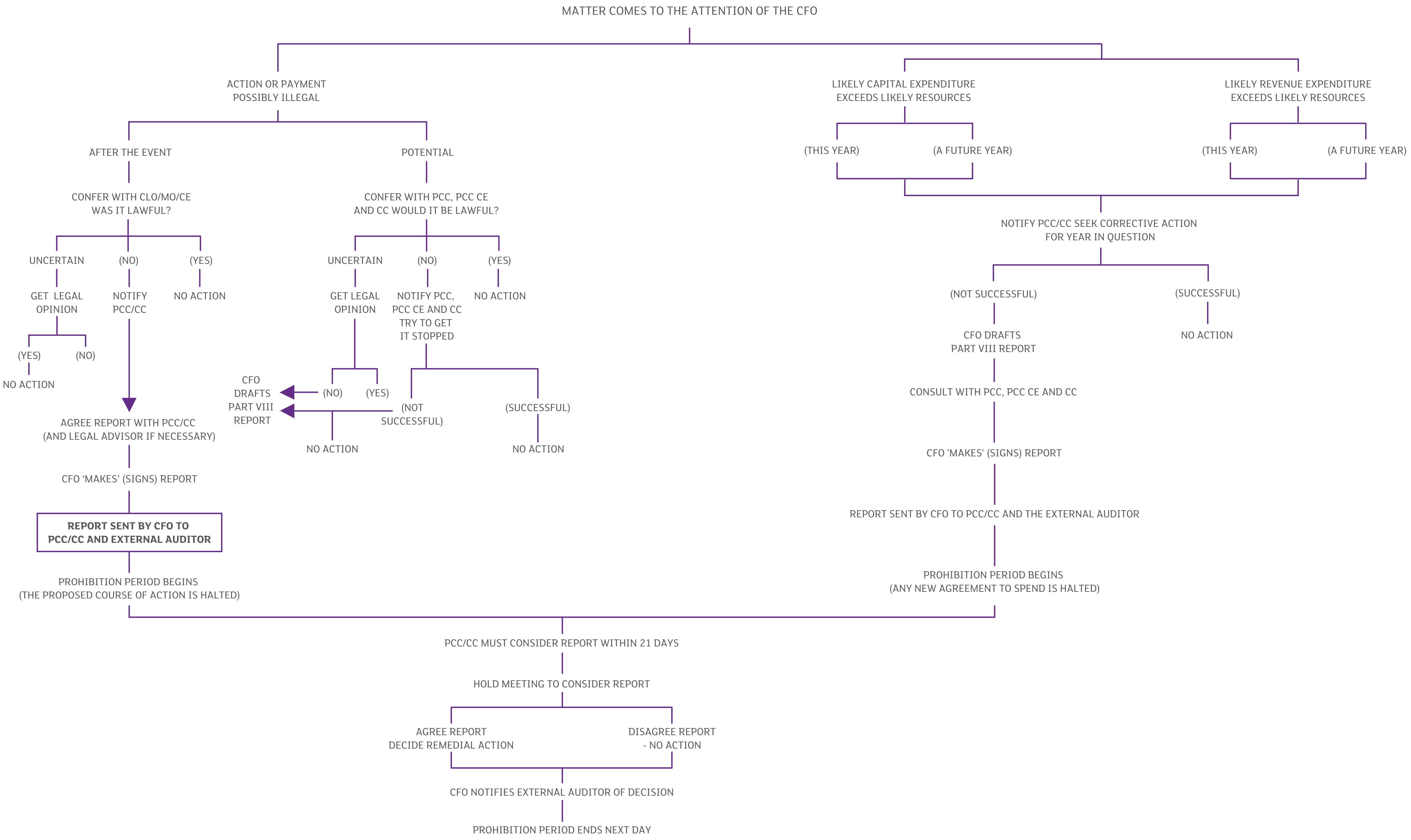
The 1988 Act requires the PCC/CC to provide the CFO with sufficient resources to carry out there duties. These would include the cost of obtaining advice and resources outside the authority if required.

The CFO's duties must be carried out by him or her personally and it is recommended that he or she agrees with the PCC/CC the arrangements to be put in place for someone to act in his/her absence or when (s)he is ill under section 114(6).

The activities of companies set up by PCC/CC's appear to be outside the present legislation for section 114/114A reports.

Where a report has been made under section 114(3), arrangements need to be made to inform all persons, who have delegated authority to enter commitments, that such powers are suspended during the prohibition period.

Flow chart for Section 114 Local Government Finance Act 1988 (England and Wales) Procedures



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