

Item No.	Classification: Open	Date: 8 Dec 2004	Meeting Name: Council Assembly
Report title:		Financial administration – s151 responsibility	
Ward(s) or groups affected:		All wards	
From:		Chief Executive	

RECOMMENDATION

1. That Council Assembly agrees that Eleanor Kelly assumes the Section 151, Local Government Act 1972 responsibility with immediate effect until a permanent appointment is made to the Finance Director position, with Bob Coomber as deputy responsible officer.

BACKGROUND INFORMATION

2. Stephen Bishop recently resigned as Finance Director and Eleanor Kelly has been appointed Finance Director as an interim measure until a permanent appointment is made.
3. Under the terms of the Financial Standing Orders of the Southwark Constitution the Finance Director is the officer appointed by the council in accordance with Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Accounts and Audit Regulations 2003, and Section 25 of the Local Government Act 2003.
4. Section 151 requires that every local authority make arrangements for the proper administration of their financial affairs and must secure that one of their officers has responsibility for the administration of those affairs.
5. The Finance Director may authorise other officers to carry out matters delegated to him/her except the Section 151 responsibilities.

KEY ISSUES FOR CONSIDERATION

6. The council's Finance Director would normally be required to be the council's statutory s151 officer. In the absence of the Finance Director the Constitution also allows for the Head of Paid Service to undertake the role providing he or she is a qualified accountant. At present the Chief Executive is deputy Chief Finance Officer. In view of the fact that the Chief Executive is also undertaking the statutory role of Chief Education Officer it would be preferable if he did not assume the principal s151 role if other choices exist.
7. The council is fortunate to have Eleanor Kelly on an interim basis until a permanent appointment is made. She brings to the role considerable financial and corporate management experience. She is a member of the Chartered Institute of Public Finance and Accountancy and is currently working as a freelance consultant. This has included a period as Acting Chief Executive at the London Borough of Merton. Her previous posts include Regional Director, IDeA (2002 – 2003), Chief Executive,

London Borough of Tower Hamlets (1999 – 2002), Corporate Director (Support Services), Tower Hamlets (1997 – 1999), and Director Finance and Administration, Tower Hamlets (1995 – 1996).

8. In view of her wide ranging experience the Chief Executive advises that for the period in which she is acting as interim Finance Director she becomes the council's statutory s151 officer with the Chief Executive remaining as deputy.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Borough Solicitor And Secretary – Legal Implications

9. The legal requirement to appoint an officer with responsibility for the administration of the council's financial affairs is set out in the report. Section 113 of the Local Government Finance Act 1988 lists the professional bodies which the section 151 financial officer must belong to; these bodies include CIPFA. The Local Government Act 2003 imposes additional responsibilities on the Chief Finance Officer in the context of setting the council's budget.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

AUDIT TRAIL

Lead Officer	Bob Coomber, Chief Executive	
Report Author	Bob Coomber Louise Gardiner, Assistant to the Chief Executive	
Version	Final	
Dated	26 November 2004	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor	Yes	Yes
Chief Finance Officer	No	No
Executive Member	Yes	No
Date final report sent to Constitutional Support Services	26.11.04	

APPENDIX - EXTRACTS FROM THE SOUTHWARK CONSTITUTION

Extracts from the Southwark Constitution relevant to the Finance Director and s151 responsibility.

ARTICLE 12 - OFFICERS

12.01(c) Head of Paid Service, Monitoring Officer and Finance Director:

The Council Assembly will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Borough Solicitor	Monitoring Officer
Finance Director	Chief Finance Officer

Such posts will have the functions described in Article 12.02–12.04 below.

12.02 (c) Restrictions on Functions:

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Finance Director if a qualified accountant.

12.04 Functions of the Finance Director:

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Finance Director will report to the Council Assembly or to the executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Finance Director will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Finance Director will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Finance Director will provide advice on the scope of powers and authority to take decisions, mal-administration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.
- (e) **Give financial information.** The Finance Director will provide financial information to the media, members of the public and the community.

- (f) **Constitute a Pensions Advisory Panel.** The Finance Director will constitute a Pensions Advisory Panel and take into account the Panel's advice when performing the following functions:
- a) establishing and reviewing the strategic investments objectives
 - b) reviewing the definition of the investment return target most likely to satisfy this investment objective.
 - c) considering what constraints, if any, should apply to the invested assets and monitor compliance.
 - d) establishing and reviewing the strategic asset allocation (benchmark) that is likely to meet the investment return target.
 - e) considering and reviewing the appropriateness of the fund structure i.e. the delegation of powers to managers, set boundaries for the manager's discretion, consider what manager return targets are likely to achieve the investment return target.
 - f) monitoring the performance of the investment managers at least once every 3 months, and from time to time consider the desirability of continuing or terminating the appointment of investment managers. In monitoring performance of investment managers, the panel should consider:
 - The investments made by the managers
 - Their input to the process and the value of their advice
 - Investment returns and risk against established targets.
 - Manager compliance with the fund's requirements.
 - Discussion of results with managers.
 - g) considering policy matters in relation to the pension scheme and the Council's early retirement policy
 - h) considering applications, from other bodies, for membership of the Council's pension scheme
 - i) monitoring early retirements
 - j) monitoring costs incurred in administering the pension scheme, including
 - Management and other direct costs
 - Transaction (Dealing) costs.
- (f)(i) The Pensions Advisory Panel will constitute:
- 3 Members (1 from each party group) who have received the appropriate training; 1 of those Members will chair the Panel;
 - 3 officers (the Finance Director, an Officer with specialist knowledge on the Pensions Scheme and the Head of Human Resource or their equivalents);
 - 2 independent advisers (non-voting); and
 - a representative appointed by the constituent trade unions representing beneficiaries (non-voting).
- (f)(ii) Decisions should aim to be reached by consensus. Where agreement cannot be reached then, a majority vote will apply. Voting rights are restricted to Members and Officers, with the Chair having the casting vote if required.
- (f)(iii) Decisions of the Panel will be treated as advice to the Finance Director.
- (f)(iv) To be quorate at least three voting members of the panel must be present, plus at least one independent adviser. At least one of the voting members must be an officer.

PART 3I - MATTERS RESERVED TO THE APPOINTMENTS COMMITTEE

- To make recommendations to Council Assembly as to the appointment of the Head of Paid Service
- To appoint the Borough Solicitor and Secretary.
- To appoint the Finance Director

FINANCIAL STANDING ORDERS

1. Financial administration

(a) Finance Director

- i) The Finance Director is the officer appointed by the Council in accordance with Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Accounts and Audit Regulations 2003, and Section 25 of the Local Government Act 2003. The postholder must ensure that the Council's financial affairs are administered in a proper manner, in compliance with all relevant professional codes of practice, and all statutory obligations;
- ii) All matters connected with the financial administration of the Council's affairs are the delegated responsibility of the Finance Director, except any matters which are delegated to other officers or reserved to committees of Council Members, the Executive, or to the Council itself. The Finance Director may authorise other officers to carry out matters delegated to him/her except the Section 151 responsibilities