Northern Ireland
Assembly

COMMITTEE FOR THE ENVIRONMENT

OFFICIAL REPORT
(Hansard)

Chartered Institute of Public Finance and Accountancy Briefing on the Local Government (Finance) Bill

23 September 2010

NORTHERN IRELAND ASSEMBLY

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Chartered Institute of Public Finance and Accountancy Briefing on the Local Government (Finance) Bill

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Members present for all or part of the proceedings:
Mr Cathal Boylan (Chairperson)
Mr Patsy McGlone (Deputy Chairperson)
Mr Roy Beggs
Mr Thomas Buchanan
Mr Trevor Clarke
Mr Willie Clarke
Mr John Dallat
Mr Danny Kinahan
Mr Peter Weir
Mr Brian Wilson

Witnesses:
Mr David Nicholl) Chartered Institute of Public Finance and Accountancy NI

The Chairperson (Mr Boylan):

We move now to a briefing from the Chartered Institute of Public Finance and Accountancy NI (CIPFA) on the Local Government Finance Bill. Members have been provided with a submission to the Department's consultation in their papers. I welcome David Nicholl, head of CIPFA NI.

After a five- or 10-minute presentation, I will open the meeting to members' questions.

Mr David Nicholl (Chartered Institute of Public Finance and Accountancy NI): I am the chief executive of CIPFA Northern Ireland. I thank the Committee for the kind invitation to come here today and give evidence in relation to this important legislation.

As many of you know, CIPFA Northern Ireland has worked with the Department of the Environment, local government audit and local government finance officers for the last 15 years or so to bring local government accounting in Northern Ireland from what some have described as the dark ages right up to it being on a par with the very best practice in England, Scotland and Wales.

Northern Ireland is now incorporated fully into the code of practice for local authority accounting in the UK. The Department of the Environment (DOE), local government audit and the Association of Local Government Finance Officers all have personnel who sit on key standards and regulatory committees, such as the CIPFA Local Authority (Scotland) Accounts Advisory Committee (LASAAC), and play a key role in setting standards. Northern Ireland is right at the heart of things.

CIPFA Northern Ireland leads the way in certain aspects. CIPFA Northern Ireland, along with its colleagues, developed the automated cash flow statement tool kit and a pro forma set of accounts to create a claim, and those have been exported to England, Scotland and Wales. There is tremendous kudos and recognition that Northern Ireland is the leader in certain aspects.

That is the accounting side, but the legislative framework within which we operate is seriously lagging behind. That is why we indicated in our response that we welcome the Bill as a general catch up. The one part of the draft Bill with which CIPFA has an issue is Clause 1(2), which requires that:

> "A council shall designate an officer of the council as its chief financial officer."

Why is CIPFA concerned? First of all, the Bill, in effect, will retain the existing poor practice whereby a council that is charged with handling ratepayers' money may actually not have a qualified accountant anywhere on its books; it may not have a qualified head of finance; it may not have anyone with financial expertise on its senior management team; or, as at present, it may have a designated chief financial officer who does not have any of the required knowledge, skills or experience to do the job. In that regard, Northern Ireland is seriously out of kilter with actual and best practice in other parts of the United Kingdom.

You will be aware from our response that the legislation in England and Wales, namely the Local Government Act 1972, states at section 151 that:

> "every local authority shall 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."

That officer has to be a member of a professional accountancy body. Although the legislation in Scotland does not specify that the proper officer should be a qualified accountant, in practice, the vast majority of local authorities have a qualified accountant in the post of chief financial officer. I believe it is clearly separate from the chief executive post in all cases.

There have been a number of developments in that area since we submitted our response last year, and the Committee may wish to be aware of those. The only respondent to the DOE consultation who disagreed with the CIPFA line that the chief financial officer should be a qualified accountant and not the chief executive stated that further clarification was needed on the role of the chief financial officer to ensure that the duty was delegated to the appropriate officer. In the absence of that, that person or organisation thought that, on balance, the chief executive should retain the role of chief financial officer.

CIPFA provided just that clarification earlier this year. You may be aware that CIPFA published 'The Role of the Chief Financial Officer in Local Government', which sets out a number of key principles that define the roles and the attributes of the chief financial officer. It is interesting that that statement has been supported and agreed by the Society of Local Authority Chief Executives (SOLACE) and many other parties. The key principles are fairly basic. Each council has to have someone who is designated as a chief financial officer; they can call the person the director of finance, the director of corporate services or whatever. That person, the chief financial officer, must be a member of the council's senior management team. He or she must report to the chief executive and help the team to resource and deliver the council's plans. If a council operates cabinet government, that person must also be on that leadership team.

A council must have a chief financial officer who is on the senior management team. The chief financial officer must be actively involved in, and bring influence to bear on, all the big business decisions to ensure that the financial, funding and risk implications are taken into account from the start. That will ensure, in turn, that, whenever the full council gets proposals, those have been properly scrutinised from a financial and risk perspective.

A chief financial officer has to be appointed, be in the senior management team, be involved from the outset in the big decisions and have a direct line of access to the meetings of the political body for any discussions that have a financial dimension. The chief financial officer should also be someone who can give elected members the confidence that the finances are in good shape and is able to report to them on financial matters in a jargon-free and reassuring manner. It is also important that the chief financial officer has a direct line to the council when things go badly wrong. The chief financial officer also has responsibility to make sure that there is sound financial management throughout the council, that ratepayers' money is being safeguarded and that there is good value for money. Those are the five main areas, but it also specifies two criteria: the chief financial officer must be a professionally qualified accountant, a member of a recognised accountancy institute, such as CIPFA, and suitably experienced; and he or she has to head up a finance function that has enough resources, the right mix of qualified and non-qualified staff, and is fit for purpose.

Most of the 26 district councils have designated the chief executive as chief financial officer. Adherence to the principles in the CIPFA statement means that it is highly unlikely that the chief executive will be able to discharge the chief financial officer role. Our view is that there should be a separation of roles between the chief executive and the chief financial officer in most cases but not every case.

The rationale for the separation of duties is set out in our response. It is important that the council has a counterbalance to the chief executive. It needs someone who has sufficient professional status and standing and who can challenge the chief executive if policies or proposals are ill thought through or represent poor value for money and who can challenge excess, fraud and corruption at the highest levels.

Very rarely is the chief executive a qualified accountant. It is not appropriate to designate as a chief financial officer someone who does not have the requisite knowledge, skills or qualifications. In the past, that has allowed councils to relegate finance to a third-tier position, with a finance officer who reports to a director of corporate services, for instance. That results in a senior management team that is devoid of financial expertise. I have known senior management team members who have been uncomfortable with such situations. Major proposals have gone through, and they have done their best, but they have felt that a degree of financial scrutiny was missing.

You will also notice in the Bill that there is a requirement on the chief financial officer to report to the council on the robustness of the estimates and on the overall debt levels and borrowing limits. That is not within the remit of the chief executive, unless he or she is a qualified accountant.

I must emphasise that the CIPFA statement on the role of the chief financial officer in local government does not say that the chief executive can never be the chief financial officer. It requires that the chief financial officer should be a professionally qualified accountant, should report directly to the chief executive and be a member of the senior management team with a status at least equivalent to that of the other members. If that is not the case, it is now the case that a council will have to comply or explain why.

Members will be aware that councils are required to complete an annual governance statement as part of their accounts. The CIPFA statement requires that councils that do not have as their chief financial officers, discharging the roles, qualified accountants who are on the senior management teams, they have to publicly acknowledge that fact. They have to set out the reasons why that is the case, explain their different arrangements and how they are going to deliver the same impact. It will be difficult and embarrassing for Northern Ireland and its councils to be so far out of step with best practice, given all the efforts that were made to make us an exemplar of best practice in other areas, which I outlined earlier.

The chief financial officer's role should not go against what has been recognised as best practice. We believe that the chief financial officer should be a qualified accountant, as is required in the England and Wales. I am happy to answer any questions that members might have.

The Chairperson:
I thought that I was back in the classroom, but thank you for your presentation. You originally thought that the separation role was something for the local government (reorganisation) Bill. Are you now content that it goes through in the Local Government (Finance) Bill?

Mr Nicholl:
Our response was to the Local Government (Finance) Bill. When the Department collated its responses, it acknowledged that seven organisations, including CIPFA, said that there should be a split. In considering that, the policy development panel said that it would take the issue forward in the forthcoming local government (reorganisation) Bill.

To be honest, we do not really have a view. If it is done, it is done, whether through the Local Government (Finance) Bill or a reorganisation Bill. My worry is that if there was no reorganisation Bill, we might drift on for decades with the existing situation.

The Chairperson:
Thank you. I know that you are talking about accountancy, but, someone would also have to be qualified in policy to undertake the role. A properly qualified person would need to be able to deal with policy.

Mr Nicholl:
The role, as set out in CIPFA's statement, is about that person helping the council develop its strategy, financial plans and so on. The CIPFA professional qualification is a broad-based qualification that deals with policy development and strategy; there are several modules on that. We would expect any proper public-sector-focused accountancy qualification to cover those

aspects.

The Chairperson:

What are your views on controlled reserves and the degree of flexibility that there should be in how proper financial practices are run out in councils?

Mr Nicholl:

One aspect mentioned in the legislation is the ‘Prudential Code for Capital Finance in Local Authorities’, which talks about debt levels and so on. As an institute, we do not have a view as to what levels of reserves should be, but the prudential code provides a framework whereby the council should have adequate reserves, but also that the main council should have a say in it. Our response really did not deal with that; we are content with how the Bill deals with that.

Mr Weir:

Thank you for your presentation, Mr Nicholl. My degree is in law and accountancy, so I felt as though I was back in the classroom for a second or two. Did I pick up what you said correctly; did you recommend that the chief finance officer be a member of CIPFA?

Mr Nicholl:

No; the chief financial officer should be a properly qualified accountant and a member of one of the Consultancy Committee of Accountancy Bodies (CCAB) bodies, such as CIPFA. CIPFA sets the standard for local government, but it is one of six such bodies. Of the people who we work with on the steering group, some belong to CIPFA, some are chartered and some are certified. We are a very broad church.

Mr Weir:

By the same token — this is slightly cheeky in some ways — we seem to have a situation where chief executives will argue that they do not need a separate post that would arguably hold them to additional account and put a restraint on their power, and, on the flip side, we have a professional accountancy body arguing that there has to be a professional accountant. Do you think people would argue that there is a degree of self interest in the lines that have been taken by the chief executives and CIPFA?

Mr Nicholl:

No. I have never heard of a major business that does not have a chief finance officer on its board. We are saying that best practice, as recognised everywhere else, is that there has to be a proper degree of financial expertise on the board or on the senior management team. There will be cases where major capital proposals will come through the senior management team, and there may not be anyone there to challenge the implications and to hold the chief executive to account. SOLACE does not have a problem with this; it has supported the statement that separates the two.

Mr Weir:

When SOLACE gave evidence to us, they drew a slightly different picture of that.

Mr Nicholl:

Well, SOLACE UK.

Mr Weir:

I will keep a reasonably open mind over whether there should be a direct separation in legislation. I can see the merits from a practical point of view, but is it just as black and white as you have painted it? You mentioned that in 23 out of the 26 councils, the designated chief finance officer is the chief executive. However, in my experience of local councils, nearly all of them will have a director of finance or director of corporate services with a direct accountancy background. In nearly all of those cases, that person is at the top table. The idea that there is not that financial anchorage may be because the person has a different title.

Mr Nicholl:

In some cases there is nobody. What has happened in the past, on what I would call spurious value-for-money grounds, is that a council might have decided not to have a director of finance or a finance officer and instead had a director of corporate services and placed the finance role on a lower level. I know certain councils, which I do not want to name, that do not have anybody at the top table. I am not particularly precious about how it is done, just as long as this recommendation is discharged. The chief executive may be an accountant, but what happens when he or she leaves?

Mr Weir:

We could say that you could combine the roles provided that the chief executive was an accountant. Again, that could be seen as giving an advantage to anyone who is an accountant when a chief executive post comes up. Someone looking in from outside may, unfairly, think that there may be a degree of self-interest in that.

Mr Nicholl:

I am saying that that might be an excuse for a short-term fix.

Mr Weir:

In the document, you make comparisons with England and Wales. I appreciate that the situation would have been different had RPA been implemented. However, a lot of the councils here have massively smaller budgets than councils in England and Wales. You said that many of the new councils will have budgets of over £60 million. However, of the existing 26 councils, the only council that would have that level of budget, or anywhere close to it, would be Belfast City Council. Beyond that, the next biggest council would have barely half that budget.

I can understand the rationale that, particularly in some of the larger councils, it is good practice to have separation. However, is there not a range of smaller councils, such as Moyle District Council or Ballymoney Borough Council —

Mr Dallat:

Larne Borough Council.

Mr Weir:

Yes, Larne Borough Council or wherever; you could put a range of places in that bracket.

Even if you give an existing member of staff the post of chief finance officer, it will presumably lead to extra wages, extra money and extra status. Is there an argument that having a statutory separation between a chief executive and a chief finance officer may place a very heavy financial burden on relatively small councils?

Mr Nicholl:

I take your point that the RPA being on hold changes things. The role still has to be discharged; I know of some small councils that have got into serious financial trouble, so a level of financial expertise is still needed. Rather than having separate chief finance officers, as some of the larger councils would have, there is perhaps more scope to look at having a director of corporate services who has a mixture of qualifications, including finance.

In England, there is talk about some councils sharing chief executives. Could some councils share directors of finance? In the current climate, we need to be a wee bit creative. However, that does not say that we can excuse councils not having anyone at the top table who knows about finance.

Mr Weir:

There is a difference between saying that there should be somebody at the top table who has a financial background and saying that there has to be a separation between the person who is designated as the chief finance officer and the chief executive. There is, at least, a subtle difference.

Mr Nicholl:

I would not argue that the legislation should say that the chief executive should never be the chief financial officer. It states that the chief financial officer should be a professionally qualified finance person. Otherwise, it is like saying that a chief legal officer need not know anything about law. We are saying that there are very strong financial roles and that there is a strong role for a finance professional on the management team.

I agree that we need to be creative in how we look at that. For example, in Scotland recently, a public body advertised for a director of corporate services, which was a position that had responsibility for finance and HR. The job specification stated that that person would have to be either a qualified accountant or a member of the Chartered Institute of Personnel and Development (CIPD). The chairperson of the audit committee threatened to resign unless the job specification was changed, because it could have resulted in there being no qualified accountant in the top team. The job specification was changed so that the successful applicant would have to be a qualified accountant and a member of the CIPD. The body got someone who had all the skills. That body was small and flexible, and there are different ways to get around the problem.

I am arguing against a situation where the role of the chief finance officer in councils is diminished. You could end up with nobody in that scenario, and that is not something that CIPFA agrees with.

Mr Weir:
I suspect that the person who was a qualified accountant and a member of the CIPD was rubbing his or her hands when he or she saw the advertisement.

Mr Kinahan:
Most of the questions that I was going to ask have been asked already. I, too, did a Bachelor of Commerce accounting degree at university. I remember one of the key things that I was taught was to challenge rules in order to ensure that everything was always explored and to make it better.

I am concerned that we are trying to set too tight a framework. If you go purely for accounting skills and rules, you will restrict councils. From a lot of what I have seen in my life, the accounting profession stops risks being taken, but risks are part of how we all make our decisions. I am concerned that you are trying to set too tight a framework.

Could we not train people who are already in councils; particularly before RPA, if, indeed, RPA happens? They would not have to have passed all their accounting exams; they would just need to know enough about what they are doing. Could we accept people who are already in councils and who have good nous and acumen but do not happen to have the accounting qualifications?

Mr Nicholl:
I take your point. People can be trained, but one of the jobs of the chief financial officer is to promote good financial management. That would involve, for example, bringing elected members up to speed on financial skills and ensuring that budget holders have financial skills.

We believe that, in the mix at the top table, there needs to be a chief financial officer who knows what he or she is doing and is a strong counterbalance to the chief executive. When I worked for the Northern Ireland Audit Office, I knew of cases where big proposals went through, and there were great ideas in which there may have been a 75% EU grant. However, there was no one at the top table to say that the council should hold on for a minute and think of the revenue consequences. Indeed, one business case was predicated on 10,000 visitors a year, and there ended up being 103 visitors.

The chief financial officer needs to be someone who challenges proposals from a financial background and has the status to challenge the chief executive if he or she goes off at a tangent. Sometimes, in local government and other sectors, chief executives head off on tangents but no one has the strength of character or professional status to tell them to hold on a minute, that they are running up debts and are going to get the council into serious trouble. We believe that the role of the chief financial officer, as accepted by CIPFA, SOLACE and everyone else in the UK, is vital in ensuring good financial management in local government. Local government here will have to record that in their annual governance statements, and it will not look good.

Furthermore, if a council has a chief financial officer who is risk averse, it has the wrong chief financial officer.

Mr Kinahan:

That is good to hear.

The Chairperson:

That is an important point.

Mr McGlone:

Thanks very much, Mr Nicholl. I do not feel like I am back at school, because I never sat at the front.

I buy into your line of thought that the chief financial officer should be someone who is prepared to come up front and challenge the chief executive. I also noted your earlier reference to challenging excesses, fraud or corruption at the highest levels. I ask this question because, frankly, I do not know the answer: is there a defined set of sequential steps that a financial officer should take when faced with that situation? I buy into your argument entirely. It probably would have fitted a wee bit more cosily had we been moving towards RPA, because of the size of some of the councils. What are your thoughts on those sequential steps? Do they need to be enshrined in legislation?

Mr Nicholl:

In England, the chief financial officer has a "red card". If the chief executive or council are going to commit to unlawful or unbudgeted expenditure, the chief financial officer has a line to the council through which he or she can issue a warning. That can lead to conflict on occasion. CIPFA's statement on the role of the chief financial officer, which can be found at appendix a, has three pages of steps that should be taken to mitigate that situation, ensure that it does not lead to unresolved conflict and work it out appropriately. I can provide details of that if you would like.

Mr McGlone:

Yes; please. The matter is addressed in your statement, but I am trying to find out whether there is a potential read across from that into the legislation. I have not read the CIPFA statement.

Mr Nicholl:

It is available, free of charge, on the web for anyone who wants to read it.

I do not believe that that can be included in the legislation. It is better dealt with in guidance than in legislation. It is quite tricky to cover that sort of thing in legislation.

Mr McGlone:

I appreciate that.

Mr B Wilson:

My questions have been largely answered. However, may I clarify that the chief executive remains the accounting officer for the council and that there is no problem in that regard?

Mr Nicholl:

In England, Scotland and Wales, the post of chief financial officer is a specially designated one. "Accounting officer" is a term that is used in central government. The equivalent chief financial officer post in local government in England is held by a qualified accountant. However, the chief executive is the head of the senior management team. In the central government scenario, Treasury has said that the accounting officer of a Department must have a qualified chief financial officer on the senior management team and on the departmental board. Therefore there is a read-across. Treasury is fully supportive of that statement.

Mr B Wilson:

Would the chief executive answer for the council's expenditure?

Mr Nicholl:

The chief executive answers to council, but the chief financial officer has a specific role on matters relating to proper administration, good controls and so on.

Mr B Wilson:

Therefore, the chief executive officer could have a double veto over something that the executive and the council wanted to do.

Mr Nicholl:

If a council had a proposal that had not been thought through, for instance, and the chief financial officer had concerns, he or she would have the right to go to council and inform it of his or her concerns. There is a process to iron out those concerns. He would not have the right of veto, per se, but he would have the right to go to council and to raise those concerns. Those checks and balances are important. It has worked well across the water.

Mr B Wilson:

Can the council carry out its investment against the wishes of the chief financial officer?

Mr Nicholl:

You will see that the legislation refers to the CIPFA prudential code, which deals with capital investment. It requires a framework in which the overall level of debt will be looked at and assurances must be made that the capital plans are sound. The DOE has rules in place about how much can be invested and so on. The chief financial officer will not counter the wishes of the council, where it is acting lawfully and appropriately.

Mr Dallat:

You continually refer to "across the water". The councils over there are real councils, are they not? They have responsibilities for a range of services, such as education, health, and the fire and ambulance services. We have 26 councils, and those outside Belfast are very small. They were introduced in May 1973 for a reason. Is it not unrealistic to expect all of those councils to have a chief executive and a finance officer? I do not understand that.

The councils are run by the elected representatives. I think that you touched on it briefly, but should there not be provision in the legislation to compel people not to sit around a table all night, usually from 7.30 pm until 12.00 midnight, discussing flowerbeds and only passing multi-million pound projects when it gets late, as they have done in the past?

Mr Kinahan:

That is quite true.

Mr Dallat:

I want to hear your views on that.

The Chairperson:

I do not want you to comment on the lateness.

Mr Nicholl:

I agree wholeheartedly, and there are many examples of instances in which councils have spent many hours debating small things. Someone once said to me in private company that they always put a bicycle shed in their plans, because the board would get so lost looking at the colour of the bicycle shed that it would ignore the big picture.

You are right, Mr Dallat. That is one of the reasons why the role of the chief financial officer is important. First, the proposals have to be scrutinised by the senior management team before they come to the council. Any concerns need to be flagged up to the council. Subsequently, someone needs to advise the council, so that it can draw attention to the issues and make sure that they are addressed. There have been a lot of occasions on which big proposals have shot through, and, subsequently, major weaknesses have emerged because there was not proper scrutiny. You are saying that some councillors are skilled in business, and some pass resolutions quickly. That puts a premium on the senior management team and on having that expertise. In looking at the skills mix, any organisation of any size has to have a proper level of financial expertise round the table.

There are huge councils in London and among metropolitan councils and some unitary authorities. There are also reasonably small organisations, and they are also expected to comply with the legislation. I accept that there are some enormous organisations, but there are also small councils, which do not have some of the services that you outlined. They are not saying that they do not want a chief financial officer. They are complying, and they are happy to do so.

Mr Dallat:

Finally, the witnesses from Derry and Strabane councils said that they rely on your organisation for advice on investments. Should there be something in the legislation to ensure that local councils do not get involved in another Barings Bank episode and invest in Asia and elsewhere without knowing what they are doing?

Mr Nicholl:

We do not give advice, but we set the standard through our code of practice for local authority accounting. We also produce a code of practice for treasury management, and our prudential code sets out key indicators to stop a council getting overloaded with debt.

It is very important that councils keep abreast of their capital spend, and I could give you one example of a council here that spent tens of millions of pounds on a capital project. That council become hugely indebted, and its activities had big implications for ratepayers, and guess what, there were no accountants in the first three tiers of the council. Some councils take the risk of not paying £10,000 or £15,000 to employ a chief financial officer, yet they go on to lose £10 million or £15 million on a big project.

Someone once said of accountants that they know the cost of everything and the value of nothing, but the danger here is that councils take the view that it may cost them a few extra bob to have a properly qualified chief financial officer when the cost of not having that person in place can be enormous. If such people are employed there is a huge increase in standards and that is what we are aiming for.

Mr W Clarke:

Thank you for your contribution. I declare an interest as a member of Down District Council.

I largely agree with what John Dallat said about the councils across the water being far bigger and having bigger responsibilities. The Bill was geared to the RPA. Should the Department not direct the transitional committees to look at having a financial officer for all the merged councils in their respective groupings? It is a dead duck if we are talking about Moyle District Council and others councils having finance officers. Direction needs to be given in a similar vein to what is in the Bill to get transitional committees to get their act together. What is your opinion on that?

Mr Nicholl:

I agree. When the Bill first came out we were heading towards the 11-council model. It now seems that we will be retaining the 26-council model, but there is still pressure on councils to deliver efficiency savings. There should be some pressure, but we should not be saying to some councils that they are so small that they do not need financial expertise. All councils need that expertise, but they also need to be thinking of constructs that will deliver and not necessarily only in their own councils. Mr Weir spoke about councils thinking creatively. There is a merged service for building control, so why could two or three councils not come together and appoint a proper director of finance? It is not beyond the wit of man if there is a wee bit of impetus. I think that you are saying that we need impetus from somewhere.

Mr W Clarke:

Yes; we need someone to direct the councils.

The Chairperson:

Thank you very much for your contribution to the Committee. We will certainly take your views on board.

Mr Nicholl:

Thank you.