

**WAVERLEY BOROUGH COUNCIL**  
**SPECIAL EXECUTIVE – 18 JULY 2017**

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**Title:**

**APPOINTMENT OF INTERIM MANAGING DIRECTOR**

**[Portfolio Holder: Cllr Julia Potts]  
[Wards Affected: All]**

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**Note pursuant to Section 100B(5) of the Local Government Act 1972**

An annexe to this report contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972, namely:-

Information relating to an individual.

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**Summary and purpose:**

At its meeting on 6 June 2017, the Council agreed, subject to the completion of a satisfactory Settlement Agreement, as mutually agreed with the post holder, to terminate the employment of the Executive Director with effect from 31 July 2017 and to put interim arrangements in place.

This report sets out the legal and constitutional requirements for the appointment of this post and the associated statutory roles and seeks agreement to the proposed interim arrangements.

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**How this report relates to the Council's Corporate Priorities:**

This report supports the achievement of all of Waverley's corporate priorities.

**Financial Implications:**

The proposed interim arrangements will be met from the salary budget for the Executive Director's post during 2017/18. If additional resource is required during this period, the appropriate approval will be sought.

**Legal Implications:**

The Council may appoint whatever officers it thinks are necessary to carry out any function it is responsible for discharging. Despite this general flexibility, section 4(1) of the Local Government and Housing Act 1989 places an obligation on the Council to designate one of its officers as head of the authority's paid service ("Head of Paid Service"). This officer is usually a Council's chief executive or managing director, and in recent years at Waverley this officer has been the Executive Director.

Sections 4(2) and 4(3) of the Act provide that the Head of Paid Service is responsible for preparing reports on the way the Council's staff is organised, on the Council's staffing needs and on the co-ordination of the way in which the Council's functions are discharged.

Schedule 1 Part II paragraph 4(1) of The Local Authorities (Standing Orders) (England) Regulations 2001 states that the function of the appointment of the Head of Paid Service must be exercised by full Council before an offer of appointment is made.

Part 1 Article 4 paragraph 4.02(m) and Part 3 ('Responsibility for Functions') Section B of Waverley's Constitution confirm that only the Full Council may confirm the appointment of the Head of Paid Service and Strategic Directors.

Part 3 ('Responsibility for Functions') Section B of Waverley's Constitution confirms that functions relating to elections, including (for example) the duty to appoint an Electoral Registration Officer, Returning Officer, or division of the Borough into polling districts are reserved to Full Council.

Part 1 Article 12 paragraph 12.01 of Waverley's Constitution states that the Executive Director will undertake the role of Head of Paid Service and Returning Officer. However, on an interim basis it would be permissible for the Returning Officer function to sit with a separate Council office, particularly where the interim Head of Paid Service is a part-time appointment, as the interim Head of Paid Service would be required to focus on those statutory functions. At the same time the critical Returning Officer functions would not be the subject of any reduced focus.

The combined effect of these constitutional requirements is that the appointment of a named person into the roles of Managing Director, Head of Paid Service, Returning Officer and Electoral Registration Officer (all currently undertaken by the current Executive Director) are all matters that must be decided by Waverley's Full Council.

Details of each statutory role are set out in Annexe 1.

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## **Introduction**

1. This report proposes interim arrangements to cover the duties of the existing Executive Director and the statutory roles of Head of Paid Service, Returning Officer and Electoral Registration Officer following Council's decision on 6 June. Further details of the statutory roles listed above can be found at Annexe 1.

## **Proposals**

2. The way that local government is funded is changing, public expectations are rising and the Council recognises that it cannot continue to operate in the same way if services are to be protected.

3. The implications of reduced funding, coupled with the need to deliver high quality services, require the Council to think differently about how service delivery is sustained and supported so that it meets the needs of our communities.
4. The Council needs to refresh its strategic direction, innovate and maximise the opportunities of partnership working.
5. The proposals put forward in this report aim to achieve exactly that. As well as ensuring that the day-to-day work and statutory functions of the departing Executive Director are properly covered, the proposals allow for a more fundamental review of Waverley's strategic direction and approach. The interim arrangements will be delivered within existing budgets and provide Waverley with a great opportunity to work collaboratively with East Hampshire District Council and Havant Borough Council and share our expertise and knowledge and develop the partnerships we have already established.
6. It is proposed that Tom Horwood, who is currently an Executive Director for East Hampshire District Council and Havant Borough Council under the shared management arrangement, be appointed as Waverley's Interim Managing Director, including the Head of Paid Service role, for a period of up to 6 months. Tom's CV is attached as the (Exempt) Annexe to this report.
7. As well as undertaking the statutory role of Head of Paid Service, the interim post holder will line-manage five of the direct reports that currently report to the Executive Director (see organisation chart at Annexe 2), namely the two Strategic Directors, the Head of Policy and Governance, the Strategic HR Manager and the PA to the Executive Director.
8. Waverley's existing strategic directors will take over the line management of the other direct reports. The Strategic Director for Finance and Resources will line manage the Head of Planning, and the Strategic Director for Front Line Services will line manage the Senior Manager for Elections and Corporate Projects.
9. It is proposed to appoint Tom Horwood as Interim Managing Director and Head of Paid Service for between 2 and 4 days per week, varying over the 6-month period as necessary to meet the demands of the job.
10. It is proposed to appoint Damian Roberts, Strategic Director Front Line Services, to the statutory roles of Returning Officer and Electoral Registration Officer for the interim period. This is a temporary departure from Waverley's constitution which states that the Executive Director will also be the Returning Officer.
11. It is also proposed that Robin Taylor, Head of Policy and Governance, becomes a Deputy Returning Officer (DRO). There will be no change to the other two DROs (Strategic Director for Finance and Resources / Senior Manager for Elections & Corporate Projects).

12. In line with paragraph 2.2 of the Council's Scheme of Delegation which states that "The Executive Director may appoint one of more deputies to exercise his or her functions owing to absence or illness", Tom Horwood will, once in post, make arrangements for his duties to be covered on his non-working days and during periods of his absence, such as annual leave. Where necessary, the majority of matters to be covered would be delegated to the Council's existing Strategic Director for Finance and Resources and Strategic Director for Front Line Services, but this will ultimately be a matter for Tom Horwood to decide once in role, and subject to his agreement, and an assessment of their capacity.

### **Recommendation**

That the Executive recommends to Council that:

- 1) Tom Horwood be appointed to undertake the role of Interim Managing Director and Head of Paid Service with effect from 1 August 2017;
- 2) Damian Roberts, Strategic Director - Frontline Services, be appointed as the interim Electoral Registration Officer and Returning Officer with effect from 1 August 2017, noting that it is a departure from Waverley's constitution for this role to be undertaken by someone other than the Executive Director; and
- 3) Robin Taylor, Head of Policy and Governance, be appointed as a Deputy Returning Officer with effect from 1 August 2017.

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### **Background Papers**

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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**Description of statutory roles**

***Head of Paid Service***

1. The Head of Paid Service is a legally defined role which carries the responsibility for advising Members of the Council on the staffing requirements that are needed to achieve our objectives and delivering high quality services to the community.
2. This includes decisions on:
  - a) the overall structure of the staff team into service areas,
  - b) how services are structured to meet our statutory and non-statutory functions,
  - c) the number and grades of staff required to deliver each of the services,
  - d) the financial soundness of staffing proposals,
  - e) and the appointment and proper management of the staff

***Returning Officer***

3. In England and Wales, every district council or unitary authority is required to appoint an officer of the council to be the Returning Officer for the election of councillors to their local authority (and that person will also in almost all cases then act as Counting Officer or Deputy Returning Officer etc in elections where someone else is the Returning Officer).
4. This person is appointed under section 24(3) of the Representation of the People Act 1983 and is expected to organise all aspects of the election and is personally responsible for:
  - a) publishing the notice of election
  - b) administering the nomination process
  - c) printing the ballot papers
  - d) publishing the notice of poll, statement of persons nominated and notice of situation of polling stations
  - e) the provision of polling stations
  - f) appointing Presiding Officers and Poll Clerks
  - g) managing the postal voting process
  - h) verifying and counting
5. ROs may appoint Deputy ROs to support them in their duties but cannot delegate their personal responsibility for delivering the election.

## **Electoral Registration Officer**

6. Local authorities also have to appoint an Electoral Registration Officer. This person has the statutory responsibility for the preparation and maintenance of the register in their area and is appointed under section 8 of the Representation of the People Act 1983.

**Current Organisation Chart – Executive Director Post**

