

<b>27 September 2023</b>		<b>ITEM: 12</b>
<b>Council</b>		
<b>Update from Best Value Commissioners on the appointment of Section 151 Officer</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> N/A	
<b>Report of:</b> Dr Dave Smith, Managing Director Commissioner and Head of Paid Service		
<b>Accountable Assistant Director:</b> N/A		
<b>Accountable Director:</b> N/A		
<b>This report is</b> Public		

### **Executive Summary**

This report gives the background and details of the decision taken by the Best Value Commissioners to appoint Steven Mair as Section 151 Officer in line with the powers transferred to them by the Secretary of State for Levelling up, Housing and Communities.

As set out in the letter to the Leader of the Council advising of this decision, this report has been brought at the earliest opportunity for Members to note this decision.

This appointment was also considered and recommended to Commissioners at the meeting of General Services Committee on 24 August.

### **Commissioner Commentary**

N/A – this is a report from Commissioners.

#### **1. Recommendation(s)**

**1.1 That Full Council note the decision of the Best Value Commissioners to appoint Steven Mair as Section 151 Officer.**

#### **2. Introduction and Background**

**2.1** In July 2022, the Council was made aware of concerns around the valuation of specific investments. A review process commenced, and the initial findings highlighted significant concern with three investments and the position was shared informally with the Department of Levelling Up, Housing and

Communities (DLUHC). On the 2 September 2022 DLUHC announced directions to implement an intervention package at the Council.

2.2 The then Secretary of State exercised his powers under section 15(11) of the Local Government Act 1999 to give a Direction without complying with the requirement at section 15(9) to give Thurrock an opportunity to make representations about the Directions, as he considered the failures of the Council's compliance with its Best Value duty in respect of the functions specified in the Directions sufficiently urgent. This was because of the following:

1. The scale of the financial and commercial risks potentially facing the Authority, which were compounded by the Authority's approach to financial management and the seriousness of the allegations that were made by third parties about the processes applied to the operation of the Authority's commercial strategy, and;
2. The failure of the Authority to provide assurance to Ministers and the Department on the adequacy of the actions that they were taking to address the issues, taking account of the scale and pace of the response required.

2.3 The Ministerial announcement on 16 March expanded the breadth of the intervention further, transferred additional powers with Commissioners and appointed Dr Dave Smith as Managing Director Commissioner. The Secretary of State's Directions pursuant to his powers under section 15(5) and (6) of the Local Government Act 1999 issued on the same day, Commissioners have powers to exercise the functions of the Council relating to the appointment and designation of persons as statutory officers.

### **3. Issues, Options and Analysis of Options**

3.1 On 7 September 2023, Commissioners exercised their power to appoint Steven Mair, in his role as Interim Chief Finance Officer, as the Officer responsible for the proper administration of the Authority's financial affairs, in accordance with Section 151 of the Local Government Act 1972. This role is commonly referred to as the Section 151 Officer.

3.2 At the General Services Committee meeting on 24 August 2023, Members considered this appointment and resolved to recommend to Commissioner that the appointment be made.

3.3 This decision was communicated in a letter to the Leader of the Council on 7 September 2023 which can be found at annex 1 and is published on the Thurrock Council website.

#### **4. Reasons for Recommendation**

- 4.1 Members are asked to note the decision taken by Commissioners to appoint Steven Mair as the Officer responsible for the proper administration of the Authority's financial affairs, known as the "Section 151 Officer".

#### **5. Consultation (including Overview and Scrutiny, if applicable)**

- 5.1 No applicable.

#### **6. Impact on corporate policies, priorities, performance and community impact**

- 6.1 As Section 151 Officer, Steven Mair will have responsibilities for all related matters as set out in the Local Government Act 1972, including the proper administration of the Council's financial affairs and function associated with strategic financial management. However, as this report is to note, there are no material impacts as a direct result of recommendation 1.1.

#### **7. Implications**

##### **7.1 Financial**

Implications verified by: **Jonathan Wilson**  
**Acting Director of Finance**

There are no direct financial implications from the recommendations in this report.

##### **7.2 Legal**

Implications verified by: **Jayne Middleton-Albooye**  
**Interim Head of Legal Services and Deputy Monitoring Officer**

There are no direct legal implications from the recommendations in this report. As outlined in the report, the Commissioners have acted within their powers in making this appointment.

##### **7.3 Diversity and Equality**

Implications verified by: **Roxanne Scanlon**  
**Community Engagement and Project Monitoring Officer**

The statutory post holder should take due regard of the Public Sector Equality Duty. The Council as a whole is bound by the requirements of the Equality Act

2010 as well as our own Equality, Diversity and Inclusion Policy and Strategic Plan.

7.4 **Other implications** (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

N/A

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Directions made under the Local Government Act 1999 (16 March 2023) - <https://www.gov.uk/government/publications/thurrock-council-directions-made-under-the-local-government-act-1999-16-march-2023>

9. **Appendices to the report**

- Appendix 1 – Letter from Dr Dave Smith to Leader of Thurrock Council