



General Purposes Committee
21 May 2018

**Report from the Director of Legal and
HR Services**

Market Supplement Policy

Wards Affected:	All
Key or Non-Key Decision:	No
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	One: <ul style="list-style-type: none"> London Borough of Brent Market Supplements Policy
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Debra Norman Director of Legal and HR Services Tel: 020 8937 1578 Email: debra.norman@brent.gov.uk

1.0. Purpose of the Report

- 1.1. This report proposes the introduction of a new Market Supplements policy to help address the difficulties being experienced in recruiting to some specific technical and professional roles.

2.0. Recommendations

- 2.1 To approve the Market Supplement Policy in Appendix A.

3.0. Detail

- 3.1. As a result of the economic recession and consequent changes to the jobs market from 2010, market supplement payments have been mostly phased out in Brent Council. However, a Protocol for agreeing such payments in exceptional cases has been retained and market supplement payments are currently made to particular social work posts. The Protocol adopted in 2009 requires all new market supplement payments to be approved by the General

Purposes Committee. This appears to be because market supplement payments had not been well regulated before the Protocol was adopted.

- 3.2. The jobs market has become more buoyant in recent years and there are a number of post it has proved difficult to recruit to at the salary level indicated by the evaluated grade. This has resulted in the use of agency staff and interims to cover vacancies, often at significantly higher cost.
- 3.3. It is therefore proposed that a new Market Supplement Policy be adopted to allow market supplement payments to be approved by the Chief Executive, unless the proposed supplement exceeds specified parameters in which case it will be referred to the General Purposes Committee for approval. Given that equal pay issues may arise if supplements are paid in circumstances where they are not necessary in order to recruit to a post, the draft policy in Appendix A (like the Protocol) sets stringent requirements in respect of the evidence required to be included in a business case prepared by the relevant department.
- 3.4. Under the draft policy all market supplements must be the subject of HR and financial advice, and must be authorised by the relevant Strategic Director, before being submitted to the Chief Executive to approve or reject, or in specified cases to refer to the General Purposes Committee.
- 3.5. Market supplements for posts graded Hay 3 or above will be required to be taken to the General Purposes Committee. The Committee would also approve market supplements which increase a salary by more than a threshold amount or % or which, because of the number of posts to which they apply, would cost in excess of a threshold amount.
- 3.6. In order to ensure that the payment of each market supplement remains justified, no market supplement can be agreed for an initial period of more than two years and the business case for a market supplement will be subject to a review after 12 months, if the supplement is agreed for a longer period than one year. The time limited nature of a market supplement and the provision for review will be specified in the contract of employment of employees to whom it is paid.
- 3.7. Consultation in respect of the proposed policy has been undertaken with the Trades Unions and no changes have been requested to the draft policy in Appendix A.

4.0. Financial Implications

- 4.1. Any agreed market supplements would have to be funded from within the existing budget of the service. This will be offset by a reduction in higher cost agency cover currently being used to cover hard to recruit vacant posts.

5.0. Legal Implications

- 5.1 Where a supplement is paid on top of the evaluated grade of a post the potential for equal pay claims arises. The council will need to demonstrate that there is a “material factor” which is neither directly nor indirectly sex discriminatory to avoid or defend such claims. The state of the employment market, which may lead an employer to increase the pay of a particular job in

order to attract candidates, may constitute an objectively justified economic ground for a pay disparity. Having a robust market supplements policy in place, which is kept under review and which requires the market conditions and recruitment difficulties to be evidenced, will mitigate the risks of introducing supplement.

6.0. Diversity Implications

- 6.1. The public sector equality duty, as set out in section 149 of the Equality Act 2010, requires the Council, when exercising its functions, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, to advance equality of opportunity and foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 6.2. Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 6.3. The Market Supplements policy establishes a robust procedure for approval of market supplements to minimise the risk that equal pay requirements are not adhered to. The procedure itself is not considered likely to have an adverse impact on any particular group but as the procedure gives discretion to managers the use of the procedure by managers will be monitored to ensure it is being fairly applied and that equality impact is considered in each case.

Report sign off:

DEBRA NORMAN

Director of Legal and HR Services