

	<p style="text-align: center;">General Purposes Committee 12th January 2009</p> <p style="text-align: center;">Report from the Director of Human Resources</p>
For Action	Wards Affected: None
<p style="text-align: center;">Market Pay Supplements</p>	

1 SUMMARY

- 1.1 This report sets out proposals for updating the council's arrangements for paying market supplement payments to recruit and retain employees in posts which are identified as hard to fill.

2 RECOMMENDATIONS

- 2.1 The Committee is requested to:
- (1). Note the financial, legal and human resources implications of the proposals set out in this report.
 - (2). Approve the draft market supplements protocol for adoption by the council.

3 DETAILS

- 3.1 The council applies market supplement allowances to a number of employee groups, including surveyors, lawyers and social workers, to support its recruitment and retention initiatives. These payments currently require the approval of the General Purposes Committee and are subject to all of the following criteria being met:
- the key nature of the jobs;
 - inability to recruit or retain staff at the salary level offered;
 - consistently higher salaries for the same work paid within the market place; and
 - alternative arrangements to cover the work are more expensive than applying a market supplement and providing an in-house capacity

The payments have to be for a specified period of time (e.g. 1 to 2 years) after which they must be reviewed and if necessary discontinued if market conditions no longer justify the payment.

- 3.2 In the course of reviewing these and other pay allowances as part of the single status pay review, it has become clear that these conditions are not always applied effectively. Amongst the problems are:
- allowances not being applied on a time-limited basis;
 - allowances which have not been kept under regular review;
 - continued payment does not always take account of changes in the market; and
 - the contractual status of the payments is sometimes unclear to both managers and recipients.

These and other problems with existing payments are currently being addressed as part of an on-going audit of allowances: for example, payments made to building surveyors have been reduced and will potentially be withdrawn in the future if the current recruitment market for this group remains unchanged.

- 3.3 However, it is clear that up-to-date guidance and processes are required to ensure that allowances continue to be cost effective, justified on business grounds, fair and transparent, and reviewed on a regular basis. Failure to do so at a time when recruitment and retention problems are likely to ease could potentially leave the council open to future legal challenge. There is the risk that if payments are not applied as objectively as possible the council could be on the receiving end of equal pay claims from employees using post-holders in receipt of market supplements as comparators.
- 3.4 The attached protocol [**Appendix 1**] has therefore been drafted to rationalise and clarify the existing processes for application of market supplements. Under this revised process, before introducing a market supplement the service unit must demonstrate:
- identifiable and measurable benefit(s) to the council from the payment;
 - the payment is a reasonable and justifiable expenditure of public money;
 - the council is able to defend any equal pay/equal value challenge; and
 - sufficient finance is available from the unit's current resources to fund it.
- 3.5 The proposed protocol effectively retains the existing criteria for these payments (see paragraph 3.1 above) but tightens-up existing arrangements by requiring that managers
- produce documented evidence to support payment of market supplements;
 - identify specific benefit(s) accruing to the council from the payments;
 - carry out an equality impact assessment of any proposal for a market supplement to ensure that it is not discriminatory in either design or application;
 - put in place appropriate paperwork so that all parties are clear about the contractual status of payments.

The protocol also introduces a maximum time limit for payment of market supplements of two years, at the end of which they will be withdrawn unless a further review supports the case for their retention.

- 3.6 The arrangements for authorising payments are broadly unchanged, that is, new market supplement schemes, or changes to or renewal of existing schemes which involve commitment of additional expenditure will continue to require the prior approval of the GP Committee. Changes to, or renewal of, existing schemes which do not involve commitment of additional expenditure would be subject to approval by the Assistant Director (Human Resources).

4 FINANCIAL IMPLICATIONS

- 4.1 The proposals contained in this report do not directly involve additional financial resources, as any market supplements will continue to be paid for by individual services from within their allocated budgets. When any payments are proposed the relevant service will have to confirm that the financial resources are available to make the payments. In the current recruitment market it is likely that the council will face fewer difficulties in recruiting to formerly 'hard-to-fill' areas such as building control, surveyors, financial management and information technology. This should mean that the requirement for market supplement payments will be reduced in the immediate future.

5 LEGAL IMPLICATIONS

- 5.1 The proposed market supplement protocol complies with best practice in making additional payments as a means of resolving recruitment and retention problems. It takes account of guidance from the Equal Opportunities Commission (now the Equalities and Human Rights Commission) on implementing discrimination-free payments systems, as well as advice from the local government employers' organisation.
- 5.2 Application of the processes set out in the protocol should significantly reduce the risk of legal claims from employees not in receipt of such payments using equal pay and other discrimination legislation, and in the event of any such claim compliance with the processes set out in the protocol should provide an effective legal defence.

6 STAFFING IMPLICATIONS

- 6.1 The recommendations in this report directly impact on employees in receipt of market supplements, as the proposed protocol will require that any payments made to employees are proportionate to the circumstances, kept under review, and withdrawn if circumstances change. The terms under which the payments are made will be transparent and documented so that all parties, employees and managers, are clear about the impact and scope of the payments.

7 DIVERSITY IMPLICATIONS

- 7.1 The recommendations in this report are consistent with the council's commitment to ensure that all payments systems are fair and applied based on objective criteria which do not discriminate on any of the six diversity strands. They are also consistent with the requirements set out in the Equality Standard for Local Government in respect of pay systems.

8 BACKGROUND INFORMATION

Report to General Purposes Committee, 22nd May 2003: "*Remuneration Strategy – Recruitment and Retention & Single Status*"

Equality & Human Rights Commission – Guidance Note 9: "*Equal pay in practice - market forces*"

National Joint Council (Local Government Services), National Agreement on Pay and Conditions Of Service ['Green Book'] part 4.9: "*Pay & Grading Reviews*"

Contact Officer(s) details

Val Jones

Director of Human Resources

Tel: 020 89371089

Email: Val.Jones@brent.gov.uk