

LONDON BOROUGH OF BRENT

Protocol for Determining Market Supplement Payments

[Amended to include additional guidance on pensions implications]

1. Introduction

- 1.1 This protocol sets out the Council's procedure for application of market pay supplements to posts which face problems in recruiting and/or retaining qualified/skilled personnel.
- 1.2 The protocol is only concerned with those cases where consideration is being given to enhancing the pay package to make jobs more attractive to potential employees. Further information on non-pay options for dealing with recruitment and/or retention problems, for example, job re-design, non-pay benefits or flexible working, can be obtained from the relevant Strategic Human Resources Manager.

2. Market Supplements

- 2.1 The application of market supplements to pay can be a key aspect of an effective remuneration strategy. It allows consistency in grading to be maintained, while recognising market pressures which affect the Council's ability to recruit and retain employees. The payment of a market factor is not, however, a "quick fix" for an immediate and possibly short-term difficulty. The case for market supplements must be substantiated to ensure that scarce financial resources are efficiently deployed, and to minimise legal challenges. Any decision to make additional payments on top of the evaluated grade should therefore be made with caution.
- 2.2 Recruitment and/or retention difficulties may be a consequence of a range of factors including:
 - Internal pay levels relative to the general employment market;
 - the external image of the Council, for example, people may not be attracted to work in Brent because of its image;
 - a general national skills shortage in particular occupations;
 - high turnover (low retention) levels linked to poor management, lack of job satisfaction, better working conditions elsewhere, etc.
- 2.3 A market supplement may only be paid where it is demonstrated that this will have a tangible effect on the Council's ability to recruit or retain suitably qualified employees and provide high quality services. The fact that similar posts elsewhere are paid more is not a sufficient reason on its own, as other elements may also positively influence people's employment choices.
- 2.4 Where recruitment and/or retention difficulties are experienced, service heads should first discuss with their Strategic Human Resources Manager the options available to resolve the specific circumstances of the particular post. This may include:
 - organisation and/or job re-design, to identify any scope for parts of the job to be undertaken by less skilled/qualified personnel, thereby reducing the need for fully-qualified personnel;
 - non-pay benefits such as :
 - ⇒ 'key worker' support

- ⇒ learning and development opportunities;
- ⇒ career development opportunities;
- ⇒ flexible working patterns (e.g. term-time working);
- ⇒ job rotation;
- pay benefits such as:
 - ⇒ recruitment/retention supplements paid at the end of each year;
 - ⇒ recruitment/retention supplements paid monthly
 - ⇒ support with re-location to the local area.

2.5 If there are any doubts that pay comparisons are the cause of the particular problem this should be discussed with the Strategic Human Resources Manager to determine whether other options may be more effective in recruitment/retention than pay.

3. Payment of a Market Factor Supplement

3.1 Before introducing a market supplement the service unit must demonstrate:

- identifiable and measurable benefits to the Council;
- the payment is a reasonable and justifiable expenditure of public money;
- the Council would be able to defend an equal pay/equal value challenge; and
- sufficient finance is available from the unit's current resources to fund it.

4. Process

4.1 *Establish that there is a recruitment and/or retention problem – “hard to fill/retain”*

Any recruitment or retention problem must be substantiated by factual and objective information such as the following.

- High levels of current employee turnover in the particular post(s).
- Results of a recent recruitment campaign, i.e. within the last 6 months. A market factor supplement will not normally be considered unless the business unit can demonstrate that they have made a meaningful attempt(s) to recruit.
- Employee exit interviews, where results show that employees are moving to similar posts at higher salaries. Most people, however, will only apply for promotion and/or higher salaried jobs and therefore this needs to be placed in the context of other evidence.
- The stated wishes of employees to move to other employment and clear opportunities for that to occur (e.g. a national shortage of the particular job type). This however may be difficult to substantiate objectively.
- Examples of similar posts offering better overall packages advertised within the same geographical or occupational recruitment market within the last 6 months.
- Surveys indicating market rates or skills shortages (see below).

It is important in making comparisons that managers are aware of the risks of 'importing' discrimination into the authority. If the comparative pay information is drawn exclusively or largely from other employers who operate discriminatory pay structures this may leave the Council open to legal challenges under equal pay legislation.

4.2 *Identify the specific post(s) affected*

The post(s) experiencing recruitment and/or retention problems should be clearly identified, including any existing post-holders within the group.

- The relevant Strategic Human Resources Manager will check whether there are other posts within the department which may be affected by proposals to introduce a market supplement.
- The Assistant Director, Human Resources, will check whether there are posts in other departments that may be affected by the payment of a market supplement, e.g. in generic roles such as finance./accountancy.

However, supplements cannot be extended to employees outside of the specified group simply to maintain existing pay differentials if they are not similarly affected by recruitment or retention problems.

4.3 *Review the job description for the post(s) concerned*

Before any proposals for market supplements are developed the organisation structure and job description(s) for the post(s) concerned should be reviewed and updated. It may be possible to re-design the function/job to make it more attractive to potential applicants, for example, through including opportunities to work across traditional boundaries or to undertake a wider variety of work. However, where jobs are re-designed consideration should be given to the potential impact of changes on any existing employees undertaking the same or similar work.

Once the job description has been updated it must be re-evaluated under the Greater London Provincial Council scheme to establish the substantive grade.

4.4 *Market surveys*

- Establish the relevant 'market' – sector and geographic - for comparison/ research. For some posts the market will be almost exclusively local government, for other posts, for example in accountancy, the market is much wider. Similarly potential recruitment pools may be national, regional or local.
- Identify the appropriate levels of qualification and experience, areas of expertise and area of operation. It is essential to measure like-with-like as far as possible, so ideally market data should include job/role descriptions and/or person specifications: comparisons based on job titles and advertisements should be treated with caution, as similar titles can cover different roles, levels of skill and/or experience.
- Market pay and recruitment data can be obtained from a range of sources including:
 - ⇒ the Local Government Employers salary and benefits surveys;
 - ⇒ London Councils salary and benefits Surveys;
 - ⇒ professional associations and/or professional journals;
 - ⇒ HAY and other Management Consultants;
 - ⇒ IDS pay data base;
 - ⇒ Personnel Today;
 - ⇒ CIPD.

- The department is responsible for data collection and analysis, and for any costs incurred in the process.

4.5 *Identify a benefit to the Council*

As well as establishing a market case for the supplement, the service must also identify specific benefits to the Council which will result from its application, for example:

- reductions in the employment of agency staff;
- reductions in the level of overtime working;
- improvements in service delivery.

All cases must clearly state the performance outcomes over the next year of recruiting to the specified post with market supplements.

4.6 *Determine the appropriate response*

If a recruitment and retention problem is confirmed by the research, managers should consider the various options for responding to this [see 2.4 above]. Long-term solutions should be considered first, as market supplements will often only be effective as a short-term measure. Where non-pay options have been considered and ruled out, the reasons why they have been discounted should be stated.

4.7 *Identify the level of market supplement*

If it is determined that a market supplement is the best way forward, the manager and Strategic Human Resources Manager should assess the level of supplement required. In particular consideration should be given to where to benchmark the overall salary package (i.e. the job evaluated grade plus market supplement plus any other allowances) against the comparators. It does not automatically follow that the upper quartile is the most appropriate level: this will depend on the objective circumstances of the particular case. Unless there are exceptional circumstances a market supplement will normally fall within the range of 5-15 percent of base salary, and should be quantified as either a cash amount or as a percentage of the job evaluated pay rate.

4.8 *Equality impact assessment*

The case for a market supplement must be supported by an equality impact assessment of the impact of the payment, with particular reference to gender, ethnicity, disability and age. This must in particular include roles/occupations/services where there is over-representation by gender/race. If adverse impact on any group is identified, the measures proposed to be taken to minimise this impact should be specified.

4.9 *Prepare business case*

The relevant service manager is responsible for producing the business case to support payment of a market supplement. This must contain:

- the evidence to support the case for a market supplement;
- the employees who will be eligible for the supplement;
- the proposed level of the supplement, with justification for the amount;
- the specific benefit which will result from introduction of the supplement;

- the financial implications for the department of making the payment;
- the arrangements for reviewing the payment; and
- the equality impact assessment.

A market supplement business case template is attached at [Appendix 1](#). A template for the equality impact assessment is set out at [Appendix 2](#).

The Strategic Human Resources Manager can advise on the preparation of the business case, and will in any event need to approve it before it is progressed in accordance with the authorisation arrangements set out in paragraph 5.11.

4.10 *Authorisation*

- Any requests for introduction of a market supplement must be supported by the relevant Director and Strategic Human Resources Manager.
- New market supplement schemes require the prior approval of the Council's General Purposes Committee.
- Changes to, or renewal of, existing schemes which involve commitment of additional expenditure require the approval of the Council's General Purposes Committee.
- Changes to, or renewal of, existing schemes not involving commitment of additional expenditure require the approval of the Assistant Director, Human Resources.

If payment of the supplement is approved, the Assistant Director, Human Resources, will authorise Payroll to implement payment from the relevant date. It will be set up on the Payroll system as a time-limited payment which will be automatically discontinued at the due date unless further authorisation is given to extend the payment.

4.11 *Review of payments*

As set out below, all market supplements will be approved for payment to the specified posts for a maximum period of two years. The relevant service manager should also regularly review and monitor recruitment and/or retention patterns and/or changes in market pay rates.

5. Conditions Attached to a Market Supplement Payment

5.1 The conditions attached to the payment will be set out in the contract of employment (in the case of new employees), or in a standard letter/amendment to the statement of particulars (for existing employees). Employees must sign the appropriate document confirming that they understand and accept the conditions attached before payment is made. Model clauses are contained in [Appendix 3](#).

5.2 The following general conditions will apply.

- (i). Supplements will be payable for a specified period not exceeding two years from the date they are introduced. At the end of this period they will be automatically withdrawn **unless** a review confirms that the original business case is unchanged. Such reviews should be undertaken in good time to allow for reasonable notice to the employee of any change to the existing arrangements.
- (ii). If the supplement is to be discontinued the employees in receipt of the payment should be advised of this in writing at least three months before the payment is to cease.

- (iii). Existing employees within the occupational population (e.g. with equivalent levels of skill/experience and undertaking the same role) will usually also be entitled to receive the payment.
- (iv). The value of the supplement will be a clearly identified cash amount or percentage additional to the job evaluated grade, and should also specify whether the payments are fixed cash amounts or increased in line with national pay awards
- (v). Supplements will not be included in base salary for purposes of calculation of working time premia and other allowances.
- (vi). If an employee is in receipt of a London weighting allowance greater than the value of the London allowance payable to new employees, the difference in the two amounts will be offset against the payment made to the individual.
- (vii). Where an existing employee is in receipt of a supplement and a protected pay allowance, the value of the protected element will be offset against the supplement payable.
- (viii). The Local Government (Benefits, Membership and Contributions) Regulations state that if a payment is an inducement to an employee not to terminate their employment before the payment is made then it is not pensionable. Officers will decide whether the payment is for recruitment or retention and the frequency of the payment. That decision will determine whether or not the payment is pensionable i.e.**
 - a. if the decision is that the payment is to be made annually as a retention payment then it is not pensionable because it is an inducement to the employee not to terminate their employment before the payment is made.**
 - b. If the decision is that the payment is for retention purposes but is paid monthly the payment should be pensionable. This is because the payment is made in line with the employee's regular monthly salary and is no more an inducement to the employee not to terminate their employment than any other pay element.**
 - c. If the payment is for recruitment purposes the payment will be monthly.**

The additional costs to the council arising from increased employer pension contributions should be taken into account in any business case.

5.3 Supplements are attached to posts, not individuals. Therefore, if an employee is redeployed, transferred, promoted, demoted or subject to any other job change, the payment will be withdrawn unless it is already payable in the new post.

5.4 Where the job description for a post in receipt of a market supplement payment is subsequently reviewed and amended, it will be evaluated in accordance with the Council's usual procedures. If the new grade is higher than the original substantive grade (i.e. not including any market supplement), then any resulting increase in pay will be offset against the market supplement. This is necessary to ensure that the market pay for the post remains in line with the level set under the original business case.

6. Monitoring and Review

6.1 The Assistant Director, Human Resources, will monitor all market supplement payments to ensure that:

- they provide identifiable benefits to the Council;
- they achieve and maintain the intended recruitment and/or retention outcomes and

- no indirect discrimination or unjustifiable adverse impact occurs.

6.2 All payments will also be regularly reviewed as part of the rolling programme of Equal Pay Audits to be undertaken by the Council.

Application for a Market Factor Supplement Payment

Department:	
Business Unit:	
Service Manager:	
Application Authorised by:	
Post(s) for which a payment is required:	
Date job description was last reviewed:	
Current job evaluated grade of post:	
Annual value of the proposed payment:	
Method of payment (e.g. yearly lump sum, monthly payment, etc.):	
Date payments will commence:	

Has this post been advertised previously unsuccessfully? Yes/No

[if yes, provide details of number of adverts, applicants, short-listed, appointed]

Has this post experienced high turnover over the last twelve months? Yes/No

[If yes, attach turnover and any exit interviews details]

Is the Brent salary for this post below the market rate for equivalent jobs? Yes/No

(if yes, attach evidence of salary/benefits packages in comparable organisations. If no see next box)

If the Brent salary for this post is comparable with the market for equivalent jobs, what is the basis for paying a supplement?

[e.g. If non-pay benefits/conditions of employment offered by other boroughs are better than those of Brent provide details to support this]

Are there any other posts in the service and/or department which may be affected by the award of the payment? Yes/No

[If yes, provide details]

What benefit to the service/department will result from application of the market supplement?

[Include details of any proposals to reduce use of agency staff and overtime payments]

What are the financial implications of making the payment?

What arrangements are proposed for reviewing the payment?

**How will you measure the success of any improvements that are put into place?
Who will be responsible for measuring the success?**

Signed:

Date:

Job Title:

**Application for a Market Factor Supplement Payment
Equality Impact Assessment**

The impact of the proposed market supplement should be assessed with reference to the relevant target groups:

- Gender
- Disability
- Religion or Belief
- Main Occupational Groups
- Race
- Sexual Orientation
- Age
- Part time staff

Department and Division:	
Head of Service:	
Officer completing assessment:	
Details of others involved in the assessment - auditing team/peer review:	
Date:	

Brief description of market supplement

Aims

Objectives

What is the justification for taking these measures?

Are the aims consistent with the council's Comprehensive Equality Policy?

Does a third party provide the function or service?

Is there an adverse impact around race/gender/disability/faith/sexual orientation/health etc? Could the proposals affect people differently so that some groups may not have equal and fair access to rewards? What are the reasons for this adverse impact?

Describe the evidence (qualitative or quantitative) you have used to make your judgement. Please supply us with the evidence separately by race, gender, disability etc?

How do the proposals take into account what might be different needs across different groups of people?

Have you conducted consultations/satisfaction surveys with employees?

Have you analysed the result of these consultations/surveys to identify any trends across different groups of people? If not, why was the consultation/survey undertaken?

If number of responses to consultation/survey has been low, what steps have you taken to ensure a reasonable sample size e.g. taking results over a longer period or conducting surveys over the telephone?

Who will be responsible for monitoring the impact and success of the scheme?