
Meeting	Remuneration Committee
Date	29 January 2013
Subject	Market Force Supplement Policy
Report of	Interim Chief Executive Assistant Director Human Resources
Summary	This report sets out for Committee a Market Force Supplement Policy which explains how these will be managed and controlled.

Officer Contributors	Sarah Murphy-Brookman, Assistant Director Human Resources
Status (public or exempt)	Public
Wards Affected	-
Key Decision	No
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Annex A - Market Force Supplement Policy
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1. RECOMMENDATIONS

- 1.1. That the Committee agrees to the Market Force Supplement Policy attached at Annex A.**

2. PREVIOUS RELEVANT DECISIONS

- 2.1 Remuneration Committee met on the 28 June 2012 and the report on Senior Posts Reward Structure resolved:-

That at section 6.1.6. of the report it recognised that from time to time there may be particular market pay issues. Where the pay level required to attract applicants is above the market median and there is clear market pay evidence to support this then the market pay level will need to be reviewed by Remuneration Committee and as required with General Functions Committee. Where a market supplement is required up to Market Median and there is clear market evidence to support this then this will be a matter for Officer decision but it will be reported back to this Committee.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1. The Remuneration Committee plays a key role in ensuring that the corporate vision of 'Better Services with Less Money' is supported by the Reward Strategy. The pay bill is the largest cost for the London Borough of Barnet and this committee will underpin the aim of pay control in order to deliver the Mid Term Financial Strategy.

4. RISK MANAGEMENT ISSUES

- 4.1. This committee forms part of the Council's discharge of its responsibilities under the Localism Act 2011. A Market Forces Supplement Policy will create clarity and transparency for this type of payment and in particular how the introduction, review and payment will be managed. This will be a fair, consistent and rigorous process that puts control with this committee. Ultimately, the introduction of a Market Force Supplement Policy will protect the Council from grade drift, the use of irregular payments and challenge.
- 4.2. In addition, guidance in relation the Localism Act 2011 states that council members should be offered the opportunity to vote on large salary packages before employment offers are made in respect of new appointments. Currently the secretary of state considers that £100,000 is the right level for this threshold to be set at. Therefore, if a market force supplement makes the salary package at or above this threshold then a recommendation to Remuneration Committee must be made prior to the offer of employment.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Where the Council intends making a market forces supplement payment then it must be able to objectively justify the payment. Section 69 the Equality Act 2010 (Defence of Material Factor) and the associated guidance provided the Equality & Human Rights Commission 'Equality Act 2010 Code of Practice,

Equal Pay - Statutory Code of Practice', set out the potential issues. This Council Policy will ensure that there are proper controls in place and that any payment is objective and that there is a genuine material factor defence.

- 5.2 Part of the controls set out in the Policy are that the Reward Manager must support any claim for market forces supplements payment. Where the criteria set out in the Policy are not met then the Reward Manager will not support the claim.

6 USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 Any budget implications of Market Force Supplements will be contained within service budgets.

7 LEGAL ISSUES

- 7.1 There are no additional legal matters to note.

8 CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 The Remuneration Committee's terms of reference are noted in Part 3 of the Council's Constitution – Responsibility for Functions

9 BACKGROUND INFORMATION

- 9.1 The Council's new senior management salary structure has been designed on the principle of a robust job evaluation process to size a role using the Hay Job Evaluation scheme. Same size roles are then paid against the mid point between the market median and Lower quartile on the general market data provided by Hay.

- 9.2 The consequence of this robust structure is that it restricts variability in pay. In general this is manageable however there may be roles which from time to time attract a premium in the market. Where there is a significant difference between the pay rates offered by the Council (as determined by general market data) and specific market pressures this means that the Council may experience recruitment and/or retention difficulties for specific posts. Skill shortages in key areas will then restrict the Council's capacity and capability to deliver services.

- 9.3 In these circumstances it may be appropriate to increase the rate of pay in order to attract and/or retain the knowledge, skills and experience required by the Council. The most appropriate way to control this is through a market supplement policy. In the absence of such a policy and control mechanism experience shows that pay structures experience 'wage drift'. This is where additional pay is made to employees in a variety of methods, which often lack transparency, monitoring and control. Examples might include awarding miscellaneous additional pay elements, honoraria payments, one-off 'bonus' payments and so on. Also, without a proper mechanism to pay market supplements managers often exercise considerable pressure to get the grade increased.

- 9.4 Additional payments and 'incorrect' grading will potentially leave the Council vulnerable to equality claims and this impacts on an organisation's reputation for fairness and equality.
- 9.5 The Equality and Human Rights Commission (EHRC) suggests that it is good practice to manage market pay through the use of market pay supplements. In order to provide rigour and consistency a robust policy is required. The EHRC suggests market pay:
- should be made to individuals as an identifiable payment
 - records should be kept as evidence of payments for specific posts
 - should be reviewed regularly in order to check MFS payments can still be objectively justified
 - payments are altered or withdrawn if the evidence suggests this
 - distribution is monitored for equality analysis
- 9.6 The Remuneration Committee met on 28 June 2012 and agreed a new pay and grading structure for the Senior Management team. As part of this structure a very limited provision was made for Officer agreed Market Force Supplements (MFS) payments; however this was conditional on the MFS being reported back to the Remuneration Committee. The associated paper on the Senior Management pay structure update sets out the rationale for the limited MFS for the Head of Safeguarding and Quality Assurance role in Children's Services
- 9.7 In addition to the provision for MFS within the Senior Management Team the Council has a pre-existing MFS within Children's Service, payable to Social Workers. This was introduced in 2009 following extensive research into the Council's market position for these posts in order to address recruitment and retention issues affecting service delivery. These payments are currently made on a consistent basis to all Social Workers in the Children's Service. There are no other MFS payments made to any other employees.
- 9.8 Finally some of the new Contract-Partnership manager posts (below the Senior Management Team) are already proving challenging to fill and the Council has a failed external recruitment campaign plus market evidence that the Council's pay structure is not in line with the market for this very particular type of role.
- 9.9 Because of the context set out above it is now important that there is a clear Policy in place to properly manage the Council's use of these supplements. The Policy attached at Annex A sets out the detail for managing MFS across the Council in a fair, consistent and robust method that will protect the Council from grade/wage drift and challenge.
- 9.10 Officers are also cognisant that salary is not the only attractor to an employer and the Council now needs to ensure that it brands and markets itself effectively to continue to attract high quality attract applicants.

9.11 Organisational Branding activities will need to include information on the internet site setting out culture, values and strategic direction; the 'total reward package and finally the personal development activities available.

10 LIST OF BACKGROUND PAPERS

10.1 None.

Cleared by Finance (Officer's initials)	JH/MC
Cleared by Legal (Officer's initials)	LC

Annex A

Market Force Supplement Policy

1. Introduction

- 1.1. This policy document sets out the principles and circumstances in which Market Force Supplements may be used by the Council, the method of calculation and the approval process required.
- 1.2. Market force supplements are used only for jobs that meet the criteria set out below. They cannot be used to meet the needs of any other circumstance. In order to properly reflect the market, which fluctuates from time to time, market force supplements can only normally be applied for a maximum period of 12 months at any one time. They must then be properly reviewed to ensure that the payment still meets the criteria.

2. Scope

- 2.1 This policy applies to all Council employees, including Head Teachers, Teachers and Chief Officers.
- 2.2 Chief Officer is defined as a member of the Strategic Commissioning Board; a Director or a designated Deputy.
- 2.3 The policy excludes the Chief Executive.
- 2.4 The policy is recommended for implementation by staff directly employed by schools, for example those based in Academies.

3. Background

- 3.1 The Council employs people across a wide variety of different occupations on a common pay and grading structure. The pay structure is based on sound principles and underpinned by analytical job evaluation. In general terms the pay structure is linked to the labour market based on job size. However, there may be occasions when there are specific pressures in the labour market that make recruiting and/or retaining employees in specific roles difficult.
- 3.2 In these circumstances it may be appropriate to consider the use of a market force supplement. However, every effort should be made to recruit or retain staff on salaries within the range of the evaluated grade for the job before any market force supplement is considered.

4 Principles

- 4.1 The following list sets out the principles on which this policy is based. Market force supplements:
 - must be justified by a business case as set out in section 5.2

- will apply to a specific post – not a person
- must be approved prior to recruitment
- may be approved by an appropriate Officer up to market median and subsequently reported back to Remuneration Committee by that Officer
- must be approved by Remuneration Committee if the addition of a market force supplement makes the total salary package £100,000 or more **or** where the package would be above the market median
- affecting multiple posts where the additional cost implications are in excess of £50,000 p.a. must be approved by Remuneration Committee
- will only be approved after at least one failed recruitment campaign
- can only be used to address recruitment and/or retention problems and not any other issue
- will only be approved for significant differences to base pay in excess of 5%
- are non-contractual
- will normally be reviewed every 12 months
- can be varied or withdrawn by the council at any time after giving the employee three month's notice
- are pensionable

5 Application

- 5.1 A manager (application officer) who wishes to apply a market force supplement to a job will be required to submit a Market Force Supplement form to a 'reviewing officer' (usually their Assistant Director – but this may be the Director or Chief Executive – depending on the level of the post where the MFS is being sought) outlining the business case for awarding the market force supplement. The application officer should seek guidance from the Reward Manager in Human Resources, if required.
- 5.2 The business case should evidence the following:
- retention difficulties (including turnover statistics and number of vacancies in previous 12 month period);
 - the link between retention difficulties and pay through the use of exit interviews, employee questionnaires etc.;
 - recruitment difficulties in the previous 12 month period demonstrating no suitable applicants in at least one recruitment advertising campaigns;
 - alternative strategies that have been applied to address recruitment and retention difficulties such as use of advertising, exploring new ways of working, workforce and succession planning;
 - the likely effectiveness of the council's market position if the market force supplement is applied;
 - verification of the pay differential between the council and the market by using the Hay and IDS pay comparison data base (this data can be accessed via Human Resources) and by analysing pay information from job advertisements or by commissioning a pay comparison survey;
 - confirmation that the cost of any market force supplement applied can be met from the service's existing budget.
- 5.3 In deciding to recommend a market force supplement, managers should recognise that there may be pay implications for existing employees working alongside and performing work of a similar level to those in receipt of a market

force supplement. All market force supplements should therefore be approved by HR.

- 5.4 The Reward Manager will not support any claim for market forces supplements if he/she believes that they do not meet the criteria above and if he/she believes that applying a market force supplement will expose the Council to the risk of a legal challenge under the Equality Act 2010 or any other relevant legislation.
- 5.5 Market force supplements should not be backdated before the date of application.

6 Process

- 6.1 The business case to apply a market force supplement will initially be considered by the reviewing officer. If the reviewing officer supports the business case, the request will then be forwarded to the relevant approving officer (usually a Director but may be the Chief Executive or Leader in the case of the Chief Executive depending on the level of the post where the MFS is being sought).
- 6.2 The approving officer will:
 - consider the business case presented by the reviewing officer and the impact to the council of introducing the market force supplement;
 - determine whether a market force supplement is appropriate and if so, the level that this should be set at;
 - agree their proposed decision/recommendation with the Reward Manager - Human Resources to ensure it is compliant with the Council's overall Pay policy;
 - decide on the appropriate approval route as defined in the approval matrix below

	Individual MFS (total package value after MFS added)		Collective MFS (value of additional costs)	
	< £100,000	£100,000 +	< £50,000	£50,000 +
< Market Median	Officer	RemCo	Officer	RemCo
> Market Median	RemCo	RemCo	RemCo	RemCo

7 Payment

- 7.1 Market force supplements will be paid on a monthly basis and will be paid on a pro-rata basis to part-time employees, proportionate to their working hours.
- 7.2 Market force supplements will not be subject to any cost of living increase applied to the Council's salary points.
- 7.3 Market force supplements are a non-contractual element of pay and may be removed once the council has identified that the justification for paying a

market force supplement no longer exists. Market force supplements are included in the calculation of benefits such as sick pay, holiday pay etc. Market force supplements are also pensionable.

- 7.4 Where an employee is in receipt of pay protection this will be reduced (by an equivalent amount) or removed completely (if by the addition of the MFS the total salary package exceeds the employee's protected salary) in the event of a market force supplement being added to the grade for the job. If a job is subsequently matched to a higher grade, any market force supplement will be reduced by an equivalent amount.

8 Review and Variation

- 8.1 Market force supplements will normally be reviewed on an annual basis, to ensure that there is an ongoing need to retain the allowance and review the amount of the allowance if appropriate. Managers who wish to retain the market force supplement beyond the initial 12 month period are required to resubmit their business case to the reviewing officer. Following review, the market force supplement may remain the same, be reduced, increased or removed as market data indicates. Any reduction in the annual payment, including its removal, will be subject to three months' written notice to the employee.
- 8.2 Information on all market force supplement payments will be compiled and reviewed annually by Human Resources for monitoring purposes. The Trade Unions will be involved in any review of market force supplement payments where the effectiveness of this Policy's application is challenged.
- 8.3 The Reward Manager will lead on the annual review of all market force supplements.

9 Policy Review

- 9.1 The above forms the Council's policy as at December 2012, it should be noted that:
- the policy does not confer any contractual rights
 - the Council will retain the right to review the policy at any time. Changes may result from employee, management and trade union feedback and/or from changes in employment legislation..
- 9.2 This policy will be reviewed every three years (or sooner if circumstances dictate) to ensure that it remains appropriate, relevant and sustainable.
- 9.3 The next scheduled review is April 2016.