

REPORT TO:	FINANCE AND MANAGEMENT COMMITTEE	AGENDA ITEM: 8
DATE OF MEETING:	25 APRIL 2024	CATEGORY: DELEGATED
REPORT FROM:	CHIEF EXECUTIVE	OPEN
MEMBERS' CONTACT POINT:	FIONA PITTAM Fiona.pittam@southderbyshire.gov.uk	DOC:
SUBJECT:	MARKET SUPPLEMENT POLICY AND PROCEDURE	TERMS OF REFERENCE: FM05
WARD (S) AFFECTED:	ALL	

1.0 Recommendations

1.1 To approve the Market Supplement Policy and Procedure (Appendix A).

2.0 Purpose of the Report

2.1 This report proposes the introduction of a Market Supplement Policy and Procedure to support the resourcing of the current and future workforce to deliver excellent services for the community of South Derbyshire.

3.0 Executive summary

3.1 The employment market continues to be very competitive and it is expected that this situation will only increase over the next few years as organisations look to resource their workforce in the most cost efficient and effective manner. This is resulting in recruitment and retention challenges in service areas across the Council and the public sector. In a recent survey, the Local Government Association (LGA) reported that 94% of Council's were faced with recruitment and retention challenges.

3.2 The Council is committed to providing consistent and equitable pay and allowances for all employees. To comply with the Equality Act 2010, male and female employees should receive the same level of pay if they are undertaking equivalent work. To achieve this, the Council's current pay and grading structure was based on a job evaluation process using the Greater London Provincial Council Job Evaluation Scheme (GLPC) and implemented in 2016.

3.3 The GLPC JE scheme has been consistently used to evaluate posts and sustain the Council in a robust position in terms of its overall pay structure.

However, in exceptional circumstances where the Council can demonstrate that staff resourcing issues are impacting on service delivery, providing other non-pay related options have been explored and discounted, the payment of a temporary additional element of pay, through a market supplement, may be justified.

- 3.4 The adoption of a robust framework for the use of market supplements is proposed through the adoption of a Market Supplement Policy and Procedure (Appendix A).

4.0 Detail

- 4.1 It is recognised that sustained financial pressures, the increasing cost of living and pay restraints imposed nationally have impacted on the ability of public sector employers to recruit and retain suitably qualified and experienced staff to deliver vital services for the communities.
- 4.2 The employment market continues to be more competitive, and candidate driven. Following the pandemic, people have changed their behaviours towards employment and work to take in to consideration the need to achieve their own level of life/work balance. This has resulted in a significant change to the employment market and the drive towards providing more choice on how people work and are employed. The Council has taken early action to change its employment model to provide for flexible working and this has had a positive impact when recruiting in to posts and retaining employees.
- 4.3 Like many organisations, the Council uses different options to advertise vacancies, including social media such as LinkedIn. This enables posts to be advertised at relatively low costs when compared to using trade or professional journals and will raise the profile of the Council as an employer. In addition, opportunities are taken to use entry level posts such as Modern Apprenticeships, to promote succession planning, use career graded posts and provide talent pathways in some areas where recruitment issues are expected to occur due to the age profile of the existing workforce.
- 4.4 In addition, this Committee at its meetings held on 25 November 2021, 6 October 2022, 16 March 2023 and 23 November 2023, approved additional payments, on top of the substantive grade, should be made to HGV Drivers and Mechanics in recognition of the national demand based on these workers. This action, evidenced through the subsequent recruitment and retention of employees, sustained resilience in the Waste and Cleansing Services to exercise the Council's statutory duties as the designated Waste Collection Authority and Principal Litter Authority under the Environmental Protection Act 1990.
- 4.5 Whilst the situation in Waste and Cleansing was driven by numerous national and supply factors, similar resourcing issues are now becoming more common in other service areas such as Planning, Housing, Legal, Finance and other service areas especially for professional and technical roles. It should be noted that this issue is not unique to South Derbyshire and across the country, all

Councils are encountering difficulties in recruiting and retaining employees, most acutely in the social care sector.

- 4.6 This has resulted in the increased use of agency workers to resources services that not only come at a higher cost, but also provide no long term stability or solution to resourcing services with employees that can be developed, nurtured, and rewarded to recognise their career development.
- 4.7 It is important that any additional initiatives introduced do not undermine the robust pay and grading structure that is in place. New or materially changed posts will continue to be evaluated and graded in line with the local job evaluation scheme that is in place. This will continue to ensure that the Council is compliant with its duties under the Equality Act 2010 and to mitigate risks of equal pay claims being entered.
- 4.8 To provide the Council with a further option to support the recruitment and retention of employees it is proposed to adopt a Market Supplement Policy and Procedure (Appendix A).
- 4.9 The key requirements to meet when using the Policy and Procedure will be to demonstrate;
- Clear evidence that there are difficulties in attracting staff to a post or in retaining staff in the role. This must include evidence of repeated failed recruitment exercises, high turnover rates or changes to the recruitment market that increases the demands for certain occupations.
 - Analysis of current pay rates for similar roles in other comparable Councils.
 - What action has been taken to resolve the issue without having to resort to applying for a market supplement. This will include actions taken to consider redesigning the job, the structure of the service and consideration of providing current employees with opportunities for personal and professional development.
 - Identifiable and measurable benefits to the Council in terms of services to our customers and residents.
 - That the payment is a reasonable and justifiable expenditure of public money.
 - That the Council would be able to defend an equal pay/equal value challenge;
 - A robust, evidence based business case presented and any payments reviewed on at least a 12 month basis.
- 4.10 All market supplements will be subject to approval from the Chief Executive to ensure consistency in approach and challenge on the evidence presented. Human Resources and Finance will support the manager with the development of their business case and advise on the level of market supplement that is appropriate.
- 4.11 The level of payment that can be made under the Policy and Procedure is not expected to exceed 15% of the top scale point of the substantive grade for the post.

A post on Grade PO2 scale point 34 receives a salary of £42,403 per annum (effective on 1 April 2023). The maximum market supplement that could be paid is £6,360.45.

It should be noted that the full amount will only be paid in exceptional circumstances and take in to account several different factors as detailed in the Policy and Procedure.

- 4.12 It is also proposed that a full review of the implications of the Policy and Procedure is completed and presented to Leadership Team after two years from adoption. This will provide sufficient time for data to be gathered on the impact of the Policy and Procedure and to identify any trends.
- 4.13 Should further work be needed during this time to address the resourcing of the current and future workforce; a separate report will be presented to the Committee.

Trade Unions

- 4.14 The Market Supplement Policy and Procedure has been subject to consultation with the Trade Unions and presented to the meeting of the Joint Negotiating Group meeting held on 10 April 2024.

5.0 Financial Implications

- 5.1 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. Any agreed market supplements would have to be funded from within the existing budget of the service. This should take in to account the cost of other potential solutions such as the cost associated with Agency Workers which may be higher and does not provide for continuity in terms of the workforce.
- 5.2 Where market supplements can not be funded by existing vacancies, agency saving or efficiencies within the service, then the impact to the General Fund reserves would need to be considered.

6.0 Corporate Implications

Employment Implications

- 6.1 Market supplements are a separate intervention to support the effective resourcing of the Council's workforce where there is objective evidence that the rate of pay offered directly results in increased rate of employee turnover or an inability to recruit suitably skilled and qualified employees
- 6.2 Consultation has taken place with the Trade Unions on the development of the Policy and Procedure and as noted in the report, they will continue to receive

information on any proposals submitted before they are determined by Leadership Team.

- 6.3 Any payments that are then approved under this Policy and Procedure will be confirmed to all employees affected and they will be issued with the appropriate confirmation of the payment, when it commences and ends. These payments will not form part of the employees permanent conditions of employment or substantive pay and will not be covered under the Council's Pay Protection Policy.
- 6.4 The impact of the Policy and Procedure will be reviewed on an annual basis to ensure it is being applied in a consistent and none discriminatory manner.
- 6.5 The Council needs to ensure that any payments under the Policy and Procedure do not expose it to potential equal pay claims. Recruitment and retention payments to specific groups could result in a difference in the pay of men and women who are carrying out work which has been rated as equal value under the GLPC job evaluation scheme.
- 6.6 The Council may have a defence against an equal pay claim if it can be shown that the difference in pay can be explained by a 'material factor' that does not involve direct or unjustified indirect sex discrimination. The Council would need to demonstrate that;
- The reason for the payments was genuinely due to the difficulty in recruiting to or retaining staff in, the specified role(s) and;
- There is a real need and impact upon the services provided by these roles caused by the difficulty in recruiting and/or retaining staff and;
- That the payments are reasonably necessary to improve the recruitment and retention, and likely to achieve positive results.
- 6.7 Any additional payments made will be reviewed to ensure that the market conditions, trends in recruitment and retention and other actions taken within the service to resource their workforce continue to present a material and genuine risk to the delivery of the service.
- 6.8 The material factor defence will be reviewed to ensure it remains relevant. If challenged, the Council will need to satisfy an employment tribunal that any recruitment and retention payment reflected a genuine need to pay the market supplement and that the evidence clearly supports the value of the payment.

Legal Implications

- 6.9 As noted in the report

Council Plan Implications

- 6.10 This report contributes towards the progress against all the priorities in the Council Plan 2024-28 through resourcing the workforce to deliver services to the community of South Derbyshire.

Risk Impact

- 6.11 The adoption of a corporate approach the payment of market supplements is an identified control measure to reduce the corporate risk CR17 – Capacity and resilience.
- 6.12 There are both employment and service risks with the adoption of the Policy and Procedure. The employment risks are identified in the report and the service risk arise if the Council is unable to resource services in a sustainable and cost effective way to ensure the continuation of services for the community. The approach taken to introduce and then review the impact of the Policy and Procedure will enable the Council to assess the likelihood and impact of these risks.

7.0 Community Impact

Consultation

- 7.1 None required.

Equality and Diversity Impact

- 7.2 The Market Supplement Policy and Procedure establishes a robust procedure for approval of market supplements to minimise the risk of any equality arises in its application and the payments that are determined. In particular this relates to mitigating the risk of different payments made to employees
- 7.3 The Policy and Procedure itself is not considered likely to have an adverse impact on any particular protected characteristic group and will be monitored to ensure it is being fairly applied and that equality impact is considered in each case.
- 7.4 An Equality Impact Assessment has been completed.

Social Value Impact

- 7.5 Not applicable in the context of the report.

Environmental Sustainability

- 7.6 Not applicable in the context of the report.

8.0 Appendices

Appendix A – Market Supplement Policy and Procedure