



PERSONNEL COMMITTEE
25 November 2014

ITEM 8

Report of the Strategic Director of Resources

MARKET RATE SUPPLEMENT POLICY

SUMMARY

- 1.1 Following the outcome of the Council's Equal Pay Review, it has been identified that there may be occasions where there is a need to attach a Market Rate Supplement to a post, to ensure that the Council can compete in the market place and retain staff for some organisational critical posts.
- 1.2 The attached Market Rate Policy at Appendix 1 has been written to address this specific situation, and is a separate policy to the Councils Pay policy which is still in development.
- 1.3 The payment of a Market Rate Supplement is lawful under the Equality Act 2010 where there is a "material" reason for a post attracting a higher rate of pay than those graded similarly.
- 1.4 The policy sets out when such supplements may be paid, the process by which cases are considered and approved, and the conditions attached to them.
- 1.5. Chief Officers have agreed to the policy principles and criteria for assessment

RECOMMENDATION

- 2.1 To agree the Market Rate Supplement Policy and approve for formal consultations to commence.
- 2.2 To agree that for each Market Supplement Application received that this will be reviewed by Chief Officers.

REASONS FOR RECOMMENDATION

- 3.1 To ensure that the Council is able to attract and retain suitably skilled employees by offering competitive salaries.

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the Local Government Act 1972

- 3.2 To provide a fair and transparent system for considering the payment of a market rate supplement where a recruitment and /or retention problem has been identified, which relates to the lack of competitiveness between the remuneration levels within the Council and the relevant labour market for the particular job role.
- 3.3 To ensure that the Council meets the requirement of equal pay legislation and is not discriminatory in applying a market rate supplement to a post.
- 3.4 To enable the supporting evidence to be used as a “material factor” defence claim should an equal pay claim be submitted.

SUPPORTING INFORMATION

- 4.1 HR has drafted a new Market Rate Supplement Policy (Appendix 1). This sets out the specific criteria where a market rate supplement may be applicable and can be fully supported by a detailed application process.
- 4.2 The completed application form will act as the “material factor” defence should an equal pay claim be forthcoming.
- 4.3 This Policy has been reviewed externally by an employment law expert (Barrister)

OTHER OPTIONS CONSIDERED

- 5.1 Not being able to pay the going rate for service critical posts puts the authority at risk of being unable to meet expected service delivery.

This report has been approved by the following officers:

Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Claire Benjamin – Human Resources
For more information contact: Background papers: List of appendices:	Claire Benjamin 01332 643666 claire.benjamin@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Market Rate Supplement Policy

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the Local Government Act 1972

IMPLICATIONS

Financial and Value for Money

- 1.1 Market rates supplements will be met from existing budget provision within service areas. Having an audit trail of evidence allows the councils to defend an equal pay claim.

Legal

- 2.1 Care is required when considering market rate supplements as these could be responsible for generating equal pay claims. Under the equal pay legislation there will be a defence to an equal pay claim where the employer can show that, even though the complainant and her comparator are doing equal work, the reason for the difference in pay is due to a material factor untainted by sex discrimination. This is known as a material factor defence.
- 2.2 Market rate supplements can be defended as a material factor defence, however in order to do this the supplement will have to be reviewed and justified, showing evidence that the supplement is not related to the gender of the employee. The introduction of a Market rate policy will ensure that this is monitored and reviewed.

Personnel

- 3.1 None, other than as set out in the report

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- 4.1 None

Equalities Impact

- 5.1 A Market Rate Policy must be seen in the context of Derby City Council's commitment to meeting its obligations under the Equality Act 2010 where it seeks to ensure employees receive equal pay for work of equal value. The Council will maintain the integrity of the job evaluation process, however in exceptional circumstances a market rate may be applied to a grade determined by the job evaluation process rather than applying a pay range that is unachievable through the application of the agreed job evaluation process; however this must be objectively justified and regularly reviewed.

Health and Safety

6.1 None

Environmental Sustainability

7.1 None

Property and Asset Management

8.1 None

Risk Management

9.1 Implications for non-compliance with the regulations

Corporate objectives and priorities for change

10.1 Pay & Reward Strategy

Market Rate Supplement Policy

Policy Purpose

Derby City Council is committed to providing equal pay for jobs of equal value and has introduced a job evaluation scheme to measure the relative value of all jobs. However, it is also essential that the council is able to attract and retain staff with the skills, knowledge and experience to meet its corporate objective and priorities.

The Council recognises that there are occasions when there are difficulties in attracting and retaining suitable staff to particular posts. This policy sets out how these difficulties will be dealt with, especially where conditions in the market for particular skills are causing recruitment, retention and service delivery issues.

This policy provides guidance about the sort of cases where it may be appropriate to pay a market rate supplement and the process by which these cases are considered and determined, and the restrictions which are applied to them. A market rate supplement is a separately identifiable element of the employees pay. It is paid in addition to the salary otherwise payable to staff of that experience in that role, as set by the appropriate grade and salary range for the post.

Document Control

Implementation date	October 2014
Author	Claire Benjamin
Equality impact assessment date	October 2014
Revised/updated	
Version Control	0.3
Review required	In line with legislative changes

1 Policy application

1.1 This policy applies to all Council employees except:

The Chief Executive and Chief Officers

Governing bodies of Community, Voluntary Controlled and Trust schools are strongly urged to adopt this policy for non-teaching staff within their delegated powers.

2 Principles

2.1 The grading and salary range of all posts are determined by the outcome of job evaluation. Exceptionally, paying a market rate supplement will be considered where one or more of the following circumstances exists:

- There is a shortage of particular skills or expertise
- The going or market rate for a particular job is higher than the highest salary payable for the applicable post
- There is an inability to successfully recruit suitable staff to a particular post
- There is difficulty in retaining staff in a particular post
- Services are at risk of being disrupted

2.2 Managers will apply the market rate supplement policy in a fair and transparent manner, where a recruitment and/or retention problem has been identified, relating to the relevant labour market for a particular job role.

2.3 Market rate supplements will be paid in line with the requirements of equal pay legislation.

2.4 Market rate supplements are not linked to an individual's actual or anticipated performance within the role.

2.5 Where a market rate supplement is paid, it will be clearly identified as such and subject to review at regular intervals.

2.6 Recruitment Adverts where a post is subject to a market rate supplement, must clearly state that the supplement is subject to regular reviews.

3 Procedure

3.1 Where a market rate is required for a new or existing post, the manager must provide the information requested within Appendix Two – Market Rate Supplement Request Form and forward it to the Service Director.

- 3.2 The Manager should recommend a market rate supplement that genuinely reflects the difference between the grade of the post and the market rate, as detailed.
- 3.3 The Service Director will seek approval through the Chief Officer Group and the HR Director.
- 3.4 Records of all approved market rate supplements will be sent to HR Operations.
- 3.5 When a market rate supplement is applied to a post it will be applied to all current and new employees in that post.
- 3.6 Existing employees will not receive back pay. However if it is determined that existing employees should receive the supplement, the Council will determine when this will be effective from.
- 3.7 Employees are required to pay pension contributions on the value of the market supplement if they are a member of a scheme.
- 3.8 The market rate supplement will be included in gross pay and be used for calculations of statutory payments: for example, sick pay, maternity, redundancy pay, and when making any deductions.

4 Reviewing the payment of a market supplement

- 4.1 A review of a market rate supplement will take place at least every 12 months or when a post is re-advertised. The employee will be invited to contribute to the review of the supplement. However, the final decision will be made by the Council, in light of all the information available.
- 4.2 Following the review, should the manager wish to withdraw, cease or amend the market rate supplement, a market rate supplement amendment form should be completed. Existing employees will be given one months' notice that the payment will cease.
- 4.3 Where a post with a market rate supplement is regraded the following shall apply.
- Where the regrade is above the market rate supplement, the supplement will cease and the regrade increase will be applied the following month.
 - Where the regrade is below the market rate a review of the market rate supplement will be carried out.
- 4.4 Pay protection will not apply should a market rate supplement be decreased or removed.

6 Support and guidance

- 6.1 A full description of the process including guidance, supportive information and documentation is on the intranet under Human Resources:

Link

7 Roles and responsibilities

- 7.1 The roles and responsibilities of key stakeholders are summarised in Appendix 1

POLICY ROLES AND RESPONSIBILITIES OF KEY STAKEHOLDERS

Chief Executive and Chief Officers Tiers 1 and 2	Head of Service Tier 3	Managers	Employees	Human Resources
Every employee must use the procedure and guidance on iDerby				
Fairness and equality				
To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.	To provide reasonable adjustments as required.	To notify managers of reasonable adjustments required.	To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.	To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.
General Operation of the Scheme				
Approve Market rate supplements		Provide factual evidence to demonstrate the grounds to pay a market rate supplement and the amount of the necessary supplement.		Write to the employee confirming all market rate supplement information
		Review market rate supplements annually		Provide advice to managers as required
				HR Director to approve market rate supplements
Document Retention				
				On the Employee's file

Appendix Two

MARKET PLACE SUPPLEMENT REQUEST FORM

1. JUSTIFICATION FOR PAYMENT

This application must be fully supported with evidence which satisfies the criteria as set out in the Council's Market Rate Supplement Policy:

1. Identify the post, or group of posts, for which payment is proposed, include:

- post title
- brief outline of responsibilities
- Post grade and spinal point range
- number of posts/ post holders(including vacant posts)

2. What evidence is there of pay-related recruitment and/or retention difficulties? Please provide examples:

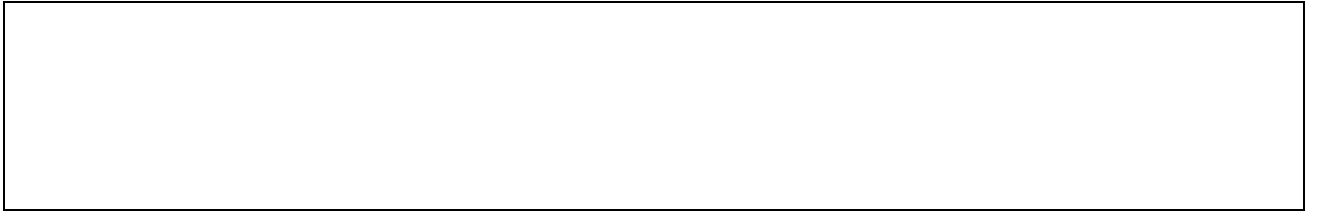
- Number of times the post has been advertised, over what period.
- media used
- number of responses to job advertisements
- qualitative assessment of applicants
- turnover rates
- outcomes from exit interviews
- other feedback from interviewees or recruitment agencies, if any

3. Please provide market-based pay comparisons with competing local/regional employers (public, voluntary and private sector), as appropriate. Please state the source(s) of that data and the pay elements compared (at least three relevant comparators). Include total reward package to ensure a like for like comparison with the Councils total reward package (e.g. flexi time, sick pay, local government pension scheme)

4. What other recruitment initiatives have been explored/exhausted and what were the outcomes from these?

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5. What other measures have been considered/explored to maintain service delivery?
For example, changes to organisational/job design, alternative service/working
arrangements, and trainee posts considered?



6. How is the payment essential to maintaining adequate staffing levels to ensure service delivery requirements are met?

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7. Has the impact the payment will have on other staff in the service been considered and how will this be managed?

8. Has the wider service/ employment context been considered, including whether a market rate supplement will address the particular issues underlying the recruitment/retention difficulties? Are alternative additional actions required? For example:
- a. Are the difficulties an indicator of other issues of concern within the service/occupational group which can be more appropriately resolved by other management action and/or non-pay measures?
 - b. Is there a regional/national shortage for which new/alternative training schemes would be a more appropriate solution?
 - c. Are there more appropriate ways of resourcing/delivering the service rather than through an in-house workforce?

Please provide any further information you wish to rely on at this point:

2. PAYMENT DETAILS

What amount and type of payment is recommended, for what period, and how has this been assessed?

Please calculate the impact on the department's budget and provide full details, should a market supplement be applied including existing and future employees:

3. AUTHORISATION

In making this application, I understand that the cost of any market rate supplement will be met by the employing department and that appropriate budgetary provision has been made for this.

Signature (Manager)

Date

Signature..... (Service Director)

Date.....

Once you have completed this form, please attach the supporting details/evidence as requested and forward to the Director of human resources and Business Support:

Recommendation for market rate supplement made by;

Name :.....(Director Human Resources and Business Support)

Date:.....