

Policy & Procedure for Market Forces Supplements

1.0 Introduction

- 1.1 The Council is committed to the principles of equal pay for work of equal value and has introduced job evaluation schemes to measure the relative value of relevant posts.
- 1.2 This document sets out the Council's Policy relating to Market Force Supplements (MFS), the Procedure by which requests are considered and approved, how they are determined and the conditions applied to them.

2.0 MFS

- 2.1 There will be occasions when the grading determined for a post through job evaluation is insufficient to successfully recruit to or retain staff in particular posts because of market rates offered by other (public sector) employers locally, regionally or, in some cases, nationally. To address this, it may be appropriate to pay a MFS in addition to salary to ensure that such a post can be filled or the post holder retained by the organisation. Such a supplement is lawful under the Equal Pay Act (1970/5) where there is evidence to justify that market factors are the 'genuine material reason' for the post attracting a higher rate of pay than other similarly graded posts.
- 2.2 Market factors should not be used to protect existing hierarchies, therefore, its usage is not intended to be used as a means to re-instate or maintain a particular level of pay.
- 2.3 The first and most important principle of MFS is that they should reflect the levels of pay (not other benefits) in the market for which they are determined. This allows the supplements to be removed or eliminated over a period and ensures that they are introduced for an identifiable and specific purpose and period.
- 2.4 The use of MFS must be based on factual evidence and not simply used as an alternative to resolving other managerial issues. If MFS are not based on market evidence, the Council will remain open to equal pay challenges.
- 2.5 In applying the MFS scheme, the following criteria must be met:
 - a) Payments must be approved by a Head of HR in conjunction with the relevant service Chief Officer and the Chief Officer with responsibility for Finance;
 - b) Clear evidence of difficulties in recruiting or retaining staff must support applications. This will include advertising costs, numbers of applicants, brief and unbiased comment on calibre of applicants, results of interviews and identified shortfalls. In the case of retention, evidence of employees applying for the same kind of job elsewhere in the public sector must be provided;
 - c) A clear rationale must be outlined with each application for MFS that describes why a particular post should attract a supplement MFS and what benefits the application of a MFS will bring;
 - d) The amount to be paid as a market supplement can only be changed (increased, decreased or removed) as a result of a formal review;

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- e) All applications will be limited to a three-year span and will end automatically at that time unless a new business case has been submitted and agreed following a formal review by the relevant service Chief Officer after 2 years;
- f) The supplement will be for a fixed amount based on market data evidence. Wherever relevant and available in sufficient volume, such evidence drawn only from comparable organisations will be established through the national local government “Epaycheck” database operated in partnership between the LGA and Regional Employers Organisations;
- h) Market supplements will be superannuable and will be subject to normal deductions e.g. tax and national insurance;
- i) All particulars, including employment contracts for such posts must identify market supplements as a distinct and separate element of pay and must state the duration and conditions of the supplement;
- j) All staff holding posts in the same unique job group (as identified under the relevant job evaluation scheme) must receive the same supplement on the same conditions;
- k) On approval of the request for a MFS, the appropriate rate will be determined by HR and OD based on the information held on database;
- l) Only in exceptional circumstances will a MFS payment in excess of two additional grades be approved. If the MFS identifies the need for more than 2 grades above then the relevant Chief Officer, supported by HR will undertake a formal review of the structure and overall comparative structures to identify whether the issues can reasonably be tackled more holistically.
- m) All post receiving a MFS payment will be reported in the annual Pay Policy statement

3.0 Managing / Reviewing Market Forces Supplements

- 3.1 MFS must be approved corporately to ensure that there is consistency across the Council and to ensure that decisions to pay supplements can be objectively justified if challenged.
- 3.2 To apply for a MFS the relevant Head of Service needs to prepare a business case following consultation with the HR Service Partner and confirmation from the Group Accountant that funding is available. The business case must meet the conditions outlined in paragraph 8.5 and section 9. The report should be submitted to a Head of HR to confirm that the evidence in the business case is satisfactory and that the case is equality compliant before submission to the service Chief Officer and Chief Officer with responsibility for Finance. If approved by these Chief Officers, a Decision Sheet will be required to be submitted to the Cabinet Member for HR &OD for final authorisation.
- 3.3 The length of time for which the initial supplement remains in place should not exceed three years. At the end of year two, the MFS must be reviewed to ensure that the supplement remains justified. Such a review should take the form of re-submission of evidence indicated in section 8.5 and should be approved through the mechanism in 9.2. Where the market changes to the extent that the supplement can no longer be justified, it must be removed. Equally, if market evidence and recruitment/retention rates indicate the MFS should be increased or decreased, a revised business case may be submitted for approval through the mechanisms outlined in 9.2. If a post to which a supplement is attached becomes vacant, the supplement must be reviewed before permission to fill the post is sought.

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3.4 At the point of review at the end of year two, any new authorisation of a MSF payment would come into effect at the end of year three. Therefore, Managers need to be clear about the longer term need for the supplement. Any decision to increase the supplement would come into effect immediately. The increased rate would also apply to any extension of the supplement due to take effect at the end of year three. Similarly, any decision to reduce or remove the supplement would come into effect at the end of year three, effectively giving one year's protection and notice of the change. The relevant Chief Officer will issue notice of any change/the outcome of the review. If a market is particularly volatile any change to these arrangements must be based on a revised business case drawn up in line with paragraph 8.5 and section 9.

3.5 At the review stage any MFS payment identified to be reapplied after the 3 years will require confirmation through the Decision Sheet process for HR&OD Cabinet Member.

4.0 Determining Market Forces Supplements

4.1 In order to be defensible in case of internal or external challenge, any supplement must meet **the initial mandatory criteria** of being able to evidence one unsuccessful attempt to recruit in the preceding four months **plus at least one** of the following four criteria:

- 1) Regional public service market data shows higher salaries for **equivalent** work;
- 2) DMBC will only pay MFS where the median of the salaries range for equivalent work in the organisations covered by the comparative data set is 10% above the level currently paid within the council following evaluation;
- 3) Up-to-date market information must be obtained by HR from the Epaycheck database, or an alternative reputable database for specific roles in particularly volatile areas. Any costs associated with market testing and research will be met by the relevant directorate and procured by HR;
- 4) Evidence of skilled staff leaving the Council to neighbouring authorities for higher salaries. (Comparable job descriptions/specifications and exit interviews evidence should be available).

4.2 In all cases the criteria triggering requests must be valid and demonstrable at the time that the supplement is requested. Supplements must not be paid to compensate for salary changes arising from restructures or job evaluations.

5.0 Payment of Market Forces Supplements

5.1 Any supplement paid to a newly recruited post holder should be paid to all other post holders in identical posts (identified as the same job group under job evaluation) as a retention aid. Failure to do so could result in claims of discrimination. Details of the number of other posts that would receive the MFS must be included in the initial request for information. It is critical that an equality impact assessment (EIA) analysis is compiled to assess the affected posts before any MFS payment is approved for a whole job group. This should be submitted as part of the information for the service Chief Officer and Chief Officer with responsibility for Finance and will be a background paper for the political Decision Sheet.

6.0 Equality

6.1 Inconsistently managed MFS may give rise to equal pay claims and hence must be based on objective, demonstrable criteria at the time of application and throughout the

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duration of the payment. An EIA analysis will be compiled prior to the payment of any MFS as set out in paragraph 11.1.

7.0 Funding

- 7.1 There is no central budgetary provision for payment of Market Forces Supplements. Services will need to identify existing resources at the time of application; this needs to be confirmed by the appropriate Group Accountant. Particular emphasis needs to be given to considering costs when a whole job group would attract payment. Consideration must also be given to the fact that some job groups are spread across a number of directorates