

HUMAN RESOURCES & COUNCIL TAX COMMITTEE
30 July 2024

REPORT OF ASSISTANT DIRECTOR OF PARTNERSHIPS

A.4 - MARKET FORCES POLICY UPDATE REPORT

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To present the revised Discretionary Market Forces Policy (*which has been updated in line with best practice and follows the advice and guidance of the East of England Local Government Association*) to the Human Resources & Council Tax Committee for approval.

EXECUTIVE SUMMARY

The Council is committed to the principles of equal pay for work of equal value. The National Job Evaluation and Grading Scheme provides an analytical and non-discriminatory method of evaluating jobs. However, there may be exceptional circumstances, explicitly due to labour market conditions, where the evaluated grade results in an inability to successfully recruit or retain suitable staff for specific jobs. In these exceptional circumstances, it may be appropriate for consideration to be given to the payment of a Market Forces Supplement to overcome this problem.

A Market Forces Supplement is an additional, temporary payment to the basic salary of an individual job or specific group of jobs where market pressures would otherwise prevent the Council from being able to recruit or retain staff with a particular skill or group of skills. It is an exceptional measure and will be taken only when other measures have been exhausted.

The Council views Market Forces Supplements as ‘Risk and Retention’ payments, in that these incentives are provided to employees in critical roles, aiming to retain these highly skilled staff, by compensating them according to job market conditions.

The Human Resources and Council Tax Committee have previously requested that Officers engage the services of the East of England Local Government Association (EELGA) to expand on the earlier Pay Review undertaken to carry out a comprehensive, service wide review of TDC’s pay structure as follows: -

- Across the whole staffing establishment (including Chief Officers), in the context of neighbouring (District) authorities and regionally.
- In the context of professional and technical areas – this will be an extension of the work already undertaken by EELGA and will also consider those areas in which Market Forces Supplements are currently applied.

Analysis of the benchmarking data indicates that the majority of roles are paid at a level in line with comparative roles in the East of England region. This aligns with the Council’s experience of recruitment and retention and indicates that the pay line is set at an appropriate level.

Similar to other local authorities, Tendring experiences recruitment and retention issues for some professional/technical roles and uses a Market Forces Supplement (MFS) Scheme in respect of those.

The Council's Discretionary Market Forces Policy was last updated in July 2021. To ensure its continued alignment with recognised best practice, the policy has been revised based on several recommendations from the EELGA review. These recommendations include the following: -

- Data on all Market Forces Supplements will be reported to the Council's Human Resources & Council Tax Committee annually to ensure regular monitoring of their use across the Council.
- When Market Forces Supplements are paid, they are time-limited and subject to rigorous review in line with market conditions.
- Proposals, including recommendations on the actual value of the Market Forces Supplement to be applied (*up to or equivalent to a maximum of one grade in the authority's salary structure*), will be included in the business case put forward for approval. This will depend on the market salary benchmarking undertaken.
- The cost of Market Forces Supplements will be met from service budgets.
- The Market Forces Supplement will be payable for two years. If, after 18 months, the Head of Service/Assistant Director believes further payment is necessary due to market conditions, they will conduct another comprehensive review. This review must be carried out no later than three months before the anticipated supplement end date.
- Should the review identify that there is no longer a need for the payment of a Market Forces Supplement, the HR Team will give the employee three months' notice that the supplement will be coming to an end, with no right of appeal.
- Finally, delegation for the approval of Market Forces Supplements will be afforded to the Head of Paid Service, in consultation with the Assistant Director of Partnerships and the Chair and Vice Chair of the Human Resources & Council Tax Committee.

RECOMMENDATION(S)

It is recommended that the Human Resources & Council Tax Committee: -

- a) Approves and adopts the Council's updated Discretionary Market Forces Policy, noting the incorporated change in the approval process for future Market Forces requests, including the proposed delegation afforded to the Head of Paid Service, in consultation with the Assistant Director, Partnerships and the Chair and Vice Chair of the Human Resources & Council Tax Committee.**
- b) Notes that the Human Resources team will keep a register of market supplements in payment and this will be reported to the Council's Human Resources & Council Tax Committee on an annual basis, to ensure regular monitoring of the use of market supplements across the Council.**

REASON(S) FOR THE RECOMMENDATION(S)

Failure to adopt a robust mechanism for addressing skills shortages in technical and specialist areas

jeopardises the authority's ability to meet service needs.

Furthermore, the Council must adhere to good practice when applying Market Forces Supplements, ensuring they are used only when clear evidence of need exists. Failure to do so may lead to equal pay challenges under the Equal Pay Act 1970

ALTERNATIVE OPTIONS CONSIDERED

While the authority has the option to disregard the recommendations provided by EELGA regarding the application of Market Forces Supplements, however adopting these recommendations ensures that the authority continues to apply best practices in making these payments. Consequently, this approach mitigates the risks highlighted elsewhere in this report

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Positive people-related practices will ensure that high standards of conduct and commitment to service are observed by officers, thus contributing to the Corporate Plan 2024-28 priorities of 'Financial Sustainability and Openness' and 'Pride in Our Area and Services to Residents'.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The Council must ensure compliance with employment legislation, the Equalities Act 2010, and the Working Time Directive.

The Council has a legal duty of care to employees to ensure their health and safety at work, as set out in the Health and Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1999 and other related legislation.

The National Job Evaluation Scheme measures the 'size,' nature, and level of a job (*not the person doing the job*) based on a series of factor levels. On this basis, its application protects the Council from the risk of 'equal pay' claims. Furthermore, The Council must comply with good practice in applying Market Forces Supplements and ensure that these are used only when there is clear evidence of the need. Failure to do so could again result in equal pay challenges under the Equal Pay Act 1970.

The Human Resources & Council Tax Committee have responsibility for the discharge of the Part II – miscellaneous functions as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), and as detailed in Appendix 1 to Part 3 of the Constitution; including the 'decision-making on key Human Resource and Personnel issues not reserved by the Council or delegated to officers'. This extends to the agreement of key personnel policies, including those relating to Pay and Reward.

FINANCE AND OTHER RESOURCE IMPLICATIONS

This policy update incurs no additional cost to the authority, except for expenses related to the application of agreed Market Forces Supplements. It is envisaged that the cost of Market Forces Supplements will be met from service budgets. However, there may be occasion where costs may need to be financed via several routes, as agreed by the S151 Officer (*rather than just from the relevant service areas budget*), as some service areas would otherwise find themselves severely affected.

USE OF RESOURCES AND VALUE FOR MONEY

It is envisaged that this report does not require additional resources. However, the Human Resources

team will be required to keep a register of Market Forces Supplements in payment and will trigger the review at the appropriate time.

The following are submitted in respect of the indicated use of resources and value for money indicators:

<p>A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;</p>	<p>By ensuring best practice is applied to our people policies and procedures, including the application of Market Forces Supplements, the authority will ensure it attracts and retains the resources required to sustain high levels of service delivery for residents.</p>
<p>B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and</p>	<p>Regular monitoring of the workforce and review of the authority's people policies (<i>in line with recognised best practice</i>) also ensures compliance with employment legislation and NJC terms and conditions.</p>
<p>C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.</p>	<p>As a major employer in the district, the Council's ambition is to contribute to building a more prosperous local community by modelling good employment practice.</p> <p>Tendring District Council is also an 'Anchor' organisation; Anchors play a key role in shaping and developing the skills of the local workforce.</p>

MILESTONES AND DELIVERY

- (a) Management Team 2 July 2024
- (b) Human Resources & Council Tax Committee 30 July 2024
- (c) Officer Decision 6 August 2024
- (d) Publication to TDC intranet 3 September 2024

ASSOCIATED RISKS AND MITIGATION

Failure to have a robust mechanism for addressing skills shortages in technical and specialist areas places the authority's ability to meet service needs at risk.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The local union branch executive has been consulted on these proposals and is fully supportive of the approach outlined in this report.

EQUALITIES

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.

In line with the Public Sector Equality Duty, public bodies such as the Council must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, and victimisation, advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

The Council is committed to being an inclusive employer in all its People policies and practices, which it extends to volunteers.

As a Disability Confident Leader and an Anchor Organisation, the Council will proactively identify and facilitate ways to recruit individuals who may experience barriers to employment.

The Council will also take an active leadership role in encouraging and working with local communities and employers to do the same.

Having undertaken an equality impact assessment, the conclusion is that the proposal does not impact the protected characteristics.

SOCIAL VALUE CONSIDERATIONS

The Council aims to lead by example as a major local employer. This includes, following recognised best practice and ensuring full compliance with legislation.

Examples of this include, being a Disability Confident Leader and an Employer Recognition Scheme Gold Award holder; both commit the authority to being an advocate in these areas.

The Council is also an Anchor organisation. Anchor organisations are usually large organisations that are local to the place they operate and have the leverage to maximise social value through their role as workplace developers, employers and procurers, their core businesses (*for example, health and education*), and the linkages they have to the place they operate.

Finally, the Council seeks to promote growth and development opportunities for all within a community and ensure that they have access to opportunities to develop new skills and gain meaningful employment. This is further supported and evidenced via the organisation's commitment to apprenticeships and its Career Track service.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

This report has no direct implication on the Council's aspiration to be net zero by 2030.

OTHER RELEVANT IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	Not applicable
Health Inequalities	Tendring is a major employer in the District of Tendring and employs 530 staff. Employment is a significant factor in supporting good health and contributes to the wider determinants of health agenda.
Area or Ward affected	Not applicable

ANY OTHER RELEVANT INFORMATION

N/A

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The introduction of the National (*Single Status*) Job Evaluation and Grading Scheme (*developed jointly by National Employers and Trade Unions*) provided an analytical and non-discriminatory

method of evaluating jobs in Local Government. The Scheme measures the 'size,' nature, and level of a job (*not the person doing the job*), based on a series of factor levels such as, knowledge and skills, responsibilities, physical effort and working conditions (**13 factors in total**).

The Council worked with EELGA last year to carry out an independent review of its pay structure. This led to some options to support best use of the NJC pay spine in alignment with the employment market. These included, salary and benefits benchmarking, improved marketing of vacancies and our employment offer and expanding our well-established "grow our own" ethos. These options have been considered as part of the Senior Management restructuring.

The Council later commissioned EELGA to undertake a secondary piece of work to carry out a comprehensive, service wide review of TDC's pay structure. Analysis of the benchmarking data indicates that the majority of roles are paid at a level in line with comparative roles in the East of England region. This aligns with the Council's experience of recruitment and retention and indicates that the pay line is set at an appropriate level.

In common with other local authorities, the authority may experience recruitment and retention issues for some professional/technical roles and uses a Market Forces Supplement (MFS) Scheme in respect of those roles.

Market supplements are payments made in exceptional circumstances and applied to an individual job role (or group of roles) in addition to the basic salary established through the job evaluation process. They are paid when it has been demonstrated that the total reward package offered by the Council is not sufficient to attract, recruit and retain employees because of labour market forces. The total reward package which will be used when making comparisons with the market includes basic salary plus all other benefits (e.g. annual leave, pension, sick pay provisions).

The Council will follow a clear and consistent procedure for the determination, implementation and review of market supplements which ensures that:

- A clear and demonstrable business case exists;
- All market supplement payments will be time-limited and subject to review on a regular basis and varied or removed as necessary;
- An objective assessment of appropriate evidence has been carried out;
- All other methods, approaches and potential other reasons have been fully explored, before a market supplement is considered;
- The rationale for the use of a market supplement is clearly and consistently recorded and reported;
- The Council meets its obligations under equal pay legislation and maintains the overall integrity of its pay and grading structure.

Where a market supplement is agreed for a specific post or group of posts, all existing, as well as newly recruited post holders in the relevant job will be eligible for the market supplement if they occupy exactly the same role with the same terms, conditions, and job profile unless there is clear objective justification not to do so.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

Report of the Assistant Director (Partnerships) - A.5 - Discretionary Market Forces Policy Review: [Agenda for Human Resources and Council Tax Committee on Wednesday, 7th July, 2021, 7.30 pm \(tendingdc.gov.uk\)](#)

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

N/A

APPENDICES

Appendix A – Discretionary Market Forces Policy**REPORT CONTACT OFFICER(S)**

Include here the Name, Job Title and Email/Telephone details of the person(s) who wrote the report and who can answer questions on the content.

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