

Title:	Market Factor Policy & Procedure
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Author(s):	Policy & Strategy & consultancy Team
Sponsor:	Director of Human Resources and Change
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Application	<p>This policy and procedure applies to all Swindon Borough Council employees employed under terms and conditions of the National Joint Council for Government Officers (Green Book) and Craft Workers. The policy and procedure will be applied to posts evaluated using the National Joint Council Job Evaluation scheme and the Hay Job Evaluation scheme.</p> <p>For clarity, this process does not cover the following groups of staff:-</p> <ul style="list-style-type: none"> • Those employed under Soulbury terms and conditions • Those employed under Teaching terms and conditions • Those employed under Chief Officer terms and conditions
This document replaces:	N/A

1 Purpose

The purpose of this document is to provide details of how to request market factors, the application of the Market Factor Policy and it clarifies in what circumstance it will be applied.

The policy and supporting documentation ensures that the application of the policy will:

- Be fair, consistent, robust and transparent for equality proofing purposes.
- Be cost effective.
- Have the appropriate governance and sign off procedures.
- Seek to have the support from the unions.
- Ensure that the Market Factor Policy is applied only when absolutely necessary.

2 Introduction

- 2.1 All employees are appointed to posts, which have been evaluated under either the NJC or Hay job evaluation scheme and pay grade structures and salaries are determined under these schemes. External labour market conditions can produce a situation in which staff

with scarce skills and expertise can command higher salaries than the maximum provided under the current grading mechanism for that post. The relevant labour market may include another local authority or elsewhere in the public or private sectors.

- 2.2 The Equal Opportunities Commission (EOC) recognises that an employer may wish to pay one group of workers more than another, even though their work is of equal value, because the “going rate” for the job is higher. This may be due to geographical reasons or a skills shortage in one job compared to another.
- 2.3 Market factor supplements are not linked to an individual’s actual or anticipated performance within the role. They are linked to the difficulty in recruiting to certain posts requiring specific skills or qualifications.
- 2.4 It is also accepted that in some instances the opposite may apply i.e. that external labour market conditions produce a situation in which employees are currently paid a salary that is significantly higher than the market rate and therefore a reduction in salary may be applied.
- 2.5 In both these exceptional circumstances, Swindon Borough Council can, at its discretion, make additional payments to recruit and retain such employees or implement a reduction in salary to ensure that it remains competitive in the market place.

3 Aims and Objectives

- 3.1 The Council’s aims and objectives are to:
 - Support the recruitment and retention of quality employees to key roles within the Council.
 - Ensure there is strong evidence to support a supplement/adjustment, so that the Council is not at risk of being challenged on the basis of Equal Pay.
 - Ensure that additional supplements/adjustments will be applied to achieve effective recruitment and retention in a fair, consistent, transparent and robust manner and in a way that does not discriminate against any individual or groups of employees.
 - Ensure that Swindon Borough Council remains competitive within the market place.
- 3.2 Market factors will not be applied in order to:
 - Retain a high performing or highly valued employee who has indicated that they might leave unless their salary is increased.
 - Compensate for any additional accountabilities outside their job description.

4 Application of the Policy

All Heads of Service and Head Teachers wishing to consider making a request under the policy should consult the Head of Human Resources & Talent. They must be able to demonstrate that there are objectively justified grounds to enhance the pay of a particular job by the payment of a market factor supplement or the reduction of a salary through a market adjustment.

General Provisions

- 4.1 The Market Factor Policy will be applied where there is clear evidence that recruitment and retention difficulties are caused by the pay rate being low, relative to those offered by other employers for similar posts in the relevant recruitment market or in circumstances where it has been identified that the market rate is lower than the pay rate paid to existing employees. In most instances this will be within the local Swindon area. It may be appropriate, in some instances, to extend the search nationally – specifically if the role cannot be recruited to locally.
- 4.2 This initial assessment should be based on all or some of the factors below, by demonstrating that:
- There is difficulty in recruiting to a post resulting in actual or foreseeable operational and/or organisational problems;
 - A high turnover rate is linked to employees leaving due to salaries not being high enough;
 - These problems will be removed or reduced by paying a market factor supplement or introducing a reduction to the salary through a market factor adjustment and that it will be subject to review as circumstances change;
 - The external market rate for the job is higher or lower than the internal rate. This includes knowledge of pay offered by competitor organisations, locally or nationally, and other local authorities that employ similar roles (evidence of pay rates based on adverts etc must be provided);
 - There is a valid comparison between the post concerned and the posts identified in other organisations i.e. same duties and responsibilities. Any differences in conditions of employment and overall reward package also need to be explored.
- 4.3 The Market Factor Request Form must be completed to determine and apply the Market Factor Policy and it includes a checklist to be completed by the Head of Service/Head Teacher in conjunction with their relevant HR Business Partner.
- 4.4 This will ensure that all appropriate evidence, supported by the relevant documentation, is considered in order to determine if a supplement/adjustment is justified. Any recommendation for the application of a market factor must be authorised by the appropriate Director or Governing Body and the Director of HR & Change or their HR nominee.
- 4.5 This research for evidence will vary depending on the nature of the role(s) and the type of information available but must be robust to support any supplement/adjustment that may be challenged through an Equal Pay Claim. The evidence may include some or all of the following:
- Recent salary surveys supplied through recognised providers (e.g. Hay);
 - Internet research of similar jobs being advertised by other organisations;
 - Details of minimum, maximum and median salaries of the role(s) in the other organisations being investigated.
- 4.6 The cost of any market factor supplement must be met by the service area or school that has requested the payment to be paid to an individual.

- 4.7 Market factor supplements will not be included as part of an employee's total salary when responding to e.g. mortgage application references. They may, however, be stated separately.

5 Procedure for requesting Market Factor Supplement/Adjustment

The following procedure and checklists must be followed when deciding whether a market factor supplement/adjustment is justified for any post. The Head of Service/Head Teacher must complete the Market Factor Request Form and the checklist in conjunction with their HR Business Partner, in order to provide an audit trail and to demonstrate need for a market factor.

5.1 Recruitment Problems

Where there are serious difficulties in recruiting to a particular post or type of post, or where there is external evidence of such problems, the following issues should first be considered:

- The number of applications for a post; the number of candidates shortlisted; and the appropriateness of the media used.
- Making the information packs more appealing, e.g. by promoting more effectively the benefits (often non-pay) of working for the Council.
- Removing any undue delays or specific problems with the selection procedure, which means that applicants may accept other job offers during the recruitment process.
- Ensuring that the job description and the person specification are appropriate and reflect realistic skill sets.
- Changing the media where the advert was placed to a more appropriate one.
- Ensuring that the advert is appealing and highlights the best aspects of the role and the Council to attract applicants.

5.2 Retention Problems

If the problem is one of retention, i.e. where the employee turnover in a particular type of post or discipline is significantly higher than the norm, the following issues should first be considered:

- The reasons for employees leaving. This information can be obtained from e.g. exit interviews, staff surveys, other feedback channels.
- If pay is not the main factor, look at whether retention problems can be addressed by other means, e.g. improved training/career development opportunities, improved conditions or benefits, improved job design or improved management.
- If pay is confirmed to be the main factor, assess whether it can be increased within existing reward mechanisms, e.g. whether the job is graded correctly or increase the salary to the top of the range within the grade.

5.3 Impact on service

The Head of Service/Head Teacher must outline the operational problems caused by the recruitment and retention difficulties stating how long the post has been vacant for and the impact this has had and will continue to have on the service.

5.4 Market Data & Competitiveness

- 5.4.1 The Head of Service/Head Teacher must ascertain what the market rate for the job is. This can be obtained from job advertisements, survey data/pay databases and direct from other local authorities. The posts being compared must match the post you are considering for market factor in terms of the duties and responsibilities, the terms and conditions and total reward package. Information must be provided for comparable posts in at least three relevant organisations.
- 5.4.2 The median remuneration level within the relevant labour market survey should be used as the indicator of the “market rate” for the post.
- 5.4.3 The value of the market factor will be capped and will not exceed the maximum market rate that has been identified as part of the evidence gathering.
- 5.4.4 In exceptional circumstances the Council will be required to implement a market factor adjustment by reducing the base pay of the salary of a job role to bring it in line with the market and to ensure that the council remain market competitive. If this circumstance arises, the same principles and calculation methodology will apply. Consultation with affected staff groups will be required. The following must be considered:
- The evidence must indicate that the market rate or salary is lower than that offered by the Council.
 - The effect on the Council and the service that reducing base pay will have.
 - The means by which market competitiveness can be achieved.

5.5 Results

- 5.5.1 If the evidence gathered indicates that the market rate is higher than the value of the total reward package offered by the Council, the Head of Service/Head Teacher and their HR Business Partner will first consider whether any improvements can be obtained by making applicants more aware of compensatory non-pay benefits.
- 5.5.2 Where it is an existing post, having obtained evidence, if the Head of Service/Head Teacher wishes to recommend a market factor supplement or a market factor adjustment they should complete the relevant documentation for approval by the Director/Governing Body and the Director of HR & Change or their HR nominee.
- 5.5.3 Where it is a new post, the Market Factor Request Form can be processed prior to obtaining authorisation to recruit.
- 5.5.4 The size of the supplement/adjustment will be determined by the difference between the maximum (NJC) or midpoint (Hay) of the grade for the post and the market rate in question. Where possible the median market rate will be used for ongoing supplement/adjustment although this may be lower or higher than median depending on individual circumstances. Variations to median market rate will require agreement with the Director of HR & Change or their HR nominee.

- 5.5.5 The value of the supplement/adjustment will be the difference between the SBC pay level and the market rate, as detailed above. It will be a specific amount and it is not linked to the annual cost of living increase or performance pay progression.
- 5.5.6 HR Business Partners will be responsible for ensuring that all evidence received is sufficient to prevent an Equal Pay Claim.
- 5.5.7 Records must be maintained to demonstrate the purpose, justification and extent of any proposed supplement/adjustment. All the evidence and the completed Market Factor Request Form that was forwarded to the Director of HR & Change will be held by the HR Department.
- 5.5.8 Supplements/Adjustments will be audited from an equalities perspective to ensure that there is no adverse impact on any individual or group of employees on the basis of gender, disability, age, race, marital status, religion, colour, nationality, ethnic or national origin, or because of their sexuality or sexual orientation.

5.6 Application of Market Factor Supplement/Adjustment

- 5.6.1 If a market factor is applied to a particular post, it will be applied to all current and new employees in that post.

For current employees, the increase will take effect the month after the review.

- 5.6.2 HR First Response will send written confirmation to the employees detailing the basis for the application of the market factor, the amount of the market factor supplement/adjustment, the effective date, the duration for which the payment/adjustment will be applied, arrangements for review and how any subsequent changes will be implemented.
- 5.6.3 In the event of a payment the post holder accepts that this change is an amendment to their contract of employment and that on review, if there is no longer a justification to pay a market supplement, it will be withdrawn. Following the review, a notice period of 3 months will be given of the Council's intention to reduce or withdraw the additional payment. The market factor supplement will then be reduced or withdrawn. In exceptional circumstances the reduction may happen in stages over a period of up to a further 3 months. This will be determined by the Director of HR & Change.
- 5.6.4 If the post holder is promoted or appointed to another position, which is not subject to a market factor supplement, the market factor will cease with effect from the last date of their existing post.
- 5.6.5 The market factor will not be subject to any annual pay award. The market factor will be applied in addition to the incremental point at which the individual is paid for NJC graded posts and in addition to their basic pay for Hay graded posts.
- 5.6.6 The amount of any market factor should be clearly identified as a separate temporary payment/adjustment and not incorporated in the basic grade/rate of pay for the post. It will not alter the grade of the post which is determined by the job evaluation process.

- 5.6.7 Payments/adjustments will be made on a pro-rata basis to the hours worked for staff working part-time in the post, based on the amount for full-time employees.
- 5.6.8 The payment will be subjected to tax and national insurance contributions.
- 5.6.9 As the market factor supplement forms part of the employee's contractual pay, it is therefore pensionable. Employees are required to pay pension contributions on the value of the market factor supplement if they are a member of the Local Government Pensions Scheme.
- 5.6.10 The market factor supplement will be included in gross pay and will be included in calculations for e.g. sick pay, maternity/paternity/adoption pay, holiday pay, overtime pay, redundancy pay and when making any deductions.

5.7 Review of Market Factors

- 5.7.1 The Head of Service/Head Teacher and their HR Business Partner must review at agreed intervals the payment of a market factor supplement/adjustment using the Market Factor Request Form, in order to ensure that it continues to be justified and the amount paid/adjusted is still appropriate. The review date may differ from the salary review date, but must be done at least every two years, depending on the circumstance of the case.
- 5.7.2 The Head of Service/Head Teacher must, following the review, send the completed Market Factor Request Form, check list and supporting evidence to their Director/ Governing Body for approval and then to the Director of HR & Change for authorisation to continue, increase, decrease or cease the market factor supplement/adjustment.
- 5.7.3 The payment of market factor supplements/adjustments is temporary and may cease if the market conditions change and market pay rates fall or rise, or the employee leaves, transfers to another role or is seconded to a different post that does not attract a market factor supplement/adjustment.
- 5.7.4 Similarly in the event that the post is vacant and subsequently filled, the market factor is not inherited and will need to be determined at the point of offer of that post.
- 5.7.5 The review must consider the likely impact that removing or reducing a market factor payment will have on vacancies and staff turnover.
- 5.7.6 If the evidence supports the reduction or withdrawal of a market factor, the post holder concerned will be given 3 months' notice in writing with reasons for the withdrawal or reduction of the market factor.
- 5.7.7 The market factor supplement will then be reduced or withdrawn. In exceptional circumstances the reduction may happen in stages over a period of up to a further 3 months. This will be determined by the Director of HR & Change.

5.7.8 Where the available evidence on pay rates elsewhere and labour market conditions show that an increase in the market factor supplement is required, the increase will take effect in the month following the review date. The post holder concerned will be sent confirmation of the increase in writing from HR First Response.

5.8 Responsibilities

5.8.1 It is the responsibility of the appointing Head of Service/Head Teacher to provide factual evidence to demonstrate the grounds to pay a market factor supplement or apply an adjustment.

5.8.2 The HR Business Partner of the service area will assist the appointing Head of Service/Head Teacher in checking the factual evidence.

5.8.3 Application of a market factor will be subject to approval by the Director of the service area/Governing Body and authorisation by the Director of HR & Change.

5.8.4 HR First Response will confirm in writing to the employee the details in relation to the application of the market factor at the point it is applied to the post and upon review.

5.8.5 The appointing Head of Service/ Head Teacher must conduct a review at least every two years after the initial approval and at the time of any future recruitment to the post.

6 Communication

This document will be held on the Council's intranet site and distributed to relevant stakeholders who include Heads of Service, Head Teachers, Directors and Governing Bodies.

Related Guidance, Policies and Procedures:	<ul style="list-style-type: none"> - Grading appeal policy - Pay Progression Policy - NJC National Agreement on Pay and Conditions of Service (aka 'The Green Book').
Legislation:	<ul style="list-style-type: none"> - Employment Rights Act 1996, as amended by the Employment Relations Act 1999. - Equal Pay Act
Contacts:	<p>For more information on this policy please contact the HR Service Centre on:</p> <p>☎ ext. 4343 (internal)</p> <p>☎ 0800 032 5642 (if you are calling from an outside line)</p> <p>✉ hfirstresponse@swndon.gov.uk</p>