

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE**

**6 OCTOBER 2022**

**Report of the Director of Organisation Development & Policy**

**Interim Recruitment & Retention Payments Policy**

**1. Purpose**

- 1.1 To seek approval of the Interim Recruitment and Retention Payments Policy which is attached at Appendix 2. This proposed policy expands the Market Supplement Policy to include the ability for the Council to offer recruitment and retention payments.
- 1.2 To seek approval to delegate decisions on individual recruitment and retention payments to the Head of Paid Service, who will consult with the Section 151 Officer, Monitoring Officer, Director of Organisation Development and Policy and the relevant Executive Director to inform the decision.

**2. Information and Analysis**

- 2.1 At Full Council on 13 July 2022 the Council's Pay Policy Statement (PPS) was updated to enable greater flexibility to apply recruitment and retention payments. Members were advised that, to support the making of recruitment and retention payments, a clear framework would be established. That framework has now been developed and incorporated into the Market Supplement Policy. The policy has been renamed Interim Recruitment and Retention Payments Policy which is attached at Appendix 2
- 2.2 Without developing a clear framework for considering applications there may be inconsistent application, which over time would weaken the

Council's material factor defence, create higher equal pay risk and could lead to employee relations issues.

2.3 The current Market Supplement Policy has been revised and re-named as outlined in section 2.1. The revised policy includes three additional types of recruitment and retention payments which may be considered where there is clear evidence that recruitment and retention issues are impacting on service delivery (which may cause financial, legal and reputational risk to the Council) providing all other non-pay avenues have been explored and discounted. Full details of the payments are outlined within the policy however they are briefly summarised below:

– **Welcome payments (Item 2.3 in the Policy)**

Welcome payments are a one-off lump sum recruitment incentive payment made to eligible successful candidates on appointment to the Council. Welcome payments are made on the agreement that employees will remain in employment in the eligible role for the duration of the qualification period.

– **Retention payments (Item 2.4 in the Policy)**

Retention payments are similar to welcome payments but are paid to eligible employees following completion of a specified period of service. The revised policy allows the flexibility to use welcome and retention payments together, i.e. a welcome payment on joining the council and a retention payment after a specified period of service, or a series of retention payments e.g. at 12 months and 24 months.

– **Recommend a friend payments (Item 2.5 in the Policy)**

Recommend a friend payments (up to £100) may be paid to employees on grade 14 or below who recommend an external candidate for a specified role with the council to support recruitment to hard to fill roles. The payment may be made to the referring employee once the successful candidate has completed 6 months service in that role.

2.4 Market supplement payments are appropriate where market data indicates that the rate of pay for a defined post or group of posts falls below the required level in relation to the comparator market. The additional payment types included in the draft policy enable the council to consider recruitment and retention payments where the market data does not support a market supplement but there is clear evidence of failure to recruit and/or retain suitably skilled staff causing serious risk to service delivery.

2.5 The amended policy, incorporating welcome payments, retention payments and recommend a friend payments is being positioned as an

interim policy to enable the Council to assess the effectiveness of the initiatives in improving recruitment and retention and to monitor how the national and political position impacts our pay line and therefore the necessity of the policy.

- 2.6 The ACOS Committee is asked to approve the Interim Recruitment and Retention Payments Policy noting that such payments are restricted to circumstances where there is clear evidence of failure to recruit and retain suitably skilled staff causing serious risk to service delivery.
- 2.7 In addition, the ACOS Committee is asked to consider the delegation of decision-making in respect of the application of the welcome payments, retention payments and market supplement payments to the Head of Paid Service, who will consult with the Section 151 Officer, Monitoring Officer, Director of Organisation Development and Policy and the relevant Executive Director to inform the decision. It is recommended for this delegation to be applied to enable the Council to respond efficiently to current recruitment and retention issues that may arise. Where the decision takes the total remuneration for a post in excess of £100,000 per annum or where the application relates to the Head of Paid Service the decision to apply a welcome payment, retention payment or a market supplement must be determined by Full Council.
- 2.8 Welcome payments, retention payments and market supplements will be payments which are made on an objective basis to a specific group of employees where it is considered by the decision-maker that the roles meet specific requirements as set out in the policy and that the payment is appropriate in light of the identified risks of making and of not making the payment. Therefore, these are policy decisions which, under the Constitution, are the responsibility of the ACOS Committee. In accordance with the Constitution, the Committee is able, to consider delegating the decision-making in respect of these payments to a sub-committee or officer.
- 2.9 The recommend a friend payment is made to specific individuals who meet designated eligibility criteria as set out in the policy. Therefore, this would be a payment made to an individual in compliance with corporate employment policies and consequently fall within the delegations under the general staffing conditions as set out within the Constitution at part A4 of Appendix 1. It would be an officer decision and a matter for Executive Directors as to payments in respect of individual cases.
- 2.10 For consistency, it is suggested that Executive Directors consider the making of these payments are further delegated for approval to the

Head of Service applicable to the service area that wishes to apply these payments. The Head of Service is the budget holder and therefore can assess the appropriateness of applying the payment in consultation with the Recruitment Manager. This would then need to be included in individual departmental schemes of delegation. However, this would be a matter for consideration by Executive Directors.

### **3. Consultation**

- 3.1 Consultation on the Interim Recruitment and Retention Payments Policy has taken place with the joint trade unions. Trade unions raised concerns that the policy does not fall under the usual policy review i.e. 3 year cycle and therefore it is proposed that the policy will be reviewed after 12 months to assess the effectiveness of the initiatives, subject to ACOS agreement.
- 3.2 It was also confirmed to the joint trade unions that processes will be established to monitor payments (as with current market supplement payments) and that regular analysis and reporting of 'recommend a friend' payments would be shared with the joint trade unions via the Reward and Resourcing workstream.
- 3.3 The joint trade unions sought clarification on whether agency workers who work more than 12 weeks should receive recruitment and retention payments, and specifically recommend a friend payments. As outlined in the Equalities Impact section in Appendix 1 at 5.2, such a payment to agency workers is specifically excluded by the relevant legislation and therefore, agency workers will not qualify for this payment

### **4. Alternative Options Considered**

- 4.1 The Council could determine not to implement a policy. Not having such a policy would not prevent consideration of recruitment and retention payments as outlined in the Councils Pay Policy Statement, however these would be considered without a framework in place. This would increase the equal pay risk to the council and challenge from other services as applications would be considered without criteria in place and this could therefore lead to inconsistencies.
- 4.2 Alternatively the Council could decide not to make recruitment and retention payments. However, the Council has already agreed to the ability to make such payments within the Pay Policy Statement. Therefore, a refusal to consider such payments under any circumstances would not be appropriate. Furthermore, without the flexibility to consider these payments, the Council will continue to

encounter issues with recruitment and retention for specific occupational groups which ultimately will impact on the ability to provide required services which could result in financial, legal or reputational risk to the Council.

- 4.3 The recommended approach of implementing an Interim Recruitment and Retention Payments Policy incorporating welcome payments, retention payments and recommend a friend payments provides a clear framework for applications to be assessed against, ensuring they are considered consistently and the Council has a clear rationale for applying the payment and is considered to be the most appropriate option.

## **5. Implications**

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **6. Background Papers**

- 6.1 None

## **7. Appendices**

- 7.1 Appendix 1 – Implications.  
7.2 Appendix 2 – Interim Recruitment & Retention Payments Policy

## **8. Recommendation(s)**

That Committee:

- a) Approves the draft Interim Recruitment & Retention Payments Policy
- b) Agree that decisions to award a recruitment or retention payment including welcome payments, retention payments and market supplement payments under the policy be made by the Head of Paid Service, who will consult with the Section 151 Officer, Monitoring Officer, Director of Organisation Development and Policy and the relevant Executive Director to inform the decision. Where the decision takes the total remuneration for a post in excess of £100,000 per annum or where the application relates to the Head of Paid Service the decision to apply a welcome payment, retention payment or a market supplement must be determined by Full Council.

- c) Agree that decisions to apply the recommend a friend payment is approved by the Head of Service applicable to the service area that wishes to apply the payment to an advertising campaign in consultation with the Recruitment Manager.

**9. Reasons for Recommendation(s)**

- 9.1 To support the recruitment and retention of suitably skilled employees where there is serious risk to service delivery considering the financial, legal and reputational risk to the Council.
- 9.2 To enable the Council to be responsive to the market across all sectors and job roles when appropriate.

**Report Author:**

Pete Buckley

**Contact details:**

Pete.Buckley@derbyshire.gov.uk

## **Appendix 1**

### **Implications**

#### **Financial**

- 1.1 Directors/Heads of Service will identify funding for proposed recruitment and retention payments.
- 1.2 The introduction of a recruitment and retention payment does increase the financial risk of settling an equal pay claim however, providing the Council has a clear material factor defence, this risk is mitigated.
- 1.3 If additional budget is required to pay for a retention, welcome or market supplement payment this may need additional approvals through cabinet in line with the expenditure of the payments.

#### **Legal**

- 2.1 The Council needs to ensure that any payments under the Interim Recruitment and Retention Payments Policy do not expose it to potential equal pay claims under the Equality Act 2010. 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 Hay job evaluation scheme.
- 2.2 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 (1) the reason for the payments was genuinely due to the difficulty in recruiting to or retaining staff in, the specified role(s); (2) 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 (3) that the payments are reasonably necessary to improve the recruitment and retention, and likely to achieve positive results.
- 2.3 Any payments should be reviewed to ensure that the relevant conditions that necessitate the payments remains in force and do not expose the Council to unforeseen risk. The material factor defence can be reviewed to ensure it remains relevant. If challenged, the Council will need to satisfy a tribunal that any recruitment and retention payment reflected a genuine need to pay the retention payment to address an on-going issue.

- 2.4 Under the terms of reference, the ACOS Committee is required to approve corporate employment policies, to take key policy decisions in relation to equal pay, single status, job evaluation and market supplement payments and to determine the standard terms and conditions on which all staff hold office. Therefore, it is appropriate for this policy to be considered by the ACOS Committee.
- 2.5 Further legal considerations regarding decision-making and the Constitution are as outlined in the report.

### **Human Resources**

- 3.1 Consultation has taken place with the joint trade unions on the development and implementation of the draft policy as outlined in section 3 of the report.
- 3.2 The policy will be reviewed when it has been in place for 12 months taking into account the national position and the effectiveness of the policy's initiatives.
- 3.3 Eligible employees will be provided with full details of the terms and conditions around any agreed recruitment and retention payments.
- 3.4 Consideration will be given to the effect on related employee groups and the Council will engage with recognised trade unions on all applications.
- 3.5 The effectiveness of recruitment and retention payments will be monitored to assess the impact on recruitment and retention and to ensure they are applied in a consistent and non-discriminatory manner.
- 3.6 Recruitment and retention payments will be aligned with the Council's People Strategy, considered against the total reward package and long-term pay strategy and form part of a cohesive approach to addressing recruitment and retention issues across the Council

### **Information Technology**

- 4.1 None

### **Equalities Impact**

- 5.1 The Equality Impact Assessment (EIA) carried out for the existing Market Supplement Policy will continue to apply to the Interim Recruitment & Retention Payments Policy. The revised policy continues to require that an EIA is carried out for each application to



ensure there is no disadvantage to any protected groups when considering recruitment and retention payments and to ensure compliance under the Equality Act 2010.

- 5.2 Recruitment and retention payments are payable to fixed term and permanent employees. Self employed, agency workers, relief workers and individuals who are seconded into the council from external agencies are not eligible. After an agency worker has been in a job for 12 weeks they qualify for equal rights as someone who is employed directly including equal pay. Pay under the Agency Worker Regulations is defined as “*any sums payable to a worker of the hirer in connection with the worker’s employment, including any fee, bonus, commission, holiday pay or other emolument referable to the employment, whether payable under contract or otherwise...*” but excluding certain payments or rewards. Certain bonuses will be payable to agency workers for example commission linked to sales targets, however, bonuses designed to reward loyalty and service to the organisation, not based on individual performance are not included in the definition of pay under the Agency Worker Regulations. Therefore, agency workers are not eligible for recruitment and retention payments.
- 5.3 Consideration has been given to whether employees who are absent due to sickness during the qualifying period should become ineligible for a retention payment or if the period should be extended to offset the absence. However, employees’ service is maintained throughout periods of sickness and absence should be managed through the Council’s Attendance Management and Ill Health Capability Procedure. There is also a potential risk of discrimination in terms of disability or maternity related sickness. It is not always clear whether a sickness absence is related to a disability as defined under the Equality Act 2010. Due to the potential risk of discrimination, it is not considered this would be appropriate. The policy does not, therefore, include any reference of limiting eligibility to a recruitment and retention payment for sickness absence.

### **Corporate objectives and priorities for change**

- 6.1 This proposal aligns with the people priorities outlined within the Council’s People Strategy and in particular to ‘attract and retain the best people in the most effective way possible, enable responsive workforce plans and develop credible reward strategies’ by enabling the Council greater flexibility when applying recruitment and retention strategies.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 As part of the application, consideration of equal pay risk to the Council must be given and recorded on the Corporate Risk Register, specifically where the market pay rate is not the key driver for the attraction and retention issues.

# **INTERIM RECRUITMENT & RETENTION PAYMENTS POLICY**

<b>Version History</b>			
<b>Version</b>	<b>Date</b>	<b>Detail</b>	<b>Author</b>
1.0	September 2022	New Interim Policy to supersede the existing Market Supplement Policy	S Davis

<b>Links and Dependencies</b>
Derbyshire County Council - Council Plan

		Page
1	Introduction	
2	Scope	
3	Equality Impact Assessment	
4	Roles and Responsibilities	
5	Guiding Principles	
6	Identifying the comparator market and relevant market data	
7	Additional criteria	
8	Determining amount of recruitment and retention payment	
9	Payment Details	
10	Job Adverts	
11	Contractual documentation	
	Appendix 1 – Recruitment & Retention Payment Application Form	
	Appendix 2 – Recruitment & Retention Payment Process Flow Chart	

## **1. Introduction**

The Council is committed to operating consistent and equitable pay arrangements for all employees. To comply with the Equality Act 2010 male and female employees should generally receive the same level of pay if they are carrying out equivalent work. In order to achieve a pay structure free from gender bias the Council's pay rates are set in accordance with the scoring of roles under the Hay job evaluation scheme.

In exceptional circumstances, where the Council is able to demonstrate that recruitment and retention 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 or pay incentive, paid in addition to basic salary may be justified. This should be supported with clear evidence that the Council's rate of pay for a defined post, or group of posts, falls below the required level in relation to the comparator market or evidence provided that a local or national skills shortage or difficulties with occupational groups is causing a significant risk to service delivery and that without an intervention, the Council cannot attract and retain suitably skilled employees. The type of payment and required level of pay supplement will be determined by the Council at the time, taking into account the relevant criteria for the type of payment requested.

This policy sets out the guiding principles for the consideration and approval of recruitment and retention payments. The policy will be reviewed after 12 months taking into account the national position and the effectiveness of the policy's initiatives.

## **2. Scope**

Recruitment and retention payments will be paid to all employees in the relevant post as a separate and clearly identifiable addition to basic pay. It is a post related payment and as such does not relate to the performance, capability, commitment or merit of an individual employee.

Recruitment and retention payments may only be considered where supported by a business case, with the exception of the Recommend a Friend scheme that will require Head of Service approval.

The following are the Council's agreed recruitment and retention payments:

- **Market Supplement payment**
- **Welcome payment**

- **Retention payment**
- **Recommend a Friend payment**

## **2.1 Threshold for considering applications**

- Once the service, in consultation with the Head of Reward & Resourcing, identifies there may be a need for a temporary recruitment and retention payment (having exhausted all other non-pay avenues) an application under this policy may be considered
- When considering making an application under this policy you should be able to meet a number of these trigger points:
  - A corporate risk rating of 10 or above (high or very high) against the following factors:
    - Reputational
    - Physical injury/health & safety
    - Service/operational disruption/key targets/objectives
    - Statutory duties/legal implications
    - Stakeholder implications
  - Evidence of sustained unsuccessful recruitment campaigns, including numbers/types of campaigns/events/social media, with advice and support from Recruitment Campaign Leads, evidencing this has not increased the number of suitable candidates
  - Sustained vacancy issues with:
    - Less than an average of 5 applications per advert
    - Less than an average of 4 applications shortlisted per advert
  - Above average levels of continued turnover relative to the size of the work group
  - High level of continued agency usage
  - Flight risk, through workforce analysis and MyPlan/performance development reviews where you are able to identify a high level of risk within a specific workgroup
  - Exit questionnaire and exit interview data where employees cite pay as the reason for leaving
  - Evidence of alternative solutions considered
  - Competitor market data (where appropriate)
  - Evidence of national/regional/local skills shortages resulting in low levels of suitable skilled applicants

## **2.2 Market supplement payment**

- A market supplement may be considered where there is clear evidence that the Council is paying below the market rate for a specific role, or

roles and this is impacting the Councils ability to recruit and retain employees.

- A market supplement payment is a temporary monthly payment paid for up to two years and is calculated using comparative market salary data
- The award of a market supplement payment does not change the evaluated grade for the post and is a fixed amount paid in addition to the employee's basic salary
- Market supplement payments are not required to be repaid if an employee leaves the Council's employment
- Market supplement payments are subject to Head of Paid Service approval who will consult with the Section 151 Officer, Monitoring Officer and Director of Organisation Development and Policy and the relevant Executive Director to inform the decision.
- Where a market supplement payment is due to be withdrawn or changed, all affected employees will receive contractual notice of one month
- Where a post in receipt of a market supplement is regraded following evaluation, a full review and reapplication of the market supplement should be carried out to determine if the market supplement payment ceases or continues at a revised rate. The total remuneration package should not exceed the existing level of pay plus market supplement without further agreement from the Head of Paid Service.
- Self employed, agency workers and individuals who are seconded into the Council from external agencies are not eligible for market supplement payments

### **2.3 Welcome payment**

- Welcome payments may be an appropriate recruitment incentive where the market data does not support a market supplement payment
- Welcome payments are paid as a one-off lump sum to eligible employees on their appointment with the Council
- Welcome payments may also be considered for fixed term posts dependant on length of fixed term contract, providing the eligibility requirements are met
- It is recommended that the maximum amount payable is 10% of the bottom pay point for the identified role/s pay grade
- Consideration should be given to existing employees in the identified employee group receiving an equivalent retention payment, subject to meeting the relevant criteria
- Self employed, agency workers, relief workers and individuals who are seconded into the Council from external agencies are not eligible for welcome payments

- The payment will be made based on the contractual hours at the employee's appointment start date
- Employees who move to a non-eligible post, or leave the Council's employment within the specified period of time, will be required to repay all, or a proportion of the amount. If a recovery of a welcome payment is due, the Council will recover the balance in line with Council's Recovery of Overpayment Policy.
- The percentage of repayment should be proportionate to the initial payment and the eligibility/retention period. A minimum period of completed service of 12 months is recommended to ensure service delivery needs are met. The length of service in the identified post and repayment arrangements should be clearly stated within the terms as outlined in the example below:

**£3,000 2-years' service requirement**

<b>Period of service in identified post</b>	<b>Amount to be repaid</b>
Up to 12 months	100%
Between 12 months and 2 years	50%
2 years or more	0%

**£500 12 months' service requirement**

<b>Period of service in identified post</b>	<b>Amount to be repaid</b>
Up to 6 months	100%
Between 6 months and 1 years	50%
1 year or more	0%

- Welcome payments are made prior to the completion of a specified period of service and are therefore non-pensionable
- All welcome payments are subject to Head of Paid Service approval who will consult with the Section 151 Officer, Monitoring Officer and Director of Organisation Development and Policy and the relevant Executive Director to inform the decision.

## **2.4 Retention payment**

- Retention payments may be an appropriate recruitment incentive where the market data does not support a market supplement payment
- Retention payments are paid as a lump sum to eligible new and/or existing employee(s) on completion of a specified period(s) of time in a post
- It is recommended that the maximum amount payable per year is 10% of the bottom pay point for the identified role/s pay grade



- Self employed, agency workers, relief workers and individuals who are seconded into the Council from external agencies are not eligible for retention payments
- Payments will be made on a pro rata basis reflecting the weekly contractual hours on the date the payment is due as outlined within the application
- It may be preferable to pay a one-off amount after a set period of time, e.g. 10% of salary on completion of 2 years of employment, or a graduated amount over a 2 year period e.g. 2.5% on completion of 1 year, 5% on completion of 2 years
- Payment is based on the grade of the role being undertaken at the time the payment is made. If the role has a career progression framework then all grades are eligible for a retention payment
- Eligible employees will receive the retention payment following completion of the required period of service
- There is no requirement to repay the retention payment on leaving the Council's employment as the employee will have completed the specified period of service.
- Retention payments are made following the completion of a specified period of service and are therefore pensionable
- Retention payments are subject to Head of Paid Service approval who will consult with the Section 151 Officer, Monitoring Officer and Director of Organisation Development and Policy and the relevant Executive Director to inform the decision.

## **2.5 Recommend a Friend**

- Recommend a Friend payment is a lump sum payment to any employee on Grade 14 or below who recommends an external candidate for a specified vacancy who is subsequently appointed to that post
- The role for which a payment relates to should be a permanent or fixed term position within a specified post
- Each referral payment(s) should not exceed £100
- The referring employee must not be involved in the recruitment process for the post (including Recruitment Campaign Leads and the Recruitment Manager)
- The payment may be made to the referring employee once the employee has been successfully appointed into the eligible post following successful completion of 6 months service in that role
- The referring employee must be employed on a permanent, fixed term or relief basis with the Council
- Self-employed, agency workers and individuals who are seconded into the Council from external agencies are not eligible for the payment

- The new employee must not have previously applied for the same post or been referred by another source (e.g. a recruitment agency)
- Both the referring employee and the new employee must be employed by the Council at the time the referral payment is due. Where either party's contract of employment is under notice of termination, whether given by the Council or the employee, the Council reserves the right to withhold the payment
- Only one referral payment will be paid for each new employee. The applicant must therefore ensure that they only include the details of one referring employee on their application form. No referral payment will be made where more than one employee has been named, where an employee's details have not been included or where the employee has been introduced by another source
- There is no limit on the number of referrals that an employee can make and there is no requirement for any referral payments to be repaid if the employee subsequently leaves the Council's employment
- Employees must not advertise vacancies on behalf of the Council but can share postings on social media
- The scheme is entirely discretionary, non-contractual and does not form part of the terms and conditions of employment
- The Council reserves the right to withdraw, vary or amend the scheme at any time
- The payment will be funded from the recruiting department's service budget
- Recommend a friend payments are pensionable
- Recommend a Friend payments are subject to Head of Service approval in consultation with the Recruitment Manager to ensure consistency in application.

### **3. Equality Impact Assessment**

The Council will monitor the overall application of the Recruitment and Retention Payments Policy to ensure that it is being applied in a consistent and non-discriminatory manner. An equality impact assessment will be carried out as part of each application.

The Council will have a defence against an equal pay claim where it can be shown that the difference in pay is explained by a 'material factor' that does not involve direct or unjustified indirect sex discrimination. Market forces have been held in some but not all cases to be a 'material factor'. If an employee recruitment and/or retention payment involves indirect discrimination, it must be objectively justifiable. The requirement is to provide evidence that the proposed payments are a proportionate means of achieving a legitimate aim, identifying the relevant aim. The needs of the Council and service should be

identified, confirming why the additional payment is appropriate to achieve the objective and is, therefore, necessary.

## **4. Roles and Responsibilities**

### **4.1 Head of Paid Service**

The Head of Paid Service will:

- Consider recruitment and retention payment applications including welcome payments, retention payments and market supplement applications
- Consult with the Section 151 Officer, Monitoring Officer and Director of Organisation Development and Policy and the relevant Executive Director on the application to ensure consistency, taking into account cross council implications
- Approves to award a recruitment or retention payment including welcome payments, retention payments and market supplement payments under the terms of the policy for posts with a total remuneration of less than £100,000.
- Where the decision takes the total remuneration for a post in excess of £100,000 per annum or where the application relates to the Head of Paid Service the decision to apply a welcome payment, retention payment or a market supplement must be determined by Full Council.

### **4.2 Senior Management Teams**

Service Directors/Heads of Service will:

- Demonstrate the need for the application of a recruitment and retention payment including collection of evidence from recent recruitment campaigns and processes, exit interviews, etc, having satisfied all other non-pay avenues
- Identify comparators and contribute to the provision of appropriate market pay data to establish pay differentials between the evaluated rate of pay and that of competitors
- Provide evidence of market issues, including regional/ national skills shortages, difficulties with occupational groups and the impact and risk to service delivery if the Council is not able to attract suitably qualified/skilled employees
- As part of the application, consideration of equal pay risk to the Council must be given and recorded on the Corporate Risk Register, specifically where the market pay rate is not the key driver for the attraction and retention issues

- Identify any wider impact, including any potential employee relations issues, to employee groups across the Council
- Work with HR Resourcing Managers, and the Equality, Diversity and Inclusion Manager to carry out an equality impact assessment to establish any inequality in relation to gender or other protected characteristics
- Identify funding for proposed recruitment and retention payment
- Submit a recruitment and retention payment application (Appendix 1) to the Head of Paid Service for approval
- Carry out reviews of existing recruitment and retention payments and communicate with the relevant employee groups, as appropriate
- Ensure jobs with recruitment and retention payments are advertised consistently and in the agreed format
- Continually review service requirements and resourcing strategies with the aim of removing the need for recruitment and retention payments
- The relevant Head of Service will make the decision to apply the recommend a friend payment to an advertising campaign in consultation with the Recruitment Manager

### **4.3 Human Resources**

The Head of Reward & Resourcing will:

- Work with senior management teams to identify causes of recruitment and retention difficulties across the workforce and implement resourcing and reward strategies and solutions
- Establish that the evaluated grade of the job is consistent with the current duties of the role
- Support activity to identify comparators and contribute to the provision of appropriate market data to establish pay differentials between the evaluated rate of pay and that of comparators and/or relevant market issues to establish skill shortages/difficulties recruiting to specific occupational groups, etc
- Support activity to identify any wider impact to employee groups across the Council and establish any inequality in relation to gender and/or other protected characteristics
- Review recruitment and retention payment applications and any relevant market data provided prior to submission to the Section 151 and monitoring officer, liaising with colleagues to agree the mechanics of a recruitment and retention payment to individuals
- Record the outcome of all recruitment and retention payment applications, analyse data to assess success, and ensure, where appropriate, the timely review of existing payments

- Make a recommendation to the Head of Paid Service, if the recruitment and retention payment application has been supported by the S151 and monitoring officer

#### **4.4 Legal Services**

The Director of Legal Services is responsible for:

- Provision of advice on the legal implications of applying recruitment and retention payments in relation to equal pay and other equality considerations
- Provision of advice on the relevant departmental risk assessment in relation to recruitment and retention payments including the proposed rate and repayment schedule

#### **4.5 Finance**

The Director of Finance & ICT is responsible for:

- Provision of advice on the financial considerations and affordability of proposed recruitment and retention payments to the Council

#### **4.6 Trade Unions**

- Recognised Trade Unions will be engaged on recruitment and retention payment applications and reviews, including market data.

### **5. Guiding Principles**

- Recruitment and retention payments will only be paid where a case for payment is fully justified with supporting evidence that the level of salary/current market conditions is creating the recruitment difficulties and that all other non-pay avenues have been considered
- Applications will only be considered via the process outlined in this policy
- Recruitment and retention payments will be payable for a fixed period and regularly reviewed
- Employees will receive written notification of the recruitment and retention payment setting out the full contractual terms
- There is no right of appeal against the withdrawal of, or change to, a recruitment and retention payment
- When seconded to a role (for the full qualifying period) that receives a recruitment and retention payment, the full duties and responsibilities of the role must be undertaken in order to receive the relevant payment

- Recruitment and retention payments should only be paid when justifiable and in scope of the agreed application. Those roles managing employees in receipt of a recruitment and retention payment, not in the scope of the agreed application, should not automatically be increased to maintain pay differentials.
- Where a recruitment and retention payment will not continue to apply for any other reason, e.g. redeployment, payment will continue during the contractual notice period
- Where agreement has been made to remove or change a recruitment and retention payment, candidates already in the recruitment process will be notified during the recruitment process

## **6. Identifying the comparator market and relevant market data**

The comparator market will depend on the type and level of the specific posts or group of posts for which an application for a recruitment and retention payment is to be made.

Consideration should be taken of:

- The employment sector – local authority (unitary/district/county); wider public sector; not-for-profit; private sector
- The geographic labour market – national, regional or local - where are recruits expected to come from and where are competitor employers located?
- The organisations considered to be the main competitors for the post in question
- The size and resources of the comparator organisation (number of staff employed; budget size; functions; population/client base served)

It is important that appropriate (market) comparator posts are identified to ensure the additional cost of paying incentive payments to existing employees and/or new recruits can be justified.

In identifying comparator posts from market data, the posts should be the same, in terms of duties and responsibilities, or broadly similar in terms of the required knowledge, skills and responsibilities. All elements of earnings should be compared, i.e. total salary and wider benefits package. Equal pay challenges may arise where a claimant considers the market data used is not comparable.

## **7. Additional criteria to support the application for a recruitment and retention payment**

The following criteria must be considered in order to support the application of a recruitment and retention payment:

- Evidence of a consistent failure to recruit to a specific post(s) and/or a high level of staff turnover in a specific post(s). Outlining the number of vacancies and why current resources are insufficient to undertake key activity
- Evidence that different attraction recruitment methods or solutions have been utilised or considered i.e. recruitment campaigns, recruitment events, advertising in relevant media including social media such as Facebook and LinkedIn
- Analysis of key metrics to evidence the application and the conclusions drawn from the data to support the narrative - turnover rates, agency usage and national workforce data
- Supporting exit interview information
- Evidence of the departmental risk assessment to consider the impacts of not being able to recruit and retain staff in the specified areas considering the following areas:
  - Failure to provide a statutory or regulatory services
  - Financial risk to the Council
  - Legal risk to the Council
  - Reputational risk to the Council
- Total reward package
- Any other relevant labour market factors, such as regional/national skills shortages, difficulties recruiting to specific occupational groups, foreseeable organisational and/or operational problems, evidence from the outcomes of any inspections/reviews of the service(s) where the need to maintain a stable skilled and experienced workforce is identified as a requirement for improvement, etc.

Pay data is available from local/national advertisements, other local authorities, regional local government employer networks, HR or profession-specific networks, consultants' pay databases, salary surveys and pay settlement data. Evidence to support other non-pay market issues can be provided from surveys, professional body information, journal articles illustrating skill shortages, difficulties recruiting to specific occupational groups, large numbers of advertisements for similar posts, etc.

## **8. Determining amount of recruitment and retention payment**

Payments should be objectively justified with a detailed rationale of the payment calculation and terms. Although the market rate may not be the key driver in all cases, the evidence should show, where applicable, that pay is a

crucial factor in the Council's ability to recruit and/or retain employees in the specific job.

For market supplement payments, the amount is normally calculated based on the difference between pay rates of appropriate comparator posts (the market rates) and the Council's grade range for the post, taking account of any additional allowances.

Payments are normally based on the median pay of comparators. However, total remuneration should be sufficient, but not exceed the level necessary, to enable the recruitment/retention of employees. Supplements may be based on a rate below the median.

Where the market rate is not the key driver for a recruitment and retention payment, the application must provide evidence and factors that determine the appropriate effective and justifiable level of payment. This must be proportionate and reasonable and within the guidelines outlined within the Policy.

## **9. Payment Details**

### **9.1 Market Supplements**

Market supplements **will** be:

- Pensionable and subject to tax and NI
- Paid as a clearly identifiable and separate supplement to basic pay (*NB: the market supplement will not be shown as a separate payment for periods of absence that are remunerated through a combination of occupational and statutory pay, e.g., sick or maternity pay*)
- Subject to eligibility, included in occupational and statutory calculations for periods of paid sickness, maternity and adoption leave at the appropriate rate e.g., for maternity leave 6 weeks at 90% pay (including market supplement), 12 weeks at 50% pay (including market supplement) and half rate for periods of half pay sickness, etc. Occupational and statutory rates will be recalculated for employees who are on maternity/adoption leave when a market supplement is introduced. When market supplements are reduced or removed during a period of maternity/adoption leave, only the occupational element is recalculated and reduced from the date of the change
- Paid monthly (pro rata for part-time employees)
- Paid as an additional payment on top of the hourly rate for relief employees
- Paid for authorised paid absences as set out in the Council's Employee Leave Schemes and Flexible Working guidance



- Paid at the appropriate rate for each post where an employee has more than one eligible job
- Paid at the appropriate hourly rate for hours up to 37 per week, including working hours up to 37 for standby, sleep in and recall to work
- Paid on accrued leave which has been accrued on part time hours up to a maximum of 37 hours per week
- Included in any deductions related to unpaid absences, eg. unpaid leave
- Paid for all additional hours worked up to 37 per week including the plain time hours worked at times that attract enhancements
- Included in Redundancy pay calculations
- Adjusted accordingly where contracted hours are increased/decreased (including a buy out of hours decrease in hours: NB: the market supplement will be included in the buy out calculation of actual pay for 26 weeks)

#### Market supplements:

- Will not be paid if an employee moves to, or is seconded to, a post without a market supplement
- Will not attract pay award increases or be affected by incremental progression
- Will not be paid for any hours over 37 per week, i.e., overtime. Market supplement payments should not exceed the agreed annual market supplement amount for a full-time employee.
- Will not be paid on enhancements
- Will not be included in pay protection

## 9.2 Welcome & Retention Payments

#### Welcome & Retention payments **will** be:

- Subject to tax and NI
- Non-pensionable where payments are made prior to completion of a specified period of service, eg. welcome payments
- Pensionable where payments are made following a completion of a specified period of service, eg. retention payments
- Paid as a clearly identifiable and separate payment to basic pay
- Paid pro rata to contracted hours at the time the payment is due and paid at the agreed rate and timescales as set out in the contract
- Paid pro rata for each post where an employee has more than one eligible job
- Included in the statutory calculations for periods of paid sickness, maternity and adoption leave

Welcome & Retention payments, including Recommend a Friend Payments:

- Will not be included in Redundancy pay calculations
- Will not be included in occupational calculations for periods of paid sickness, maternity and adoption leave and holiday pay calculations, etc
- Will not be paid if an employee moves to, or is seconded to, a post without an employee welcome/retention payment
- Will not attract pay award increases or be affected by incremental progression
- Will not be included in pay protection

### **9.3 Recommend a friend payments are:**

- Subject to tax, NI and are pensionable
- Paid as a clearly identifiable and separate payment to basic pay

## **10. Job Adverts**

Job adverts and/or supporting information must refer to the recruitment and retention payment as a temporary additional element of pay detailing, where applicable, the end date, review date and review period.

Managers should liaise with Recruitment Campaign Leads to agree the wording for adverts to ensure potential candidates are clear around the terms of recruitment and retention payments. Some examples are set out below:

### ***Market Supplement Payments***

*A temporary market supplement of £xxx is attached to this post, which is a separate payment in addition to the normal salary. A review of market conditions will be carried out prior to the proposed end date of xxxxx to establish if the market supplement should continue. Further information on employee retention payments is available on our website at [link].*

### ***Welcome Payment***

*An initial one off lump sum Welcome payment of £xxx is attached to this post payable in your first salary. If you voluntarily leave the Council's employment within xx years you are required to repay [set out specific terms]. Further information on employee retention payments is available on our website at [link].*

### ***Retention Payments***

*The following retention payment is attached to this post:*

*e.g. £xxx after 12 months satisfactory service, £xxx after 24 months satisfactory service. Further information on retention payments is available on our website at [link].*

***Recommend a Friend Payments***

*A 'recommend a friend' payment of £xxx is attached to this post. Further information on recommend a friend payments is available on our website at [link].*

**11. Contractual documentation**

All eligible employees will receive an additional contractual letter detailing all the terms and conditions relating to the recruitment and retention payment.

**Appendix 1 – Recruitment & Retention Payment Application Form**

A Recruitment & Retention Payment Application Form is attached at Appendix 1 detailing the supporting evidence required for consideration.

**Appendix 2 – Recruitment & Retention Payments Process Flow Chart**

<b>Policy/Procedure owner:</b>	HR Pay & Reward
<b>Date last reviewed:</b>	September 2022

## Appendix 1

### APPLICATION FOR A RECRUITMENT & RETENTION PAYMENT

Completed applications should be forwarded to the Head of Reward & Resourcing. Applications will be subject to Head of Paid Service approval in consultation with the Section 151, Monitoring Officer and Director of Organisation Development and Policy.

<b>Job Title</b>		<b>Department</b>	
<b>Job Evaluation ref/job family</b>		<b>Service area</b>	
<b>Evaluated Grade</b>		<b>Current salary range</b>	
<b>No of staff in post (including vacant posts) and FTE</b>		<b>Total recruitment and retention payment requested</b>	
<b>Payment type:</b>			
<b>Period for which the payment is sought 'Qualifying Period'</b>		<b>Proposed implementation date and end date</b>	

**Is this application to:**

Market Supplement Payment		Welcome Payment	
Retention Payment		Review of current payment	

1.	Briefly outline the duties/responsibilities of the job or group of jobs for which a recruitment and retention payment is requested.
2.	Please outline the impact and risk on service provision caused by recruitment and retention difficulties relating to this post/s.
3.	<p>Has there been a significant change to the post since it was evaluated? If so, please discuss this with the HR Business Partner and the Pay and Reward Team to ensure the evaluation reflects the current job demands.</p> <ul style="list-style-type: none"> <li>• Does the job and person profile properly reflect the demands and requirements of the role?</li> <li>• Has the value of the total reward package and all employee benefits been promoted effectively?</li> <li>• Have opportunities for learning &amp; development and career progression been highlighted?</li> <li>• Have other recruitment initiatives been exhausted, e.g. targeted advertising?</li> <li>• Have working arrangements/flexible working, etc. been considered?</li> <li>• Has consideration been given to redesigning the job/structure to undertake the work in a different way, e.g. development of trainee roles, reallocation of duties, etc</li> </ul>

	<ul style="list-style-type: none"> <li>Has consideration has been given to the use of agency workers, contractors, partnership working, private sector or other providers to undertake the work outlining the advantages/disadvantages and associated costs</li> </ul>
4.	Please provide details of turnover rates (in comparison to average turnover rates).
5.	<ul style="list-style-type: none"> <li>Please provide evidence from exit interviews where employees have moved to an equivalent post and cited pay as a reason for leaving.</li> <li>Are employees leaving the Council achieving higher rates of pay for carrying out the same/ substantially similar role?</li> <li>Is there evidence from staff surveys/TU representatives of unresolved workplace dissatisfaction which needs to be resolved by management?</li> <li>Detail agency usage and relevant costs</li> </ul>
6.	Please provide information on the number and quality of responses to job advertisements. Include dates advertised, where advertised and recruitment initiatives adopted
7.	Is there a regional/national skills shortage
8.	<p>Likely effectiveness of a recruitment and retention payment</p> <ul style="list-style-type: none"> <li>Provide evidence that the proposed payments are reasonably necessary to improve recruitment and retention and likely to achieve positive results</li> <li>Will the application of a recruitment and retention payment contribute to a pay spiral with other employers recruiting from the same pool, leading to pay inflation? If this may be the case, consideration should be given to alternative strategies e.g. partnership working to cap rates</li> </ul>
9.	<p><b>Analysis of likely impact of an employee retention payment</b></p> <ul style="list-style-type: none"> <li>This should include evidence to show the wider and longer-term impacts throughout the Council.</li> <li>The number of employees involved and the effect on their salaries, potential negative implications for other employees within the employee group/structure and in other employee groups and any equal pay considerations.</li> <li>Further advice should be sought from Legal Services.</li> </ul>

10.	<p><b>Labour market data and the ‘going rate’ for the job:</b></p> <ul style="list-style-type: none"> <li>• Taking care to anonymise commercially sensitive data where relevant, please provide details of the market data sources used to establish the ‘going rate’ for the job (e.g. recent media adverts, survey data, pay databases, other local authorities/ schools, regional employer networks, Korn Ferry Hay User Group, East Midlands Councils, etc.)</li> <li>• ensure there is clear evidence that this data relates to genuinely comparable posts and that duties, responsibilities, knowledge, skills, geographical location, associated terms, conditions, total benefits package and any other unique factors have been considered</li> <li>• provide details of main competitors’ comparable posts</li> </ul> <p>Legal advice should be sought in all cases where the job group is predominantly male or female to avoid equal pay implications.</p>
11.	<p><b>Market issues not wholly related to pay</b></p> <p>Provide clear evidence that without an intervention the Council</p> <ul style="list-style-type: none"> <li>• may not be able to retain, in the longer term, suitably skilled and well performing staff in a high profile, statutory or regulated functions</li> <li>• may not be able to meet its statutory duty</li> <li>• may cause financial, legal or reputational risk to the Council</li> </ul> <p>Evidence to support non-pay market issues can be provided from surveys, professional body information, journal articles illustrating skill shortages, difficulties recruiting to specific occupational groups, large numbers of advertisements for similar posts, etc.</p>
12.	<p><b>Proposed amount of recruitment and retention payment:</b></p> <ul style="list-style-type: none"> <li>• The rate for a Market Supplement Payment should normally be based on the median pay of the comparators, however, a supplement should not exceed the level deemed necessary to attract suitable candidates and this may be below the median point.</li> <li>• Please provide evidence to demonstrate how the proposed recruitment and retention payment has been calculated.</li> <li>• What are the factors that determined the proposed recruitment and retention payment amount, where market rate is not a principal driver</li> <li>• Provide details of how the recruitment and retention payment will be made, e.g. monthly, at the end of a fixed period, lump sum(s), etc</li> <li>• If applicable (welcome payments) what are the payment service requirements and repayment arrangements if the employee leaves their employment</li> </ul>

13.	<b>How will the recruitment and retention payment be funded?</b>
14.	<b>Review date</b> <ul style="list-style-type: none"> <li>Recruitment and retention payments should be reviewed in advance of the end of the agreed application period. Market supplement payments must be reviewed prior to the end of the fixed term payment period to ensure that employees receive the minimum contractual notice period of one month to confirm any changes/removal.</li> <li>All recruitment and retention payment reviews will require a new application and will follow the same approval process.</li> </ul>

I agree that a recruitment and retention payment is appropriate in this instance; that all the necessary checks have been carried out in accordance with the Council's policies and procedures and that all other non-pay avenues have been explored appropriately.

	Date
Completed by	
Reviewed by Head of Reward & Resourcing	
Approved by the Section 151, Monitoring Officer and the Director of Organisation Development and Policy	
Approved by the appropriate Executive Director	
Approved by Head of Paid Service	

## Appendix 2

