



Item: 5

Human Resources Sub-committee: 25 March 2025.

Market Supplement Policy.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Overview

- 1.1. On 1 March 2016, the Council approved the Recruitment and Selection Policy, which established, for the first time, the ability to pay temporary market supplements.
- 1.2. It is normal practice that Council Human Resources Policies are reviewed at least every 5 years. This review is therefore overdue; however officers have maintained a close overview of relevant legislation and best practice, and nothing of substance had arisen which would have warranted a formal review prior to this time.
- 1.3. Over time, as with most Human Resources policies, operational processes can and do evolve, which would not necessitate formal policy review. Such evolution of operational process is implemented by officers routinely.
- 1.4. At its meeting held on 21 June 2022, the Policy and Resources Committee recommended that the People Plan 2022-2026 be approved. The People Plan 2022-2026 established strategic priorities which included:
 - Building a talented, confident and resilient workforce with the capabilities to adapt to our changing environment.
 - Establishing a goal of the Council as an employer of choice with a focus on redesign of recruitment approaches as key components of delivering this.
- 1.5. The Council, like many other local and national employers has and is likely to continue over coming years to face increasing challenge in recruiting and retaining a workforce.
- 1.6. Orkney has not for many years had sufficient local population capacity for a range of managerial, specialist, and professional posts, however this challenging market now extends to many frontline posts as well.
- 1.7. Orkney's level of unemployment is so low, that it is in effect classed as full employment.

- 1.8. The Council's historical perceived advantages of higher salaries and better conditions of service are no longer the case, this differential has and continues to be eroded.
- 1.9. Orkney's geographical location will always be a challenge too far for many potential applicants. Over recent years this is being compounded by a housing crisis of affordable and available housing for people to rent and buy, making recruitment even more challenging.
- 1.10. Since COVID-19 the recruitment marketplace has fundamentally changed, with many organisations having to grasp the remote and home working model, as well as many more employment opportunities are arising for the local population making the available pool of applicants for Council employment even smaller.
- 1.11. The revised Market Supplement Policy, attached as Appendix 1, provides a discretionary framework for the exceptional application of temporary increases of salaries to posts, where it has been demonstrated that recruitment and retention issues are impacting on service delivery, and which represents unacceptable organisational risk.
- 1.12. This policy is relevant only for those posts within the Scottish Joint Council terms and conditions of service, those posts paid on the Council grading structure of Grade A to Grade N (formerly G1 – G14).
- 1.13. The policies and supporting procedures have been written to ensure compliance with legal requirements and best practice recommendations wherever these can reasonably be accommodated.
- 1.14. The Council has a legal obligation to ensure equal pay for its workforce, to avoid the potential financial and reputational risk of equal pay claims.
- 1.15. This does not preclude the potential liability to justify short term temporary increased pay where there are external pay factors impacting on attracting employees, and where there is clear, current, and continuing evidence to legally defend such a position.
- 1.16. Recent Employment Tribunal decisions against employers' decisions to pay such market supplements has made having a clear business case to support such actions a necessity, and to ensure this is continually reviewed.
- 1.17. External legal advice was sought on the Council's current position on Market Supplements which advises that the approach in place currently should be strengthened to ensure a credible defence to an equal pay claim.

- 1.18. The External legal advice goes on to recommend that the Revised Market Supplement Policy is adopted and adhered to and that monitoring of the use of market supplements should take place to ensure that there is not a pool of either male or female employees benefitting exclusively from this approach to minimise the risk of direct or indirect discrimination claims against the Council from the use of market supplements.

2. Recommendations

- 2.1. It is recommended that members of the Sub-committee:
- i. Approve the Market Supplement Policy, attached as Appendix 1 to this report.

3. Policy Review

- 3.1. As part of the Council People Plan work, a Recruitment Task Force was established, from across the Council workforce and involving Trade Unions to consider the priorities for change and development for recruitment and selection.
- 3.2. The outcomes from this taskforce have formed the basis for the revised Market Supplement Policy.
- 3.3. Payment of any market supplement:
- i. Should be an exceptional circumstance where recruitment and retention issues are impacting on service delivery, which represents unacceptable organisational risk.
 - ii. Will only be considered after other non-pay options to improve recruitment and retention to the post have been considered.
 - iii. Must 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,
 - iv. Requires a detailed business case, including an equal pay risk assessment, to be prepared for consideration and approval by the Chief Executive
 - v. Must be temporary in nature (initial maximum of 24 months, with possible extension for a further 1 year, (maximum of 3 years in total).
 - vi. Must be consistent with Council equality obligations.
 - vii. Must be affordable within baseline budget.
 - viii. Will require a review and new business case approved for any extension.

3.4. A more detailed summary of the changes is included at Appendix 2 for ease of reference.

4. Consultation

4.1. The revised policies have been consulted and agreed with the recognised Trade Unions.

For Further Information please contact:

Andrew Groundwater, Head of Human Resources and Organisational Development, extension 2253, email: andrew.groundwater@orkney.gov.uk.

Implications of Report

1. Financial

With the application of Market Supplements there will be increased costs over a number of years. There is no ability to forecast what the financial implications could be; however, it will be necessary that funding to pay for any Market Supplement is identified and detailed clearly as part of the business case for approval.

2. Legal

Approval of the Market Supplement Policy will support the Council's compliance with its equal pay obligations as set out in the Equality Act 2010.

3. Corporate Governance

Not applicable.

4. Human Resources

The Human Resource implications are outlined in the body of the report.

5. Equalities

An Equality Impact Assessment has been carried out and is attached as Appendix 3 to this report.

6. Island Communities Impact

An Island Communities Impact Assessment is not required as this policy is unlikely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities) within Orkney.

7. Links to Council Plan: The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Council Plan strategic priorities:

- Growing our economy.
- Strengthening our communities.
- Developing our Infrastructure.
- Transforming our Council.

8. Links to Local Outcomes Improvement Plan: The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Local Outcomes Improvement Plan priorities:

- Cost of Living.
- Sustainable Development.
- Local Equality.
- Improving Population Health.

9. Environmental and Climate Risk

Not applicable.

10. Risk

Not applicable.

11. Procurement

Not applicable.

12. Health and Safety

None arising directly from this report.

13. Property and Assets

Not applicable.

14. Information Technology

Not applicable.

15. Cost of Living

Not applicable.

List of Background Papers

None.

Appendices

Appendix 1: Market Supplement Policy.

Appendix 2: Summary of changes to Market Supplement Policy.

Appendix 3: Equality Impact Assessment.



Market Supplement Policy (SJC Posts)
May 2025

Document Control Sheet.

Review / approval history.

Date.	Name.	Position.	Version Approved.
May 2025	General Meeting of the Council	n/a	1.0

Change Record Table.

Date.	Author.	Version.	Status.	Reason.
Next due for review in 2030				

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1. Introduction

Orkney Islands Council has and always will face some additional challenges in relation to recruitment given our geography and remoteness. However, since the COVID-19 pandemic there has been new and unprecedented challenges. They include the dramatic increase in home and remote working which means that the Council is competing with public and private sector organisations from a much larger geographical area; Brexit has also resulted in skills shortages in key sectors such as care, early learning and childcare. These make it even more important than ever that the Council is an employer of choice.

The Council has seen and continues to see many service areas facing continuing challenges including higher levels of vacancies and a significant reduction in the number and experience of applicants for posts.

In this context this policy would enable the Council to have the ability to use market supplements (temporary additional payments) to attract and retain staff to posts where there is clear evidence that the Council's total remuneration package is causing recruitment and retention issues; and this represents an unacceptable level of organisational risk.

The rate of pay payable for posts within the Council is determined according to the national terms and conditions applicable to the staffing group as detailed in Section 2.

Determining pay in this way ensures that the Council meets its statutory obligation of equal pay for work of equal value.

In exceptional circumstances, where the Council is able to demonstrate that recruitment and retention issues are impacting on service delivery, the payment of a temporary additional element of pay 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.

This policy will provide services with information on the circumstances under which it may be possible to use market supplements to enhance the total remuneration package offered to postholders and applicants in order to attract and retain the required calibre of staff.

2. Who does this apply to?

The scope of this policy applies to all permanent, temporary and casual/supply employees of Orkney Islands Council including employees covered by the Scottish Joint Council (SJC) conditions of service (those paid on the Council pay structure of Grade A to Grade N).

All other Council employees are covered under separate national or other pay arrangements which the Council has no ability to vary in this manner.

3. What is a Market Supplement?

A market supplement is a temporary additional payment to employees in a specific post where there is clear evidence that the Council's total remuneration package is causing recruitment and retention issues resulting in unacceptable organisational risk.

Unacceptable risk would include:

- Inability to meet essential service delivery.
- Inability to comply with statutory responsibilities.
- Reputational damage to the Council.
- Financial risks to the Council.

General Principles

The following guiding principles must be followed when considering and applying for approval of market supplement payments to ensure legal compliance and minimise the risk of creating equal pay liability.

- All other non-pay options to improve recruitment and retention to the post must have been considered before an application for approval of a market supplement can be submitted.
- Approval of a market supplement application will only be granted where a business case is supported by evidence of recruitment and retention difficulties, consideration of alternative non-pay options and prevailing market conditions and comparators, which provide justification for application of a market supplement.
- Market supplement payments must be justifiable with reference to current market conditions and therefore will only be agreed for a maximum period of 24 months.
- A review of market conditions will be conducted prior to the end of the agreed period to determine whether the payment should be withdrawn, extended or changed.
- The market supplement will automatically end at the 24 month period, unless a process of review of the market conditions and subsequent approved application is in place before that time.
- The maximum total duration that a market supplement for a post will be paid for is 3 years, from the first date that it was agreed.
- The payment of market supplements may be reviewed at any time where market conditions no longer justify the payment.
- Twelve weeks' notice will be provided to postholders in the event that a market supplement will end early or is subject to change.
- Market supplement payments must be supported by the Head of Human Resources and Organisational Development and then will be submitted for approval by the Chief Executive.
- Market supplement payments will be made to all postholders of the relevant post that meet the criteria for the supplement, those newly recruited and existing employees, including any casual/supply/relief workers.

4. Equality Implications

The Council must ensure that the payment of a market supplement does not lead to exposure to equal pay claims under the Equality Act 2010. Payment of a market supplement has the potential to, for example, result in male and female employees being paid differing amounts for work which has been rated as equivalent under the Council's job evaluation scheme or other national pay agreement.

In order to successfully resist equal pay claims the Council must be able to show that the difference in pay is explained by a material factor that does not involve direct or unjustified sex discrimination. The material factor in this case must therefore be the prevailing market conditions.

The ability to evidence market conditions and the business case to support market supplements, along with a consistent approach to their application is therefore essential to mitigate against any risk of successful equal pay challenge.

A full Equal Pay Risk Assessment is required to be carried out by the Service as part of the business case for any application for a market supplement.

5. Job Review or Redesign

Prior to preparing a business case, consideration should be given to whether it would be appropriate to review or redesign the post, and then submitting the post for job evaluation, therefore potentially mitigating the need for a market supplement.

Job evaluation may be possible in the following circumstances:

- Not been evaluated for a significant period of time (3 - 5 years).
- Where the post has undergone substantial, permanent material change in the level of duties and responsibilities since the last time it was evaluated (More of a similar work level, or increased work load generally will not be sufficient to warrant re-evaluation).

An initial assessment, by Human Resources, of the job evaluation factors against an up-to-date job description and completed Evaluation Information Form for the post provided by the service would indicate whether there is merit in formal job evaluation.

The decisions as to whether a post would satisfy the criteria for re-evaluation rests with the trained and experience job analysts, within Human Resources.

6. Preparing the Business Case

A business case for payment of a market supplement may be made where recruitment and retention issues are resulting in unacceptable risk to service delivery, compliance with statutory responsibilities, the Council's reputation or financial stability.

Such risks may be identified when a service has experienced difficulty in recruiting to a specific post where the postholder or group of postholders provide essential services and are in a recognised hard to fill position or where there is a relevant skills shortage.

The cost of applying a market supplement must be managed within the current service budget and future budgetary position for the duration of the proposed period of the market supplement. Therefore, the business case must consider how such costs will be managed in relation to the number of postholders to whom the market supplement will apply.

Evidence of Recruitment and Retention Issues

There must be more than a belief that there are recruitment and retention difficulties, and therefore services must provide evidence including:

- Turnover rates.
- Exit questionnaire data.
- Unsuccessful recruitment campaigns.

Non-Pay Factors

Recruitment and retention problems are often caused by factors other than pay which should be addressed in the first instance, before application of market supplement is considered. The Service will be required to provide evidence that recruitment and retention issues cannot be successfully addressed through non-pay options or promotion of the total benefit package. Applications should therefore provide evidence of consideration of the following:

- Job re-design.
- Effective advertising.
- Opportunities for development.
- Support or facilities offered in post.
- Any matters relating to employee relations or the working environment raised by staff either informally or formally or through the employee survey.
- Promotion of the Council's total benefit package including – pension provision, annual leave, family care benefits, flexible working or employee benefits platform.

Equality Impact

The business case should consider any impact to employee groups across the Council to establish any inequality in relation to protected characteristics. Careful consideration should be given to employee groups where posts have been evaluated as being of equal value.

A full Equality Impact Assessment (EqIA) should be conducted with the outcome of the assessment summarised in the Market Supplement Application Form and the EqIA included with the form for reference.

7. Market Conditions and Comparators

In order for a market supplement to be approved, there must be clear evidence that the basic rate of pay for the specific post is directly contributing to increased labour turnover or an inability to recruit. Therefore, in addition to ruling out other non-pay factors, consideration must be given to the prevailing market conditions with a view to identifying comparators.

The case for payment of a market supplement should be supported by clear evidence that the Council's rate of pay for a specific post falls below the 'going rate' in the comparator market.

When considering market rates and determining whether they are an appropriate comparator, account should be taken of the following:

- The employment sector – local authority, wider public sector, private sector or voluntary sector and the ability of employees to work across these sectors.
- The geographic labour market – where are the comparator organisations based in relation to the Council and where might employees reasonably travel from.
- The organisations considered to be the main competitors for talent in relation to the specific post.
- The size and resources of the potential comparator organisation.

In addition to the organisational factors above, identification of an appropriate comparator must take account of the post itself. The posts should be the same, or broadly similar, in terms of duties and responsibilities and knowledge and skill requirements. It may therefore be necessary to obtain job descriptions for comparator posts.

Comparative data from more than one source should be provided as evidence, obtained for example through:

- Benchmarking;
- National earnings surveys or sector specific surveys;
- Local and National job advertisements; and
- Employer networks (local authority and profession specific).

8. Determining the level of Market Supplement

When determining the market supplement payment to be made, the total remuneration package (salary and wider benefits) of appropriate comparator posts should be considered.

The starting point is to assess the extent of the difference between the comparator market rate and the Council rate, taking account of the salary range payable and any additional allowances.

Market supplements are normally based on the median pay of comparators, however the total remuneration package, inclusive of any market supplement, should be sufficient to enable the recruitment and retention of employees and should not exceed the level deemed necessary to attract suitable candidates.

When recruiting to a post that attracts a market supplement payment, care must be taken when appointing on higher pay points within the grade as the total remuneration must justify market conditions.

9. Pay Considerations

Market supplement payments will be:

- Paid monthly as an allowance, clearly identifiable and separate to basic pay.
- Pensionable and subject to tax and NI.
- Pro rata for part-time employees.
- Payable during authorised paid leave including sickness absence and family care leave – calculation of 90% of earnings and half pay for maternity leave and other types of family care leave will be inclusive of any market supplement payment, as will half pay for sick leave.
- Payable during a paid suspension from work.
- Included in any deductions related to unpaid leave or other unpaid absence.
- Payable for hours worked up to 35 or 37 hours per week (Normal full-time hours for the post per week) – overtime above the normal full time working hours for any post per week will not attract market supplement payments.
- Adjusted accordingly where contracted hours are increased/decreased.
- Payable to all postholders of the relevant post including those undertaking the role on a temporary or supply basis.
- Payable during contractual notice periods.

Market supplement payments will not:

- Be paid if an employee moves to, or is seconded/redeployed to, a post that does not attract the market supplement.
- Attract pay award increases or be affected by incremental progression.
- Be included in pay protection.

It is acknowledged that payment of market supplements will impact on pay differentials between posts attracting a market supplement payment and those who may be directly line managing them. However, employees in posts not in scope of the relevant market supplement payment should not automatically receive a pay rise to maintain pay differentials. Erosion of pay differentials will be a consideration for the Chief Executive in determining whether a proposed market supplement should be approved.

10. Application and Approval Process

Initial Discussions

Initial discussions and agreement to conduct the necessary market condition and comparator research should be conducted between the relevant Service Manager, Head of Service and Human Resources.

In line with the Trade Union Consultation Protocol, it would be appropriate at this stage to informally consult with relevant trade union representatives to identify any potential areas of concern. All information shared at this preliminary stage should be treated in the strictest confidence on the understanding that it will not be communicated to potentially affected employees or other parties unless agreement to do so is reached.

Application and Approval

Applications for market supplement payments should be prepared by the Service Manager, endorsed by the relevant Head of Service and Corporate Director.

The completed application form should be shared with relevant Trade Union representatives. It is the responsibility of the Head of Service to ensure that appropriate consultation with relevant trade union representatives is undertaken to allow the Trade Union(s) to express views which may influence final proposals and decisions. Trade Union feedback and comments should be recorded in the application form.

The application must then be submitted to the Head of Human Resources and Organisational Development or their nominated deputy for consideration and then the application will be submitted to the Chief Executive for consideration.

Prior to submitting, the Head of Service should ensure any required legal advice has been sought and consult with Human Resources to ensure equal pay risks have been considered and any risks and proposed mitigation are reflected in the application.

Advertising a Post with a Market Supplement

Adverts for posts attracting a market supplement payment will clearly set out that a market supplement payment will be paid as a temporary additional allowance on top of the annual salary/hourly rate, setting out the agreed payment period or specified end date and review arrangements.

Contractual Documentation

All eligible employees, both those newly recruited and existing employees, will receive an additional contractual letter detailing all the terms and conditions relating to the temporary market supplement payment.

Review of Market Supplement Payments

Market supplement payments will only be agreed for a maximum period of 24 months and subject to review.

The review should be undertaken no later than six months before the market supplement end date to determine whether the payment should be withdrawn, extended or changed.

The review will be subject to the same process and scrutiny as the initial application and should provide up to date evidence of the prevailing market conditions and business case to support the continuation of any payment. The Service Manager will be required to complete the Market Supplement Application Form for approval indicating that the application relates to the review of a market supplement.

Where the review is not concluded before the end of the 24 month period, the market supplement will cease as planned at the 24 month period. Any extension of the supplement cannot be back dated.

The maximum total duration for any market supplement is 36 months, there will be no ability to seek an extension beyond a 36 month total period.

The payment of market supplements may be reviewed at any time where it becomes evident that market conditions no longer justify the payment. Service Managers will be responsible for maintaining an understanding of current market conditions to bring market supplement payments to an end as appropriate. Twelve weeks' notice will be provided to postholders if a market supplement will end early or be reduced.

Contractual documentation will be issued in accordance with any decision to extend or change a market supplement.

Application for payment of a Market Supplement

Service		<input type="checkbox"/> ELH	<input type="checkbox"/> ESR	<input type="checkbox"/> NSI	<input type="checkbox"/> OHAC	<input type="checkbox"/> SPBS
Head of Service Area						
Post Title						
Post Grade		Grade Min*		Salary Max*		
DIA Payable	£2,859	Other allowances				
Established number of posts			Established FTE for Posts			
Vacant Number of posts			Established FTE Vacant			

*excluding DIA and other allowances.

Details of Market Supplement being Sought					
Application For	<input type="checkbox"/> Payment of a new market supplement for up to 24 months. <input type="checkbox"/> Extension to market supplement (total not to exceed 36 months). <input type="checkbox"/> Payment of a revised rate of market supplement.				
Annual amount of Market Supplement £					
Duration for Market Supplement		<input type="checkbox"/> 12 months	<input type="checkbox"/> 18 months	<input type="checkbox"/> 24 months	
Proposed Implementation Date					
Post Numbers Supplement applies to					

Risk Factors	
Please identify and detail supporting evidence of where recruitment and retention difficulties to this post are resulting in unacceptable organisational risk application:	
<input type="checkbox"/> Inability to meet essential service delivery.	
<input type="checkbox"/> Inability to comply with statutory responsibilities.	
<input type="checkbox"/> Reputation damage to the Council.	

Financial risks to the Council.

Job Evaluation

When was the job description for the post last updated?

When was the post last job evaluated?

Was the post re-graded at that evaluation?

Has the need for re-evaluation been considered as an alternative to a market supplement? Please provide evidence of and assessment of job evaluation factors against an up-to-date job description for the post.

Recruitment and Retention Difficulties for this post

Please provide details of turnover rates for this post, in comparison with average turnover rates.

Please provide details of the reasons for leaving provided by staff who have left this post in the last two years.

In competitor organisations please detail the main driver in attracting staff away from the Council.

Please provide information on the number and quality of responses to job adverts include ORK reference no, dates where advertised and recruitment initiatives adopted.

Please provide details of any other attempts to recruit to this post i.e. use of agency and training structures and detail dates, the number and quality of responses.

Is there a regional/national skills shortage impacting on recruitment to this position? Would the skills shortage be better addressed through new/alternative training schemes and are there any plans to introduce such?

Non-Pay Factors

To support an application for a market supplement, evidence must be provided that recruitment and retention issues can not be successfully addressed through non-pay options.

Please provide evidence that consideration has been given to re-designing the job/structure to undertake work in a different way e.g. development of trainees, re-allocation of duties.

Please provide evidence that consideration has been given to the opportunities for development in the post to retain current staff and attract new recruits. How have such opportunities been promoted?

Please provide evidence that consideration has been given to support and facilities available in the post to order to retain current staff and attract new recruits. How have such support and facilities been promoted?

Please provide evidence that the total value of the Council's benefits package (pension, provision, annual leave, family care, flexible working, employee benefits) has been promoted effectively.

Equality Impact

In order to successfully resist equal pay claims, the Council must show that the difference in pay of two posts of equal value is explained by a material factor that does not involve direct or unjustified discrimination.

Therefore, to support an application for a market supplement evidence must be provided that any equality impact is objectively justifiable.

Difficulty in recruiting is not an objectively justifiable defence for equal pay purposes for paying a market supplement or other recruitment incentive.

Therefore a full Equality Impact Assessment of the proposed market supplement must be carried out, documented and submitted with this application and summarised below.

Please provide evidence that consideration has been given to posts across the Council which have been evaluated as being of equal value to the post under consideration for application of a market supplement.

What is the male/female split of the post under consideration for application of a market supplement and post(s) considered to be of equal value?

Is there any reason to believe that the market rate itself is discriminatory?

Have you identified any other impact on employee groups on the basis of protected characteristics of the application of market supplement?

Alternative Strategies

It is likely that application of a market supplement will trigger a pay spiral within the Council and in other competing organisations, resulting in increasing pay rates to attract the same small group of individuals? If this is the case, please provide evidence that consideration has been given, as an alternative to market supplements, to strategies such as partnership working?

Please provide evidence that consideration has been given to the use of agency workers, contractors, private sector or other providers. Please outline the advantages/disadvantages and associated costs.

Market Conditions

Please provide evidence gathered to determine the 'going rate' for role in the comparator market. Evidence must include the:

- Employment sector.
- Geographic labour market.
- Main competitors.
- Size and resource of comparator organisations.
- Duties and responsibilities of comparator posts.
- Knowledge and skill requirements of comparator posts.
- Sources of the comparator data.

Please include all documentary evidence with this application.

Proposed Market Rate Calculation

How has the proposed market supplement been calculated? Please provide comparison of the total remuneration package of appropriate comparator posts against the current Council rate and proposed against the current Council rate and the proposed total remuneration package including market supplement.

Is the market supplement proposed equal to the media for of comparators? If not, please provide justification for the rate proposed.

Please provide evidence of consideration of the implications of the implications of application of a market supplement in relation to the higher pay points of the salary range and ensuring justification of the market supplement,

Please provide evidence of how the market supplement will be funded within the current service budget and future budgetary provision for the proposed period of market supplement provision.

Service Manager Statement

It is my genuine belief that the evidence provided demonstrates that:

- There is an unacceptable risk associated with ongoing issues of recruitment and retention in relation to the relevant post;
- Payment of a market supplement if justifiable to address issues with recruitment and retention in relation to the relevant post;
- The amount of payment is justifiable and likely to achieve positive results.

Signature: _____ Date: _____

Forward application & supporting info to Head of Service the Corporate Director

Head of Service and Corporate Director Statement

We am satisfied that the application for payment of a market supplement is justified and supported by the evidence provided. I have discussed any potential equal pay risk with Human Resources, seeking legal advice as required, and I am satisfied that the business case provides mitigating evidence against equal pay.

Head of Service Signature: _____ Date: _____

Corporate Director Signature: _____ Date: _____

Forward the application and supporting information to Human Resources.

Head of Human Resources and Organisational Development	
I am satisfied that the application for payment of a market supplement is justified and supported by the evidence provided and I am satisfied that the business case provides mitigating evidence against equal pay and on that basis I would support the application.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Signature: _____ Date: _____	
Forward the application and supporting information to the Chief Executive.	

Chief Executive	
I am satisfied that the application for payment of a market supplement is justified and supported by the evidence provided and I am satisfied that the business case provides mitigating evidence against equal pay and on that basis I approve the market supplement as detailed in this application.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Signature: _____ Date: _____	
Please return application and supporting information to Human Resources	

Revised HR Policy Review 2025 – Significant Changes Summary

Market Supplement Policy

Current Policy	Revised Policy
<p>Payment of a market supplement will be considered where labour market conditions make it difficult to attract suitable candidates for a specific post and there is a demonstrable recruitment problem with all reasonable methods to improve recruitment having been exhausted e.g. the vacancy must have been advertised at least twice via the Council's Recruitment Portal.</p> <p>Please note: Equal pay legislation and other regulations require that there should be objective justification for payment of market supplements, as these mean that potentially two jobs of equal value could be paid differently.</p> <p>A market supplement is applied to posts on a temporary basis for a period of 3 years; thereafter the rate of pay reverts to the substantive grade for the post. A supplement will be paid separately to basic salary, they are not considered as part of the hourly rate for overtime calculations, and they are not pensionable.</p> <p>The amount of supplement paid will be determined by comparing the top of the range for the post to the external market, ensuring that this data is for a role that closely matches the post being considered. The supplement will not be more value than 5 increments of the substantive grade for the post.</p> <p>A market supplement can only be agreed in full consultation with the Head of HR & Performance. A change of establishment form should be completed reflecting the market supplement and signed off by the Chief Executive.</p>	<p>Case Law and legal advice indicates that the current Council approach is not defensible in terms of equality risk, on that basis a new approach taken from another Scottish Local Authority which has been subject external legal advice from OIC and is considered appropriate and would provide a reasonable defence if implemented and followed is submitted for approval.</p> <p>Requirements now:</p> <ul style="list-style-type: none"> • Must have a clear business case and justification prepared and documented. • All other non-pay options to improve recruitment and retention to the post must have been considered before an application for approval of a market supplement can be submitted. • Approval of a market supplement application will only be granted where a business case is supported by evidence of recruitment and retention difficulties, consideration of alternative non-pay options and prevailing market conditions and comparators, which provide justification for application of a market supplement. • Market supplement payments must be justifiable with reference to current market conditions and therefore will only be agreed for a maximum period of 24 months. • A review of market conditions will be conducted prior to the end of the agreed period to determine whether the payment should be withdrawn, extended, or changed. • The market supplement will automatically end at the 24-month period unless a process of review of the market conditions, and subsequent approved application is in place before that time. • The maximum total duration that a Market Supplement for a post will be paid for is 3 years, from the first date that it was agreed. • The payment of market supplements may be reviewed at any time where market conditions no longer justify the payment.

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|--|---|
| | <ul style="list-style-type: none">• Twelve weeks' notice will be provided to postholders if a market supplement will end early or is subject to change.• Market supplement payments must be supported by the Head of Human Resources and Organisational Development and then will be submitted for approved by the Chief Executive.• Market supplement payments will be made to all postholders of the relevant post that meet the criteria for the supplement, those newly recruited and existing employees, including any casual/supply/relief workers. |
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Equality Impact Assessment

The purpose of an Equality Impact Assessment (EqIA) is to improve the work of Orkney Islands Council by making sure it promotes equality and does not discriminate. This assessment records the likely impact of any changes to a function, policy or plan by anticipating the consequences, and making sure that any negative impacts are eliminated or minimised and positive impacts are maximised.

1. Identification of Function, Policy or Plan	
Name of function / policy / plan to be assessed.	Market Supplement Policy
Service / service area responsible.	Strategy, Performance and Business Solutions
Name of person carrying out the assessment and contact details.	Craig A Walker Service Manger (HR Operations) craig.walker@orkney.gov.uk 01856 873535 ext. 2263
Date of assessment.	26 February 2025
Is the function / policy / plan new or existing? (Please indicate also if the service is to be deleted, reduced or changed significantly).	Market Supplement Policy – New Policy

2. Initial Screening	
What are the intended outcomes of the function / policy / plan?	To ensure that the Council can attract and retain a workforce with the relevant skills, knowledge and experience in a legal and equitable manner.
Is the function / policy / plan strategically important?	These policies contribute to the Council People Plan strategic priority of building a talented, confident and resilient workforce with the capabilities to adapt to out changing environment. There are also links to the Council <u>Equality Outcomes</u> specifically in relation to attracting more diverse talent and reducing our gender pay gap.

<p>State who is, or may be affected by this function / policy / plan, and how.</p>	<p>Any possible applicant for employment with the Council. All Council employees.</p>
<p>How have stakeholders been involved in the development of this function / policy / plan?</p>	<p>Recruitment Taskforce of cross Council employees and Trade Union Reps reviewed current approaches and priorities for recruitment and selection at the start of the review to set key priorities. Policies have been reviewed and agreed by the Corporate Leadership Team. Policies are subject to collective bargaining with the Council recognised Trade Unions before final approval from Elected Members.</p>
<p>Is there any existing data and / or research relating to equalities issues in this policy area? Please summarise. E.g. consultations, national surveys, performance data, complaints, service user feedback, academic / consultants' reports, benchmarking (see equalities resources on OIC information portal).</p>	<p><u>The Equality and Human Rights Monitor: Is Scotland Fairer report published in November 2023</u> by the Equality and Human Rights Commission reviews the available data and evidence to support evidence-based debate and decisions to drive action and meaningful change that will make life fairer for everyone in Scotland. The report focuses on six major areas of life for each protected characteristic; one of which includes work. Key findings include:</p> <ul style="list-style-type: none"> • The attainment gap between looked after children has not reduced resulting in lower further or higher education, employment or training outcomes. • Despite increasing levels of employment, disabled people in Scotland are more likely to earn a lower hourly wage and / or be in low-paid employment than non-disabled people, with the gap widening. • Despite increasing employment levels, ethnic minority workers in Scotland on average experience both a lower quantity and poorer quality of work, with consistently lower median hourly earnings and higher levels of insecure work. • The employment and gender pay gap in Scotland has narrowed. However, the Scottish labour market continues to have high levels of sex segregation and strong sex segregation in apprenticeships reflecting the labour market. <p>The Scottish Government published <u>A Fairer Scotland for All: An Anti-Racist Employment Strategy</u> focusing on four areas:</p> <ul style="list-style-type: none"> • Understanding the workforce through data.

	<ul style="list-style-type: none"> • Acting on recruitment and representation. • Driving cultural and attitudinal change. • Fair work policy and legislation. <p>The strategy provides guidance for employers to create inclusive workplaces by developing an anti-racist culture; raising awareness of the harms of racism, including hate-crime and supporting anti-racist campaigns.</p> <p>The <u>Disability Confident employer scheme</u> is a government initiative that encourages people to increase the number of disabled people they hire. The framework sets out three levels of achievement to support organisations put steps in place to help the recruitment, retention and development of disabled people.</p>
<p>Is there any existing evidence relating to socio-economic disadvantage and inequalities of outcome in this policy area? Please summarise.</p> <p>E.g. For people living in poverty or for people of low income. See <u>The Fairer Scotland Duty Guidance for Public Bodies</u> for further information.</p>	<p>The Scottish Government's <u>Fair Work First</u> programme is designed to support employers to embed fairer working practices including:</p> <ul style="list-style-type: none"> • The adoption of the real Living Wage. • To take action to tackle the gender pay gaps. • To take action to create a more diverse and inclusive workplace. • To offer flexible and family friendly working practices from day one of employment.
<p>Could the function / policy have a differential impact on any of the following equality areas?</p>	<p>Policies are written to ensure compliance with all relevant equalities legislation and to aim to provide equal treatment for all, as far as is reasonably possible.</p>
<p>1. Race: this includes ethnic or national groups, colour and nationality.</p>	<p>We continue to monitor recruitment and retention of colleagues based on ethnicity along with reporting on any pay gaps in this area. We aim for our recruitment processes to reflect the diversity of our communities.</p>
<p>2. Sex: a man or a woman.</p>	<p>We recognise that Orkney Islands Council has a gender pay gap and issues relating to occupational segregation in some areas. We have a commitment to reducing the gender pay gap within our Equality Outcomes and a specific action plan to help to address this. An inclusive recruitment policy supports this work.</p>
<p>3. Sexual Orientation: whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.</p>	<p>N/A</p>

4. Gender Reassignment: the process of transitioning from one gender to another.	Disclosure Scotland produce specific guidance and a dedicated process in relation to trans gender and non-binary applicants to apply for criminal convictions checks. https://www.mygov.scot/transgender-disclosure-application
5. Pregnancy and maternity.	N/A
6. Age: people of different ages.	Aging population and workforce and priority to attract younger people in People Plan. Armed Forces covenant? One of the key aims of the Recruitment and Selection policy is to 'provide developmental opportunities for local, young people to seek employment and develop long-term career opportunities'.
7. Religion or beliefs or none (atheists).	N/A
8. Caring responsibilities.	The improved / supportive approach to flexible working options within the recruitment and selection framework will likely have a positive impact on those with caring responsibilities.
9. Care experienced.	The policy outlines our commitment to offering an interview to applicants who are care experienced with the aim of having a positive impact for this group.
10. Marriage and Civil Partnerships.	N/A
11. Disability: people with disabilities (whether registered or not).	Disability pay gap, Disability confident Reasonable adjustment guide? One of the key aims of the Recruitment and Selection policy is to 'ensure that those who may face challenge or disadvantage in gaining employment, including where this is as a result of having a disability, are not unfairly excluded from gaining employment'. This aligns to our commitment as a Disability Confident Employer as part of the Disability Confident accreditation framework. An alternative format approach to the application process is offered as a reasonable adjustment to disabled candidates as well as support for those who may require assistance in submitting an online application. The policy also outlines our commitment to offering an interview to applicants with a disability.

	There is a commitment to providing feedback to all candidates who are part of the guaranteed interview process.
12. Socio-economic disadvantage.	It might be worth including reference to the real living wage and Fair work first commitment and recruitment incentives to support those who experience socio-economic disadvantage?

3. Impact Assessment

Does the analysis above identify any differential impacts which need to be addressed?	No
How could you minimise or remove any potential negative impacts?	Policies are written to ensure compliance with all relevant equalities legislation and to aim to provide equal treatment for all, as far as is reasonably possible.
Do you have enough information to make a judgement? If no, what information do you require?	Yes

4. Conclusions and Planned Action

Is further work required?	No.
What action is to be taken?	N/A It would probably be useful to reference here any monitoring / statistics based on protected characteristics?
Who will undertake it?	N/A
When will it be done?	N/A
How will it be monitored? (e.g. through service plans).	N/A

Signature:



Date: 7 March 2025

Name: CRAIG A WALKER

(BLOCK CAPITALS).

Please sign and date this form, keep one copy and send a copy to HR and Performance. A Word version should also be emailed to Human Resources and Organisational Development at hrsupport@orkney.gov.uk.