

ADVICE & GUIDANCE

Model Pay Policy (England) 2016 - guidance

School Teachers' Pay and Conditions Document 2016

This guidance, and the model pay policy, is for use in maintained schools in England, and also in educational establishments where the School Teachers' Pay and Conditions Document ("the Document") is incorporated into contracts. The model pay policy is based on the Document available via the following link:

<http://bit.ly/2bhLq6>

The 'relevant body' in a school with a delegated budget is the governing body.

The main changes to the Document 2016 and section 3 statutory guidance since 2015, make provision for the September 2016 pay award.

It is imperative to read this guidance in conjunction with the model pay policy. The section below entitled "Model Pay Policy – specific advice/comments" sets out issues that will need to be taken into account before relevant bodies take final decisions about their individual pay policy.

Yellow highlighted italic text in the pay policy indicates that it is imperative for the relevant body to read the accompanying guidance in this document. **Turquoise highlight** means that a relevant body needs to make a specific choice; or text needs to be inserted or deleted.

The NAHT's model pay policy may not suit all schools or all circumstances. (For example, **academies and other non-maintained schools** should note that the Appraisal Regulations 2012 in England do not apply to them. Therefore the section on 'The Role of the External Adviser' in the model pay policy is not applicable and can be deleted if you so wish. You may have your own appraisal policy and, as a consequence, will need to adapt this policy.)

All members should read the model pay policy carefully and adjust it as necessary to suit their own school's circumstances. One size will not fit all.

*Schools should amend their pay and appraisal policies in order to set objectives as soon as possible in the autumn term 2016. **You should consult staff and school union representatives on the new policies, which should be ratified by the governing body.***

All teachers, including the leadership group, should be clear as soon as possible at the start of the academic year 2016/17 what will be expected of them in order to progress through their relevant pay range on review in 2017.

Summary of changes since 2015: September 2016 pay award

In line with the recommendations in the STRB's 26th Report, from 1 September 2016:

- A 1% uplift has been applied to the statutory minima and maxima of all pay ranges in the national pay framework, including allowances. This Document reflects these new ranges.
- Where a classroom teacher/leadership group member is paid on the minimum of their pay range/band, their salary – excluding any allowances – must be uplifted to the new minimum.
- For all other classroom teachers/leadership group members, schools must determine – in accordance with their own pay policy – how to take account of the uplift to the national framework in making individual pay progression decisions.

Members should ensure they also read the section 3 guidance on application of the uplift. The STPCD now only prescribes pay ranges with minimum and maximum points.

The DfE no longer publishes any pay scale points for reference, either in the STPCD or in Departmental advice documents. The STPCD continues, however, to permit the adoption of fixed pay scale points as the basis for teachers' pay progression, including by continuing to use previous STPCD pay scale points updated as appropriate.

Non-Statutory Guidance from the DfE in 2016 confirms that schools are free to adopt "*whichever system of pay scales, within the statutory pay range, as they see fit – while many schools have opted to adopt to retain a traditional six point main and three point upper pay range others have chosen different approaches...*" (Page 7)

The full non-statutory guidance, 'Implementing your school's approach to pay', can be found at:

<http://bit.ly/2bHrJUI>

The STRB recommended a 1% increase in the minima and maxima of STPCD pay ranges.

NAHT advise that all values of pay scale points, allowances and ranges for allowances set out in school pay policies should therefore also be increased by 1%.

NAHT is a signatory to a joint union pay scale document, published in conjunction with NUT, ATL, UCAC, and Voice. The document is available from our web site at www.naht.org.uk (2016-17 pay scale points - national joint advice 2016).

General

The Document both places statutory duties and confers discretionary powers on relevant bodies. Section 2 contains statutory provision and the DfE statutory guidance can be found at Section 3 of the Document. Relevant bodies must take account of it when determining the pay of teaching staff.

Paragraph references from the Document relate to Section 2 unless otherwise stated.

Teaching staff: Part 1 Paragraph 2, of the Document places a statutory duty on the relevant body to have a pay policy for teaching staff, including arrangements for pay appeals. The pay policy must set out the basis on which relevant bodies will determine pay and the date by which such determinations will be made.

Support Staff: Regulation 17 of the School Staffing (England) Regulations 2009 require the governing body of community, voluntary controlled, community special and maintained nursery schools to pay in accordance with pay grades used by the LA. Regulation 29 of the Staffing Regulations (foundation, voluntary aided and foundation special schools) allows the governing body to employ support staff and is silent on pay scales. Governing bodies may find it more straightforward to use the LA's pay grades, although, under both Regulation 17 and Regulation 29, governing bodies may exercise choice over the particular grading, on appointment only, in light of the circumstances of the school and the advice of the head.

Schools in England and Wales are required to establish an appraisal policy. The lack of an appraisal policy, which is a breach of regulations, does not relieve any relevant body of its duties to review pay under the Document, nor the need to establish a clear pay policy.

The pay policy should be periodically revised, again in consultation with all staff, and, in any event, must be amended to take account of changes each time a new document is issued.

Roles

The Pay Committee: The School Governance (Roles, Procedures and Allowances) (England) Regulations 2013 allow the relevant body to delegate pay decision-making powers to the head teacher or to a single governor. However, it is advised that relevant bodies should only delegate such powers to a committee of the governing body, comprising three non-employee governors, who should carry out determinations of pay in accordance with the pay policy. The pay committee should have available at each of its meetings a copy of the Document and a copy of its pay policy. It is imperative that any decisions on pay taken by relevant bodies are carefully minuted and that there is a clear audit trail. Relevant bodies should take

account of relevant factors only, e.g. performance should be recognised through the award of performance related pay progression payments, not by retention payments.

The Role of the External Adviser (not applicable to academies/non-maintained schools): to use available evidence to advise the governing body on agreeing the head's objectives and reviewing performance against those objectives. Regulations require all schools to secure external advice. However, there is no requirement to buy in such advice from the LA.

The work of the external adviser will normally include:

- reading, reviewing and analysing documents supplied, and giving written advice to the appointed governors, which reviews head's progress against objectives and suggests areas for future objectives;
- holding pre-review meetings with the head and with the appointed governors attending the review meeting and carrying out agreed functions;
- carrying out any agreed post-review work.

Although the external adviser can give a professional judgment that, as a result of the appraisal, it might be appropriate for the governors to award performance-related pay progression, it is the governing body's responsibility to decide on the pay of the head teacher taking account of section 2, Part 2, paragraph 11.2 of the Document. It is not within the external adviser's remit to advise the governing body on the determination of the head's pay range, nor to advise on the pay of any other leadership group member.

Model pay policy – specific advice/comments

Please note that the specific comments/advice in this section relate to the same heading(s) in the model pay policy.

Statement of Intent

Governing bodies should ensure there is a clear audit trail and minutes in relation to pay decisions and should be able to justify their decisions. In terms of performance related pay progression, there must be in place a system which provides a secure evidence base for any pay decisions.

Equalities legislation/equalities and performance related progression

Governing bodies and head teachers should note that where they read the phrase "a year of employment" within the Document, this is defined in section 2, Annex 2 paragraph 7. It is important that heads and governing bodies read this definition.

All teachers, including the leadership group, are entitled to an annual pay review and that any pay award is effective from 1 September each year.

Particular care needs to be taken in relation to pay decisions where a teacher has been absent due to pregnancy, maternity or disability-related sick leave. Such teachers should not be disadvantaged in those circumstances. The DfE has produced advice on equalities issues, contained within its non-statutory guidance, *Implementing your school's approach to pay*.

Wherever possible, schools need to make adjustments to appraisal objectives, appraisal cycles, and pay recommendations/decisions in relation to such teachers. For example, as soon as a teacher returns from maternity or sick leave, it should be a matter of priority to ensure that objectives are set or adjusted. If a teacher is departing on maternity leave, there should be a review of performance before departure and, if the teacher is not returning before the school's pay reviews take place, a recommendation on pay should be made. Schools should gather as much performance evidence as possible, within the limited time frame, in order to make a judgment on the teacher's performance, in line with their appraisal and pay policies.

If circumstances are such that there is little evidence that can be drawn from the current cycle, schools should look at evidence from previous appraisal cycles to make a pay decision. As a consequence, the teacher is neither disadvantaged nor advantaged by their absence on maternity or disability-related sick leave since a decision on pay has been related to performance, albeit that the evidence has been gathered from a shorter, or different, appraisal cycle.

In order to comply with the Appraisal Regulations and the Document 2016, objectives must be set and a review of performance, including a pay recommendation must be made, even if using evidence from a shorter cycle than normal or from previous appraisal cycles. Schools should be flexible and use all reasonable means possible in order to mitigate against discrimination.

In the absence of any evidence that the teacher would not have received the increase in pay, the school must make the pay award. This is reflected in the model pay policy.

Governing bodies should regularly assess the impact of their policy, including trends in progression to ensure continued compliance with equalities legislation, as set out under 'Governing Body Obligations' in the NAHT model pay policy. For example, by monitoring trends, the governing body may find over time that teachers who work part-time do not progress up the relevant pay scale as quickly as full-time staff. The governing body would then need to decide how they would address that particular equalities issue. It could be that insufficient evidence gathering is taking place and that a more robust system needs to be developed.

NAHT recommends that, if possible, each governing body has an 'equalities champion', who is willing to be trained in equalities issues and can work with the school's personnel/legal provider to assess whether the pay policy remains compliant with relevant equalities legislation.

If a school is going to refuse pay progression from teachers who have been absent due to pregnancy, maternity leave or sick leave, it should take advice from its personnel and legal services provider.

Further information on equalities issues, particularly in relation to pay, but also on other aspects of terms and conditions, can be found at:

<http://www.equalityhumanrights.com>
www.acas.org.uk

Appraisals

To ensure consistency of objective setting and assessment of performance, it would be sensible for there to be a moderation process. The highlighted text (*italics*) may need amendment depending on who will undertake the moderation process.

Differentials

All prescribed salary differentials between different posts have been removed from the Document, apart from the fact that the pay range for a deputy or assistant head teacher should only overlap the head's pay range in exceptional circumstances¹. In addition, the maximum of a deputy or assistant head pay range must not exceed the maximum of the head teacher group. Obviously relevant bodies should take account of job weighting when determining pay ranges; NAHT would recommend that suitable differentials are maintained to mitigate against any challenges and to motivate staff.

Procedures

Schools may wish to set aside monies for more rapid progression and for the use of any other pay discretions. NAHT recognises, however, that some schools, particularly small schools, will have extremely challenging budgets. If this is the case, and can be justified, schools may choose the 'OR' option in the model pay policy. The governing body should regularly review their decision on this matter in the light of any change to the budget.

Leadership group pay – new arrangements brought in by the Document 2014 **General**

There is no effective date of change; instead there will be triggers, namely:

- a) The changes to the determination of leadership group pay structures under the Document 2016 should only be applied to individuals appointed to a leadership post on or after 1 September 2014, or whose responsibilities have significantly changed after that date².
- b) Schools may also choose to review the pay of all leadership posts under the new arrangements if they determine that this is required to maintain consistency with pay arrangements either for new appointments to the leadership team made on or after 1 September 2014, or with pay arrangements for a member(s) of the leadership group whose responsibilities significantly change on or after 1 September 2014³.

NAHT would recommend that schools consider reviewing all relevant leadership posts at the same time to maintain consistency.

¹ S.2, Part 2, Para 9.4 STPCD 2016

² S.2, Part 2, Para 4.1 STPCD 2016

³ S.2, Part 2, Para 4.2 STPCD 2016

The status quo remains until there is a trigger as set out in (a) or (b) above.

When moving to the new arrangements the relevant body is *required* to take account of all **“the permanent responsibilities of the role, any challenges that are specific to the role, and all other relevant considerations”**⁴ when determining the pay range for a leadership group member under the new arrangements.

All mandatory spine points have been removed from the leadership group spine; however, it is possible to use pay points and NAHT would recommend that the leadership group spine points continue to be used. [See ‘summary of changes: September 2016 pay award’ for details around the September 2016 pay uplift.]

The criterion for performance-relation pay progression remains the same as previous Documents for all leadership group members, i.e. “sustained high quality of performance having regard to the outcome of the latest appraisal”.

There is no ability to make new awards of retention payments/benefits to leadership group members, other than as reimbursement of reasonably incurred housing or relocation costs. However, if a leadership group member is already in receipt of such a payment/benefit, it can continue, subject to review, at its existing value, until s/he ‘triggers’ (see (a) and (b) under ‘general’ above) to the new leadership group pay arrangements. At that point, all recruitment and retention considerations must be taken into account when determining the leadership group member’s salary range⁵.

Detailed guidance on leadership group pay is set out in the “NAHT guidance on head teacher pay” and the “NAHT guidance on deputy and assistant head teacher pay”. NAHT would recommend that schools read these guidance documents since it is not possible to cover all aspects of leadership group pay in this guidance accompanying the model pay policy.

Head teachers – pay structures and temporary/additional payments

The group range for heads is calculated in the same way as in the past, taking account of pupil numbers. Section 2, Part 2 paragraph 5 of the STPCD 2016 sets out the minimum and maximum values for each group size of school. A relevant body cannot set the head’s pay range below the minimum of the group range; however, in fully justified circumstances, a governing body can set the pay range up to 25% above the maximum value of the group range for heads and, exceptionally, beyond the 25%, where supported by a business case. Before exceeding the 25% limit, the relevant body must seek external independent advice.

Read the general advice above for the criteria for determining the pay range under the new arrangements.

⁴ S.2, Part 2, Para 9.2 STPCD 2016

⁵ S.2, Part 2, Para 27.3 STPCD 2016

Temporary payments can only be awarded to heads for clearly temporary responsibilities or duties⁶ this effectively means they would have to be time-limited from the outset and are in addition to the post for which the head's pay range has been determined. There are percentage limits on the award of temporary and other payments⁷. See the NAHT guidance on head teacher pay.

Deputy and assistant head teachers – pay structures and additional payments

As under previous Documents, the pay range of a deputy or assistant head teacher is not linked to the group size of the school, other than a deputy/assistant head's pay range cannot exceed the group range for the school.

The pay range for a serving deputy or assistant head can only be reviewed where there is a significant change to the responsibilities of the serving deputy/assistant head, or to maintain consistency either with pay arrangements for new appointments to the leadership group made on or after 1 September 2014, or with pay arrangements for a member(s) of the leadership group whose responsibilities significantly change on or after that date.

Read the 'general' advice above for the criteria when determining a pay range under the new arrangements.

Classroom teachers

Pay on appointment [all teachers]

Prior to the Document 2013, there was a requirement for the pay of classroom teachers to be portable between schools. For example, a teacher who was paid Upper Pay Scale 3 could not be paid less than the value of this pay point at any other maintained school. In other words, pay followed the teacher. This requirement has now been removed. The Document 2013 gave relevant bodies the ability to determine starting salaries of teachers new to the school.

It should be noted, however, that many schools have decided that they will continue to recognise 'pay portability', i.e. they will honour the existing salary of a new teacher to the school. If this is the case in your school, you should set that out in your pay policy. You may also wish to make the school's 'pay portability' position clear in any advertisement so that you secure the widest possible field of applicants.

It is important, however, that you understand what you mean by 'pay portability', in relation to new appointments with effect from 1 September each year. Do you mean that you will give automatic progression on 1 September? For example, the teacher is on pay point M4 in the 'old' school and joins the new school on M5 with effect from 1 September. Or do you mean by 'pay portability' that the teacher will join your ('new') school on M4 in September? It is for each school to decide. However, it is imperative that, at the point of interview, there is a clear offer of salary and acceptance, which should be put into writing. Each teacher should receive a contract of employment as soon as possible.

⁶ S.2, Part 2, Para 10 STPCD 2016

⁷ S.2, Part 4, Para 26 and S.3 paras 60 to 69 STPCD 2016

NAHT's has opted for 'pay portability' in its model pay policy. NAHT believes that this minimises any possibility of schools inadvertently applying their policy in such a way that it discriminates against one particular group. For example, those who have been on a career break due to child care. See DfE non-statutory advice (link above) which contains advice on equalities issues.

If a school chooses not to recognise 'pay portability', it should set out in its pay policy what factors it will take into account when determining starting salary for each post it advertises, e.g., the responsibilities and challenges of the post, market conditions.

Annual pay determinations (see separate advice below on UPR progression)

NAHT has opted to continue to use 'pay points' across all pay scales in its model pay policy.

Schools will need to fill in the relevant pay points, depending on the appropriate pay scale, i.e. England and Wales, Inner London, Outer London, Fringe. NAHT is a signatory to a joint union pay scale document which is available from our web site (see *2016-17 pay scale points - national joint advice 2016* above).

The text in turquoise highlighted italics will need to be removed, if the school's budget cannot support accelerated progression. Note the advice contained in 'Procedures' above.

Section 2, Part 3, paragraph 19.2(f) states that a decision may be made not to award progression whether or not the teacher is subject to capability proceedings. It is important that teachers who are not performing to the level required by the school, as set out in their pay policy, are given as much support as possible. Schools should conduct mid-term reviews with all teachers; indeed, they may wish to have termly discussions with teachers about their performance. This is particularly important if a teacher is under-performing. Support, training and/or mentoring should be provided in such cases. It is obviously important that there are 'no surprises' at the final review. The DfE has included guidance on appraisal and pay appeals in its non-statutory advice, *implementing your school's approach to pay*.

Schools should decide how much they can afford for accelerated pay progression as a result of exceptional performance (see pay policy). This will depend on such matters as budget. It is however important that governing bodies can clearly justify their decisions and treat all teachers, be they full-time or part-time, fairly and consistently.

Applications to be paid on the Upper Pay Range

Please read section 2, Part 3, paragraph 15 of the Document and section 3, paragraphs 29 to 32.

Governing bodies/head teachers have the choice whether to deal with applications throughout the year or to have a single cut-off date. NAHT suggests the latter may be more convenient. It will therefore be necessary for schools to fill in applicable dates that suit the school (see 'process' in the policy).

Although the relevant body has legal responsibility for the process, it can delegate the receipt and assessment of applications to the head teacher (or person with management responsibility in the case of unattached teachers), in line with the school's pay policy.

Upper Pay Range ***Annual pay determinations***

It is important to note that the Document states that the governing body **must** consider annually whether or not to increase the salary of teachers (including UPR teachers) who have completed a 'year of employment'⁸. (All provisions related to progression every two years in relation to UPR were removed from the Document 2013). The Document goes on to say that, 'Continued good performance as defined by an individual school's pay policy should give a ... teacher an expectation of progression to the top of their respective pay range'⁹. Therefore, a teacher on UPR must receive an annual pay review, and if s/he meets the performance criteria, there is an expectation of pay progression, effective from 1 September each year.

The onus is on the school to ensure that UPR teachers receive an annual pay review and a decision on pay progression is based on performance, in line with the Document and your pay policy. Further information is contained in an NAHT advice document entitled, "Upper pay range ("UPR") pay progression", available from the members only section of our web site: www.naht.org.uk

The paragraph in highlighted italics will be dependent upon school budgets. Please see the advice under the section entitled 'Procedures' above.

Leading practitioner roles

The policy should contain a statement as to whether or not it is the likely intention of the governing body to create leading practitioner roles. Please note section 2, Part 7, paragraph 50 STPCD 2016, which states that the statutory professional responsibilities are 'a teacher other than a head' (i.e. a classroom teacher¹⁰). However, additional duties relevant to their primary purpose of modelling and leading improvement of teaching skills may be included in the individual job description of such teachers.

If schools decide to keep their options open in relation to the creation of such posts they should cover this in their pay policy. If not, they could merely replace the wording in the model pay policy with, "It is not the intention of the governing body to create a leading practitioner role at this time but the governing body will review its position from time to time."

⁸ S.2, Part 3, Para 19.1 STPCD 2016

⁹ S.2, Part 3, Para 19.2(e) STPCD 2016

¹⁰ S.2, Part 7, Para 51 STPCD 2016

Although there is total discretion on the length of the pay range for a LP post, within the minimum and maximum of the range¹¹, NAHT would recommend that it would be no different in length from any deputy or assistant head pay range. The amount will need to be inserted: see highlighted text in italics. NAHT would suggest that pay points are used.

If schools wish to create such a post(s), they should decide whether the post holder will undertake outreach work (delete highlighted text or not, as appropriate, in the policy).

Schools may wish to consider carefully the creation of such posts. They provide a further career stage for outstanding teachers. In addition, schools could sell the services of their LP, thereby recouping salary costs and also spreading good teaching practice with other schools.

Unqualified teachers ***Annual pay determination***

The paragraph in highlighted italics will be dependent upon school budgets. Please see the advice under the section entitled 'Procedures' above.

Teacher and learning responsibility payments

There are now no statutory differentials between different levels of TLR in the TLR1 and TLR2 bands. In view of the fact that it may be difficult to justify small amounts of money (differentials), NAHT believes the award should be significant and in line with the responsibilities for which the TLR is paid. Indeed, schools may wish to consider using their existing differentials.

If schools decide to change the amount of the differentials between different levels of TLR, it will necessitate a review of all TLRs in their school to ensure consistency and fairness and to mitigate against the risk of challenge. If a TLR is removed or reduced, salary safeguarding will be triggered in most circumstances.

Additional payments

Please ensure you read paragraph 26, section 2 Part 4 and paragraphs 60 to 68 of the section 3 guidance. Governing bodies are able to make new awards under this section to all teachers, except head teachers. Where a head teacher takes on a time-limited responsibility or duty, e.g. service provision work, this is rewarded through a 'temporary payment'¹². All indefinite responsibilities of a head teacher posts should be reflected in the pay range.

Recruitment and retention incentive benefits

No new awards of recruitment and retention incentive benefits will be made to a head teacher, deputy head teacher, or assistant head teacher, other than as reimbursement of reasonably incurred housing or relocation costs. However, where

¹¹ S.2, Part 3, Para 16 STPCD 2016

¹² S.2, Part 2, Para 10 STPCD 2016

the governing body is already paying such an incentive or benefit, determined under a pre-2014 Document, subject to review, it may continue with it, at its existing value, until such time as the leadership group member moves to the new leadership group pay arrangements, as set out in the Document.

At that point, all recruitment and retention considerations in relation to a leadership group member will be taken into account when determining the pay range.

If you need further advice on the pay policy or this guidance, please contact the Specialist Advice team on 0300 30 30 333 (option1) or email specialistadvice@naht.org.uk