

Report No.
ED13092

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: Education Portfolio Holder

Date: For Pre-Decision Scrutiny by the Education Policy Development and Scrutiny Committee on 17th September 2013

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **ECHS DEPARTMENT PAY POLICY FOR CENTRALLY BASED TEACHING STAFF**

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Chief Officer: Terry Parkin, Executive Director, Education and Care Services
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Ward: N/A

1. Reason for report

- 1.1 From 1 September 2013 revised arrangements come into force in relation to Teachers' Pay and Conditions through the publication of the statutory 2013 School Teachers' Pay and Conditions Document.
- 1.2 This report sets out the main changes and proposes a model pay policy (Appendix 1) for all centrally based teachers.
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2. **RECOMMENDATION(S)**

- 2.1 **That Members note and comment on the report and the attached model pay policy for all centrally based teachers.**
- 2.2 **Subject to any comments from the Education PDS Committee, the Education Portfolio Holder agree that the model pay policy be referred on to the General Purposes and Licensing Committee for decision.**

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Children and Young People Excellent Council
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Financial

1. Cost of proposal: Not Applicable
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: N/A
 4. Total current budget for this head: N/A
 5. Source of funding: N/A
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Staff

1. Number of staff (current and additional): All Teachers and Heads of Service centrally employed in Education Services i.e.
 - Behaviour Service
 - Specialist Support and Disability Services (The Phoenix Centre)
 - Sensory Support Services
 - Primary Pupil Support Advisory Team
 2. If from existing staff resources, number of staff hours: N/A.
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Legal

1. Legal Requirement: Statutory Requirement Sections 122 and 127 Education Act 2002
 2. Call-in: Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The Education Act 2002 gives the Secretary of State power to prescribe pay and conditions and to issue guidance on pay and conditions matters, to which those concerned must have regard.
- 3.2 The statutory requirements for teachers' pay and conditions for maintained schools in England and Wales are set out in the School Teachers' Pay and Conditions Document which is published annually, and schools and local authorities (LAs) must abide by these. LAs and governing bodies are also required to have regard to the statutory guidance issued in conjunction with the document, and in respect of guidance on procedural matters a court or tribunal may take any failure to do so into account in any proceedings.
- 3.3 In accordance with the requirements of the School Teachers' Pay and Conditions Document, the LA as the "relevant body" is required to have in place a pay policy setting out the arrangements for determining pay arrangements for all centrally based teaching staff from the 1st September 2013.
- 3.4 Up until now there has been limited flexibility and discretion in relation to the application of the School Teachers' Pay and Conditions Document. However in light of the significant changes this year the current pay policy has been revised incorporating the changes as outlined in the School Teachers' Pay and Conditions Document 2013 and is attached to this report at Appendix 1 for consideration and approval.

Background

- 3.5 Each year the School Teachers' Review Body (STRB) is provided with a remit from the Secretary of State to review Teachers' Pay. The remit focuses on specific areas as well as pay trends in general. The school teachers' review body consults with employers and teacher organisations and Unions and reports back to the secretary of state its findings and recommendations. The secretary of state then determines whether or not to accept the proposals put forward by the review body.
- 3.6 The 21st Review Body report made the following recommendations which were accepted by the secretary of state:

The retention of a broad based national framework including 4 pay bands

- Upper Pay scale
- Leading Practitioner Pay Scale
- Main Scale
- Unqualified Pay Scale

- Abolition of mandatory points (though may be kept as 'reference points')

- Differential performance-based progression judged on annual appraisal, assessed against single set of teachers' standards

- Reinforcement of responsibility of Head Teachers to manage staff and resources and governing bodies to hold school leaders to account for managing and rewarding the performance of teachers (this would equally apply to LA employed Teaching Staff)

- Pay Policy to be clear on how performance will be linked to pay and the use of any appraisal information.

- removing pay progression based on length of service and linking all pay progression to performance. New arrangements for teachers' pay will take effect from September 2013. September 2013 will be the last time that annual pay increments are awarded to teachers based on the length of their service. Thereafter, decisions about teachers' pay progression will be linked to performance, with their first annual performance-related progression pay increases being made in September 2014.
 - giving the option of increasing individual teachers' pay at different rates based on their performance
 - replacing the current threshold test for progression from the main to the upper pay range with new simpler criteria, and a revised process for teachers to apply to be paid on the upper range at least once a year in line with their LA's pay policy.
 - discontinuing the current Advanced Skills Teacher (AST) and Excellent Teacher (ET) designations and creating a new pay range for leading practitioners whose primary purpose is to model and lead the improvement of teaching skills
 - the introduction of a fixed term third TLR (TLR3) to a classroom teacher for a clearly identified time limited period. £500 - £2500
 - the removal of the three-year time limit on recruitment and retention allowances.
 - giving more freedom to determine starting salaries of teachers new to the service
 - removing any obligation on services when recruiting to match a teacher's existing salary ("pay portability").
- 3.7 The DfE carried out extensive consultation with relevant parties and published a draft SCTP&CD. The finalised version was laid before Parliament in August 2013 with implementation on the 1st September 2013. This timescale has been very problematic for all those involved with determining pay arrangements not least because of the extensive changes this year but also as there was further consultation on some areas following the 22nd STRB report which was not finalised until August.
- 3.8 The new provisions provide greater flexibility for relevant bodies in relation to reward and performance of staff. Each School and LA is required to determine its own specific pay policy tailored to the needs of the individual school/service.
- 3.9 Schools have already been provided with advice and guidance regarding the preparation of a pay policy.

DfE and Trade Union Perspectives

3.10 The LA currently employs Teaching Staff in the following central service areas:

- Behaviour Service
- Specialist Support and Disability Services (The Phoenix Centre)
- Sensory Support Services
- Primary Pupil Support Advisory Team

- 3.11 There is existing provision for each Teacher's salary to be reviewed annually. In addition the LA already has an appraisal policy in place agreed by Members in autumn 2012.
- 3.12 New Teaching Standards were also introduced in 2012.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/208682/Teachers_Standards_2013.pdf The expectation is that teachers' objectives will be more closely aligned with the Standards and September 2014 will be the first time that pay progression will be directly linked to performance. Managers/Heads of Service will need to have regard to the Teaching Standards when setting objectives for teaching staff.
- 3.13 Teacher Trade Unions nationally are opposed to several elements of the pay changes particularly around the issue of pay portability and the LA in line with neighbouring LAs has received notification of escalation of industrial action short of strike action from NASUWT and the NUT in response to the changes.
- 3.14 Several of the Trade Unions have issued their own guidance/model pay policies including NAHT & ASCL, NASUWT & NUT.
- 3.15 The NASUWT/NUT has made clear that any policy that does not comply with their checklist regarding pay policies will not be accepted by them. They have stated that acting in any way that is contrary to their policy will put schools at risk of unlawful discrimination. A copy of the check list can be found at the following link
http://www.nasuwt.org.uk/consum/groups/public/@journalist/documents/nas_download/nasuwt_010924.pdf
- 3.16 The Secretary of State has sent a letter and advice to schools, and Academies giving the DfE perspective on some of the items in the NUT and NASUWT pay policy checklist. Both documents have been published on the DfE website:
<http://www.education.gov.uk/schools/careers/payandpensions/a00203870/strb-remit-21st-report>
- 3.17 The Secretary of State has indicated that in his view elements of the checklist are unlawful and adoption of the checklist would significantly limit schools' ability to take advantage of the flexibilities now available to them in terms of managing their budgets and rewarding performance. He has further stated that: "As now, schools need to have regard to how they set objectives and appraise performance and decisions need to be evidence based. However, making differentiated pay decisions is not in itself unlawful."
- 3.18 The proposed pay policy has been prepared using guidance and advice from a variety of sources including DfE, the Trade Unions and other LAs. The policy provides flexibility for managers in determining arrangements for Teachers' Pay and embraces the requirements of the new STP&CD.
- 3.19 Following DMT agreement in principle the LA began a period of consultation with the Trade Unions recognised by the LA. An oral update on the outcome of consultation will be provided at the PDS meeting however it should be noted that it is unlikely that agreement with the Trade Unions will be reached due to the position already outlined by NASUWT/NUT in terms of adhering to its checklist.

4. POLICY IMPLICATIONS

- 4.1 The model policies are consistent with BBB priorities to provide strategic leadership and support to schools in the Borough to assist and underpin the Government's Education Reform

Programme and ensuring the organisation has a workforce of appropriate skills and experience to meet future challenges in delivering local priorities.

5. FINANCIAL IMPLICATIONS

Any cost implications arising from the application of the policy will need to be met from existing resources.

6. LEGAL IMPLICATIONS

Part 8 of The Education Act 2002 deals with the legal status of teachers pay and conditions. Section 122 gives the Secretary of State a power to prescribe pay and conditions for teachers and Section 127 recites that the Secretary of State after due consultation may issue guidance which a local authority and a school governing body shall have regard to in respect of teachers pay.

7. PERSONNEL IMPLICATIONS

- 7.1 Given the statutory nature of the process and in light of the Secretary of State's firm response to the trade union document; any local consultation with local unions will not affect the core principles, structure and the process of implementing the Pay Policy. Notwithstanding that the local unions have already been provided with a copy of the guidance issued by HR to schools and some of their comments have been addressed; we will continue to reassure unions and staff that the policy will be applied locally consistently and fairly, and monitored in consultations with the unions.

Non-Applicable Sections:	N/A
Background Documents: (Access via Contact Officer)	