

Report No:
CEO 1631

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: GENERAL PURPOSES AND LICENCING COMMITTEE

Date: 12 September 2017

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

Title: Teacher Pay Policy – Centrally Based Staff

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Chief Officer: Jane Bailey Director of Education
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Ward: N/A

1. Reason for report

- 1.1 From 1 September 2017 revised arrangements came into force in relation to Teachers' Pay and Conditions through the publication of the statutory 2017 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 **Agree the model pay policy in respect of Centrally based Teaching staff employed by the Local Authority which provides flexibility for Managers in determining arrangements for Pay and Progression for all Teaching staff consistent with the letter and spirit of the statutory guidance .**

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.

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

As at 30 August 2017 this comprised 50 staff (40.13 FTE) employed on Teacher Terms and Conditions of employment.

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.
- 3.4 The current pay policy has been revised incorporating the changes as outlined in the School Teachers' Pay and Conditions Document 2017 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. A copy of the 27th Review Body full report can be found at the following link <https://www.gov.uk/government/publications/school-teachers-review-body-27th-report-2017>
- 3.6 The Review Body made the following recommendations which were accepted by the Secretary of State:
- A 2% uplift to the minimum and maximum of the main pay range (MPR);
 - A 1% uplift to the minima and maxima of the upper pay range (UPR), the unqualified teacher pay range and the leading practitioner pay range;
 - A 1% uplift to the minima and maxima of the leadership group pay range and all head teacher group pay ranges; and,
 - A 1% uplift to the minima and maxima of the Teaching and Learning Responsibility (TLR) and Special Educational Needs (SEN) allowance ranges.
- The Review Body further commented that it is for school leaders and governing bodies to implement these changes to the national pay framework in accordance with their pay policies and within the funding available.
- 3.7 The DfE carried out extensive consultation with relevant parties and the finalised version of the School Teachers Pay and Conditions Document (SCTP&CD) was laid before Parliament in August 2017 with implementation on the 1st September 2017.

- 3.8 The new pay and conditions document continues to provide 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 In reaching its recommendations the review body commented that:

“It is essential that the national pay and allowance framework for teachers attracts high quality graduates to the profession, retains experienced and capable teachers, and motivates and rewards fairly those who take on additional responsibilities and leadership positions. We consider that the evidence supports the case for an uplift to the pay framework which will strengthen the position of teaching in relation to other graduate professions and start to mitigate recruitment and retention pressures.

We noted, and carefully considered, the evidence we received about schools’ financial situations. School leaders and governing bodies will face a range of financial challenges over this Spending Review period, and it is clear that some schools will find it challenging to implement any pay uplift at all. However, pupil achievements are largely dependent on schools maintaining a strong cadre of teachers. This will require school leaders and governing bodies to make best use of their people and give the necessary priority to teachers’ pay within their schools’ budgets. The new teachers’ pay framework introduced by recent reforms has given them additional tools to help with this.

Taking all factors into account, we conclude that action is required now to make the teachers’ pay framework more competitive. In the context of the overall financial situation, we think this should be targeted to support the recruitment and retention of teachers in the early stages of their careers”.

As part of the review cycle HM Treasury provided evidence and emphasised its view that there is an expectation that public sector pay awards should be applied in a targeted manner to support the delivery of public services and to address recruitment and retention measures. It further indicated that whilst some workers could receive more than 1% there should not be an expectation that every worker will receive a 1% pay award.

DfE and Trade Union Perspectives

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

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

In total as at the 30 August 2017 this comprised 50 staff (40.13FTE) on Teaching terms and conditions of employment.

- 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 introduced in 2012 and from September 2014 pay progression for all Teaching staff became directly linked to performance.
- 3.13 Teacher Trade Unions nationally were opposed to several elements of the significant pay changes that were introduced in 2013 and this continues to be their position.

- 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 have 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.
- 3.16 The Secretary of State has previously 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.
- 3.17 The Secretary of State at the time indicated that in his view elements of the unions' 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 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." This advice still stands and applies to Local Authorities as well as schools.

Options

- 3.18 In light of the recommendations of the review body and HM Treasury the Council needs to review its pay policy and determine whether any changes are required.
- 3.19 The 2016 pay policy was previously prepared using guidance and advice from DfE. The current policy provides flexibility for managers in determining arrangements for Teachers' Pay for all Teaching staff including those employed on the leadership range. This includes flexibility regarding starting salaries and progression and is broadly consistent with the current principles applied to those staff employed by the Council on Localised Pay terms and conditions. The policy itself uses a range of reference points for salary purposes.
- 3.20 The Council has to implement the changes required by the SCTP&CD 2017 as this is a statutory requirement however it has discretion regarding those elements which are non-statutory.
- 3.21 One option would be to simply uplift the elements that are statutorily required and leave the remaining elements with any uplift being determined by individual managers linked to an individual's performance.
- 3.22 This would follow the spirit of the review body's recommendations and assist with recruitment and retention at both the top and bottom of the scales however the disadvantage would be that some staff in between these points may not receive any increase at all and over time this could create disproportionate salary differentials.
- 3.23 A further option would be to apply a percentage uplift to all other salary points with the expectation that managers will determine whether any further uplift is required linked to performance reviews.
- 3.24 This approach would be broadly consistent with Localised Pay and Conditions of service and the pay award applied to all Council staff earlier in the year. However this would represent an additional cost that is not statutorily required and would not be in the spirit of the recommendations from the Review Body and the Treasury.

Consultation

- 3.25 Following publication of the Pay and Conditions Document the Council is required to formally consult with Trade Unions to seek their views on the pay policy. This year there are no changes to the policy with the exception of the percentage uplifts to the minimum and maximum of scales and allowances which the Council is statutorily required to apply. It is proposed that Committee apply the statutory percentage uplift to the minimum and maximum of scales as set out in the SCTP&CD with any additional progression assessed objectively against performance criteria and authorised by Head Teacher's/Heads of Service.
- 3.26 In light of this being the only proposed change to the current policy, Trade Unions were contacted to propose a shortening of the 30 day consultation period in order that a report could go to this committee for consideration in September as the Committee does not convene again until November and the pay policy is effective from 1 September each year. Members will wish to note that traditionally the August period is generally a key holiday period and therefore although only two responses were received one from ASCL (Association of School and College Leaders) and one from the NASUWT. ASCL were in agreement with the shortened consultation period and the NASUWT requested a copy of last year's policy for reference purposes. Other Trade Unions may respond at the beginning of September when school's return. Any responses received will be verbally advised to the committee at the meeting.
- 3.27 Members will also wish to note that Agreement with the Trade Unions on the general content of the policy will not be reached due to the position already outlined previously by NASUWT/NUT in terms of adhering to its checklist. This position was also adopted previously by the Council's consultative committee the Joint Teachers' Liaison Committee.

4. POLICY IMPLICATIONS

- 4.1 The model policy is 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. Various elements of the model policy for teachers are similar or consistent with the key elements of the Council's local terms and conditions of service for all non-teaching staff employed by the authority.

5. FINANCIAL IMPLICATIONS

- 5.1 Any cost implications arising from the application of the policy will need to be met from existing resources. The percentage uplift set out in the SCTP&CD is a statutory requirement and as such the Council has no alternative other than to apply it.

6. LEGAL IMPLICATIONS

- 6.1 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 As set out in this report.

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