

**The draft School Teachers' Pay and Conditions Document
Department for Education
3rd September 2018**

1. The NASUWT welcomes the opportunity to respond to the Department for Education's (DfE) draft 2018 School Teachers' Pay and Conditions Document (STPCD).
2. The NASUWT is the only union representing teachers and headteachers exclusively.

GENERAL COMMENTS

3. The NASUWT has submitted a separate response to the consultation on the Secretary of State's response to the School Teachers' Review Body's (Review Body) 28th Report. The NASUWT has outlined its opposition to the Secretary of State's proposed response to the Review Body's Report and, to the fact that the Secretary of State, having failed to adopt the Review Body's recommendation in full, has undermined the consultation process by further failing to provide a rationale for not adopting the recommendations in full. Flowing from this, the NASUWT opposes key sections of the draft STPCD.
4. The NASUWT draws to the attention of the DfE the difficulties posed by the late publication of the draft STPCD, which accompanies the Secretary of State's response to the Review Body's Report.

5. One of the key consequences is confusion at school, local authority and academy trust level about the implementation of the pay award in practice. This has been compounded by the Secretary of State moving away from the wording of the Review Body's recommendation and promoting greater flexibility in the implementation of the pay award. This approach has contributed to a failure by some schools to implement the statutory pay award for the majority of teachers and consequently, heightening industrial relations problems across the sector in relation to the pay award.
6. The NASUWT stresses to the DfE that the Union believes that the process for consultation on the draft 2018 STPCD is flawed as a result of the failure of the Secretary of State to provide any rationale for the failure to accept the recommendation of the Review Body in full.
7. In the absence of a definitive final version of the STPCD, the draft STPCD begins to circulate within the system as the authoritative and definitive final version. The circulation of the draft STPCD undermines the statutory process of consultation on the wording of the pay award, which is a key element of the statutory process by which teachers' pay is determined. It is also noteworthy and illustrative of the problems caused that the draft 2018/19 STPCD, published alongside the Review Body's 28th Report, contained crucial drafting errors and had to be withdrawn within hours of its release. Other basic, critical, drafting errors remain in the draft STPCD currently available to schools.
8. The DfE must recognise the difficulties caused by the late publication of the draft STPCD and issue a robust directive to schools, academy trusts and local authorities that pay decisions should not be made on the basis of its contents.
9. The late publication also provides schools with an excuse to unreasonably delay their decisions on the pay award and on teachers'

pay progression beyond the statutory 31 October deadline, providing the opportunity for governing bodies to amend their pay policies in relation to pay scales and performance pay criteria to seek to avoid paying the award and deny pay progression. The STPCD guidance must make a clear statement that such practices are neither appropriate nor acceptable.

SPECIFIC COMMENTS

10. The NASUWT notes that Paragraph 3 of the STPCD states, for the first time, that the *'Document and statutory guidance have been amended **in response** to the recommendations ... of the School Teachers' Review Body', rather than the 'Document and statutory guidance have been amended **to reflect** the recommendations... of the School Teachers' Review Body'*, which has been the wording of the STPCD to date. This appears to confirm the Union's view that the Review Body's recommendation has not been adopted in full.

The undermining of the independent evidence-based process which has served teachers and headteachers well is deeply regrettable.

11. The Review Body's recommendation in its 28th Report for the teachers' pay award for 2018/19 is:
'For September 2018, we recommend that all pay and allowance ranges for teachers and school leaders are uplifted by 3.5%.'
12. The Secretary of State has instead proposed a targeted award, even though the evidence-based Review Body offered a clear rationale for not doing so. The NASUWT opposes this change in the STPCD.
13. The DfE has applied to the pay values in the 2017 STPCD a 3.5% uplift to the minimum and maximum of the unqualified pay range and main pay range, a 2% uplift to the minimum and maximum of the upper pay range, leading practitioner pay range and all allowances and 1.5% to

the minimum and maximum of the leadership pay ranges. This is the proposed pay framework for teachers in the 2018 STPCD. The NASUWT also opposes this change and believes that to reflect the recommendation of the Review Body, the uplift to all pay values in the STPCD should be 3.5%.

14. The DfE has also included the following text in the ‘September 2018 pay award’ section of the STPCD:

‘Except for teachers and leaders on the minima of their respective ranges or group ranges, 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.’¹

In its 28th Report the Review Body has not referred to the minima and/or maxima of the pay ranges, but has stated ‘that all pay and allowance ranges’ accrue an uplift. The NASUWT contends that this means that all pay and allowance ranges at use at individual school level would accrue the 3.5% uplift or, for clarity, that all teachers receive the 3.5% pay award.

15. The Secretary of State’s Statement to Parliament about the 2018/19 teachers’ pay award stressed the salary increases from which teachers would be benefiting:

‘This will both raise starting salaries significantly and increase the competitiveness of the early career pay framework. We are also announcing a substantial uplift to pay ranges for leaders and higher-paid teachers: the minima and maxima of the upper pay range will be uplifted by 2% and on the leadership pay range by 1.5%.’

‘As a result, classroom teachers will see the biggest benefit with starting salaries increasing between £803 and £1,004, and those at the

¹ Draft School Teachers’ Pay and Conditions Document 2018 and guidance on school teachers’ pay and conditions, page 7.

*top of the main pay range will be eligible for increases between £1,184 and £1,366.*²

16. Contrary to this, the DfE's text for the draft STPCD enables schools to have the flexibility to decide not to make the pay award which the Review Body has recommended for teachers and which the Secretary of State has claimed to Parliament he has accepted in full.
17. The DfE's proposed wording for the STPCD will mean in practice that, in many schools, only teachers paid on the minimum of the pay ranges will receive any pay increase. Indeed, only a small minority of the teaching profession could receive a pay increase if the DfE's proposed wording is adopted. The majority are likely to receive no award, compounding the already evident pay equalities in the system.
18. The DfE's 2017 School Workforce Census (SWC) indicates that, in England, 51,800 teachers are in the 'under £25,000' salary band, out of a total workforce of 432,500. This salary band covers teachers on the minimum of the MPR (£22,917) and teachers paid on point 2 of the MPR reference point scale adopted by a large number of schools and academy trusts (£24,728), still commonly known as M2.
19. 12% of teachers in England therefore are in the under £25,000 salary band. Even though this statistic does include some part-time teachers, who may not be on the minimum of the MPR, and some full-time teachers who have moved to the M2 pay point in their school, it is possible to say with certainty that the number of teachers on the minimum of the MPR does not exceed 12%.
20. As drafted, the STPCD will compound the deep crisis in teacher supply and the growing inequality and discrimination in the pay system across schools.

² House of Commons Written Statement made by: The Secretary of State for Education (Mr Damian Hinds) on 24 July 2018.

Section 3 Guidance

21. The statutory guidance in Section 3 of the STPCD is not fit for purpose. Paragraph 5 (Page 64) has not been updated since the 2017 version and does not reflect the proposed wording contained in the pay award section in Section 2, Part 1 of the draft 2018 STPCD. Paragraph 5 currently reads:
'When making their annual pay determinations, with the exception of teachers at the bottom of their respective pay ranges for whom the relevant body must uplift their salary by 2% for the main pay range and 1% for all other ranges, relevant bodies will need to consider how to take account of the uplift to the national framework in making individual pay progression decisions.'
22. This lack of attention to detail signals, in our view, a failure to take seriously the terms of employment and working conditions of teachers by the DfE.
23. The Section 3 guidance fails to reflect the Review Body's expectations of a pay award for all teachers and school leaders to address the profound teacher supply crisis.
24. The Section 3 guidance feeds the culture where pay decisions are premised on withholding pay and pay progression from teachers, rather than one where teachers are rewarded.
25. The Review Body has made its expectations clear in respect of teachers' pay progression by stating:
'We also reiterate our view that good teachers should continue to be able to expect to progress to the top of the main pay range (MPR) in

five years. This principle was endorsed by the Secretary of State during his oral representations.’³

26. This recommendation must be reflected in the Section 3 guidance. The NASUWT has raised before the proliferation of policies across the system which are designed to erect barriers to progression, such that even good and outstanding teachers would take over a decade to reach the top of the MPR.
27. The Review Body has made clear to schools the extent to which they should prioritise teachers’ salaries:
‘Suitable priority should therefore be given to teachers’ salaries when setting budgets in order to maintain an effective teaching workforce.’⁴
28. This statement must also be reflected in the Section 3 guidance.
29. The Review Body has recognised the need for further statutory guidance on pay. However, the DfE has not even made an attempt to ensure that the statutory guidance in the draft 2018 STPCD is accurate or consistent with the pay provisions in Section 2 of the Document, let alone that it addresses the recommendations of the Review Body in its 28th Report or the Secretary of State’s Ministerial Statement on teachers’ pay.
30. The NASUWT believes that the Section 3 guidance is so flawed that it has to be substantially rewritten. The NASUWT will always have, as an expectation, that the revised text should fully reflect the Review Body’s recommendations in the 28th Report, in this case a 3.5% pay increase to all pay ranges and allowances.

³ School Teachers’ Review Body’s 28th Report, 2018, paragraph 5.3.

⁴ Ibid, paragraph 4.29.

Teachers' Pay Grant

31. The Secretary of State has announced the establishment of a teachers' pay grant to support the implementation of the pay award across maintained schools and academies in England, indicating that further details will be published on the implementation of the grant when the pay award is confirmed.
32. The NASUWT believes that the process for the implementation of the grant should have been included in the draft STPCD to enable statutory consultees to comment.
33. The 2018 STPCD will apply to Wales and the draft STPCD should propose the methodology for the implementation of the grant to Wales. The NASUWT believes it is discriminatory on the grounds of ethnic or national origin or nationality, and unacceptable that while the powers on pay for teachers in Wales are reserved to Westminster on the date of implementation, teachers and headteachers in Wales have been excluded from the grant.
34. The Secretary of State should be clear that unless the teachers' pay grant is ring fenced and the application in schools is monitored, it is highly likely that the money will be vired to other expenditure.
35. It is equally vital that schools understand that the teachers' pay grant is not designed to cover the full cost of increases in teachers' pay during 2018/19, both because of the 1% threshold factor and because the grant is not designed to cover the cost of teachers' pay progression. The statutory guidance must make clear that the teachers' pay grant is not a 'cost envelope' for the teachers' pay award and pay progression. The DfE and the ESFA must reinforce the Review Body's recommendation that schools and academy trusts also focus their own budgets on meeting the increased costs of teachers' pay during 2018/19.

36. The mechanism for the allocation for the grant and the formula used should be the subject of consultation with statutory consultees and the process must be fair, clear and transparent. The NASUWT assumes that local authorities will distribute the grant to maintained schools.
37. The NASUWT assumes that the Education and Skills Funding Agency (ESFA) will distribute the grant to academy trusts. It is equally important that the role of the ESFA in distributing the grant, and the methodology adopted by the DfE for its allocation, are both the subject of full consultation with statutory consultees.
38. In particular, the DfE/ESFA needs to provide a rationale, and an accompanying methodology, for distributing a teachers' pay grant to academy trusts which have neither implemented the pay increases in the STPCD nor met the clear expectations of the Review Body and the Secretary of State in respect of increases in teachers' pay.
39. The NASUWT engages in pay bargaining with hundreds of academy trusts and it is by no means clear that many of these will be implementing the pay increases set out in the 2018 STPCD. Indeed, some academy trusts, particularly but not exclusively free schools, employ teachers on contracts which vary considerably from the STPCD. At least one large national multi academy trust has indicated that it intends to limit pay awards to well under 3.5%, irrespective of the pay level of individual teachers. The DfE/ESFA should propose a rationale and methodology for allocating the teachers' pay grant to such employers.

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