

24th July 2020 – LGA webinars on schoolteachers and support staff pay

SCHOOL SUPPORT STAFF (Green Book) Q&A's		
1.	<i>I understand the green book pay award has not been settled yet and is still awaiting trade union agreement. Do we have an idea when this might be settled?</i>	UNISON and GMB are consulting without a recommendation on whether the Employers' final offer of 2.75% should be accepted or rejected. Unite is recommending rejection. All three consultations run through to mid-August, so a conclusion to this year's pay round is unlikely until end of August at the earliest (assuming all three unions can reach a joint position on whether to accept the offer).
2.	<i>What is the basis upon which Unite is rejecting the green book deal?</i>	Unite is a democratic organisation and as such this is the position it has reached.
3.	<i>Why no support from the unions?</i>	It's rare for unions to accept and be pleased with any pay offer
4.	<i>You said we didn't have to contact employees who left prior to 1st April - but what about those that have left since 1st April but before the pay award has been agreed?</i>	To clarify, an employee who has left since 1 April, and before 2020 pay is agreed, does not need to be contacted and offered the backpay. But if an ex-employee asks for it, it should be paid.
5.	<i>We are an academy Trust; we only have members from Unison and GMB. Could we implement the pay award without waiting for Unite to agree?</i>	No. First, the question assumes that UNISON and GMB members will vote to accept the pay offer. Second, there can be no pay deal until all three unions accept a pay offer.

6.	<i>Any guidance available on TTO holiday/pay calculation following Greenwich settlement?</i>	Part 4.12 was added to Green Book in Feb 2019 and includes a model formula for calculating TTO pay https://www.local.gov.uk/our-support/workforce-and-hr-support/local-government-services
7.	<i>Is there any national position on backdating TTO pay if previous formula used was less favourable than the Green book? E.g. Unison's Greenwich pay settlement.</i>	When the 2020 pay round is settled it must be backdated to 1 April. The model formula in Part 4.12 sets out how pay adjustments should be made.
8.	<i>We have been told that as the Greenwich case was settled, we don't need to follow it?</i>	See Part 4.12 and various ERU advisory bulletins. AB 664 - https://www.local.gov.uk/our-support/workforce-and-hr-support/employment-relations/advisory-bulletins-employment-law-0 LGA Advisory bulletins link - https://www.local.gov.uk/our-support/workforce-and-hr-support/employment-relations/advisory-bulletins-employment-law-updates
9.	<i>The Brazel case is going to appeal at the supreme court - how might this affect the green book guidance.</i>	LGA will consider the court's decision when it is made. However, due to COVID, there is a significant backlog in court hearings, so an outcome is not expected for some time.
10.	<i>Will further TTO guidance be issued?</i>	The NJC review will issue further Part 4 guidance.
11.	<i>If staff TUPE transfer before its agreed, does the new employer have to apply the award?</i>	Not normally (as confirmed by LGA legal advisers). A new employer should not be bound by collectively agreed terms where they are not party to the collectively agreed negotiations. So, the norm is they do not have to apply the award, unless they are a party in that collectively agreed bargaining process (see <i>Alemo-Herron v Parkwood Leisure</i>).
12.	<i>On TUPE, whilst the new employer has obligation to apply the award, who has liability for the arrears?</i>	The new employer will normally have the liability, unless otherwise agreed between the transferring employer and the new one.

13.	<i>There are no separate points for 6.1 & 6.2? 2015 pay. Is it recommended there is only one sop 6 now?</i>	You can decide to continue to locally apply 6.1 and 6.2
14.	<i>Will update on Brazel case be provided as part of LGA bulletin for those who do not sign into webinar today? Will copies of slides from Employment Law webinar be available too?</i>	Latest ERU update on Brazel case is in AB 681 at this link https://www.local.gov.uk/our-support/workforce-and-hr-support/employment-relations/advisory-bulletins-employment-law-6 https://www.local.gov.uk/schools-employment-law-24-july-2020 https://www.local.gov.uk/update-school-staff-pay-2020-24-july-2020
Teachers (STPCD) Q&A		
15.	<i>Does the STPCD indefinitely bind all employers where it applies?</i>	Yes, because it's a statutory award, applying to all teachers covered under that award. This is different to support staff who are on collectively agreed pay terms and therefore the new employer would not normally be bound by collectively agreed terms after the transfer, unless the new employer was party to that collective bargaining process.
16.	<i>What is the DfE funding position on this, are schools needing to absorb this increase in cost? Alongside other big cost drivers (TPS increase etc), affordability is a real concern at school level</i>	There is no additional government funding for schools as a result of the proposed 2020 LGS and teachers' 2020 pay awards.
17.	<i>Are we guesstimating that the government will be funding schools (fixed term) for this pay (and pensions) increase for 20/21?</i>	As outlined in the ministerial statement dated 21 July 2020 on the STRB's recommendation's, there will be no additional funding for schools as a result of proposed teachers' pay award 2020. https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-07-21/HCWS402/

<p>18.</p>	<p><i>Although the pay points are advisory only - in practice unions and employees are very likely to regard these as absolutes - what advice can Dominic (DfE) give to schools who may wish to pay values other than those advised or continue to base pay progression on other mechanisms - e.g. annual % increase?</i></p>	<p>DfE response "Whilst that is likely to be the case the advisory nature of the document provides employers with the option to apply the pay points in a local context in relation to its pay policy. It is assumed that such decisions will be based on affordability within the schools' budget.</p>
<p>19.</p>	<p><i>The slide showing new salary amounts in a table showed more than 2.75% increase for M2 to M5. What figure is this % increased based upon given there haven't been these points in STPCD recently?</i></p>	<p>Since the national pay spine was abolished both the unions and the LGA have been providing pay reference information to support the updating of local school pay policies. The advisory pay spine included in the draft STPCD is based on the joint unions 2019 pay guidance with the proposed uplifts (5.5 per cent MPR1 and 2.75 per cent on the remaining points.</p> <p>Further information can be found in the STRB 30th Report. (see link and extract below) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902393/STRB_30th_report_July_2020.pdf</p> <p>'All of our consultees were of the view that these pay points should be based on the existing guidance that has been produced by the unions and local authorities. This guidance sets out a structure of six points on the MPR and three points on the UPR and is currently used in most schools. We agree that this is appropriate in the short term, as the priority should be to establish pay points that align as closely as possible with the pay structure currently in place in most schools in order to reduce implementation challenges.'</p>
<p>20.</p>	<p><i>As the STPCD is laid in parliament during w/c 21 Sept, can we at that point make amendments within our payroll systems to be able to pay staff on the new rates within their</i></p>	<p>That is a matter for local decision making as the new pay rates will not be statutory until the completion of the parliamentary process expected on 12 October 2020. Please note that while the draft</p>

	<p>October salary (all our pay dates are on or after 16th of the month)?</p>	<p>STPCD pay rates have never changed as a result of the consultation this is a possibility that you also need to be aware of.</p>
<p>21.</p>	<p>Will the DfE be issuing guidance to schools on how best to manage end of year appraisal reviews / performance related pay decisions given impact of Covid-19 on ability to teachers to meet performance objectives? Current DfE guidance is minimal and refers only to no detriment.</p>	<p>1. DfE guidance: There are currently no plans to further update the guidance linked below. https://www.gov.uk/government/publications/covid-19-school-closures/guidance-for-schools-about-temporarily-closing#workforce</p> <p>14.3 Should appraisals and performance management processes continue for teachers during this period? Yes, maintained schools must continue to adhere to the School Teachers Pay and Conditions Document (STPCD), which includes the requirement to ensure that all pay progression for teachers is linked to performance management.</p> <p>However, we would expect schools to use their discretion and take pragmatic steps, to adapt performance management and appraisal arrangements to take account of the current circumstances.</p> <p>Schools must ensure that teachers are not penalised during the appraisal process or in respect of any subsequent pay progression decisions as a result of partial school closures, where this has impacted on the ability of the teacher to meet fully their objectives.</p>
<p>22.</p>	<p>Our local NEU rep has circulated a letter asking our LA to encourage school leaders to take a blanket approach and award pay progression to all eligible teachers due to Covid-19 and on the basis that no meaningful performance management could take place (with the exception of those being managed formally under capability proceedings). DfE guidance</p>	<p>The STPCD is a statutory document as highlighted in the previous response and must be followed. The LGA support the sensitive and pragmatic approach detailed above in the DfE guidance. Ultimately individual teacher's pay is determined locally and in accordance with the schools pay policy.</p>

	<i>does not appear to support this stance. Does the LGA have a view on this?</i>	
23.	<i>Is the pay restraint likely to mean that the MPR and UPR will be squeezed so there will be less difference between the top and bottom?</i>	The draft STPCD does not contain guidance on how assimilation onto the proposed advisory pay points should be managed, and local authorities and schools will need to determine, in consultation with the unions and staff representative bodies, an appropriate methodology and timescale where they chose to move to the published advisory pay points. See the LGA pay circular https://www.local.gov.uk/sites/default/files/documents/final%20LGA%20Pay%20Ref%20Circular%202020%2023%20july.pdf
24.	<i>Is there any update regarding percentage increases for the Unqualified, Lead Practitioner and Leadership Scales?</i>	Yes, the percentage increase for all but M1 is 2.75 per cent to the minima and maxima pay ranges. You can find more information Within the LGA circular https://www.local.gov.uk/sites/default/files/documents/final%20LGA%20Pay%20Ref%20Circular%202020%2023%20july.pdf
25.	<i>Looking at the draft document paragraph 26 has been changed to exclude all leadership teachers not just headteachers. What is the reason for this please?</i>	DfE have replied to say they ‘are simply rectifying a long-standing anomaly/inconsistency. The policy intent had always been that para 26 should not apply to any teacher on leadership and the wording has changed over the years but has never been entirely clear.’
26.	<i>If schools have more pay points in their pay policy (i.e. half points in between) and they wanted to keep them, what would the advice be on how to apply the % increase?</i>	That would be for local decision making as the draft STPCD does not contain any guidance on assimilation onto the advisory pay points.
27.	<i>Why does the appendix in LGA circular refer to discretionary points for upper pay range and not advisory?</i>	Thank you for highlighting as you have spotted a drafting error. This administrative error in the table heading for the Upper Pay Range now reads ‘Draft advisory pay points’ https://www.local.gov.uk/our-support/workforce-and-hr-support/education-and-young-people/lga-consultation-neost-response

<p>28.</p>	<p><i>From the introduction of PRP, schools have been encouraged to be creative and design their own appraisal processes and pay scales. Indeed, there has been implied criticism of schools that have just continued the 6 points. The advisory points now present some complex assimilation issues and potential ER issues</i></p>	<p>Yes, we agree for some local authorities and schools the advisory pay points may result in complex assimilation issues and potential ER issues.</p>
<p>29.</p>	<p><i>TLR 3 for existing teachers could work, but what about those who are already in receipt of TLR 3 for another project?</i></p>	<p>More than one TLR 3 can be paid however there are a variety of reward decisions that could be applied around one to one learning. On the options available for paying teachers who undertake extra tutoring as part of the catch-up programme, the LGA National Schools Sounding Board have suggested that we add another option e.g. existing school policy for out of school learning.</p>
<p>30.</p>	<p><i>How many TLR3s can a teacher be awarded?</i></p>	<p>Refer to TLR3 (para 20.3) in STPCD https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/832634/School_teachers_pay_and_conditions_2019.pdf</p>
<p>31.</p>	<p><i>Is the suggestion for payments for existing staff for tutoring work TLR3 for the tutoring time only or overall? And presumably within the 195 days and 1265 hours, so schools may opt to rearrange how they use the workforce?</i></p>	<p>DfE view is that TLR3s could be awarded to teachers undertaking any of the catch-up provision, including tutoring. The main reason DfE say they are suggesting this is precisely so it can be done outside of the 195 days or 1265 hours.</p>
<p>32.</p>	<p><i>Does the tutoring need to be done by a teacher? Could an HLTA or TA3 deliver this programme?</i></p>	<p>Refer to - The Education (Specified Work) (England) Regulations</p>

33.	<i>Selena referred to a draft of the 2020 STPCD - is this available to be shared with schools and LAs?</i>	Yes and can be found here on the LGA teachers' pay consultation page - https://www.local.gov.uk/sites/default/files/documents/workforce%20-%20education%20-%20School%20Teachers%20Pay%20and%20Conditions%20Document%20(track%20changes%20version).pdf
34.	<i>A lot of theorists talk about money being an important factor, but work life balance is a huge issue with teachers and affects their retention. Are there any plans to tackle this perhaps with the curriculum or how we work and assess in the light of COVID-19?</i>	Yes, pay is an important issue but as you highlight not the only issue in R&R good teachers. Reducing the workload of teachers has been an ongoing DfE work strand and is one of the key aspects of the DfE R&R strategy. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/786856/DFE_Teacher_Retention_Strategy_Report.pdf
35.	<i>Will there be a review of the burgundy book at any point in the future? Some parts seem to be out of date, in respect of e.g. the maternity provisions.</i>	Yes, but no current timescale agreed. A technical update on statutory provisions would be the first stage of any future planned review.
36.	<i>LAs are being asked to complete the survey - but what about MATs / Academies?</i>	MATs/Academies will be able to complete the survey. However, whilst most academies apply STPCD they are not bound by the STPCD as the maintained sector is which is why NEOST is a formal consultee.
37.	<i>Could you clarify for us how you access the 'One Stop Shop'. We can't see this on LGA website now?</i>	The LGA 'one-stop' website page for teachers' pay 2020 can be found at this link - https://www.local.gov.uk/our-support/workforce-and-hr-support/education-and-young-people/lga-consultation-neost-response