National Employers’ Organisation for School Teachers

Response to the consultation on the School Teachers’ Review Body’s 29th Report and the draft 2019 School Teachers’ Pay and Conditions Document

September 2019

Introduction

1. The National Employers’ Organisation for School Teachers (NEOST) welcomes the opportunity to respond to the consultation on the School Teachers’ Review Body’s (STRB) 29th Report and the draft 2019 School Teachers’ Pay and Conditions Document (STPCD).

Executive Summary

2. Our headline responses to the consultation are as follows, that:

- NEOST welcomes the decision to fully implement the STRB recommendations;
- NEOST is disappointed that the pay award is not being fully funded from September 2019 with new money;
- NEOST should be consulted about the funding formula/mechanism ahead of any announcements relating to the final 2019 pay award;
- Confirmation must be given of the intention and mechanism to provide ongoing funding of the pay increases related to September 2018, post March 2020;
- Immediate assurances are given that the funding will include Centrally Employed Teachers; and
- An effective consultation process is returned to next year that respects the needs of employers to budget and plan workforce development activity in a timely and effective manner.

Background

3. NEOST draws its members from the Local Government Association, the National Society (Church of England and Church in Wales) for the promotion of Education, the Catholic Education Service and the Confederation of School Trusts. The role of NEOST includes acting as the single statutory employer representative body when submitting evidence to the STRB. NEOST also represents the employer side
for the national collective agreement on conditions outside of the STPCD, commonly known as the Burgundy Book. This agreement continues to apply in Wales and therefore the Welsh Local Government Association remains a member of NEOST, although it is no longer directly included in the English STRB consultation process.

4. As the role of the local authority in relation to school employment matters is often misunderstood, it seems appropriate at this stage to provide some context to this response. School pay decisions are delegated to individual schools in regulations under the Education Act 2002. Nevertheless, local authorities are the employers of teachers in community and voluntary controlled schools. This affords them certain advisory rights in relation to school employment decisions and creates liabilities under general employment law. Councils retain some employment rights and responsibilities for all of their maintained schools, including Voluntary Aided and Foundation where the relevant employer is the school’s governing body. For example, under the ‘Teachers’ Pensions Scheme and generally the Local Government Pension Scheme, the local authority is deemed the employer in all maintained schools.

5. Through the LGA’s wider role and network of relationships with Multi Academy Trusts (MATs), we have received additional feedback on the core issues relevant to teachers’ pay for 2019. The feedback received very much reflects what local authorities and maintained schools are telling us as detailed below. In particular, the impact of the funding formula based on number of pupils and not the actual cost of teachers payroll, combined with the lack of funding for Centrally Employed Teachers (CETs). Several responses included the negative financial impact on roles such as Regional / Secondary / Primary director level roles that operate across MATs.

Recruitment and Retention

6. NEOST supports the STRB’s conclusions that ‘a decade of relative decline has taken the teachers’ national pay framework too low in relation to the graduate labour market and the wider economy’. Looking ahead, the STRB report acknowledged its ‘recommendations will be a step towards improving the position of the teachers’ pay framework in the wider labour market. More will be necessary over the period of the next Spending Review’.

7. Within the STPCD framework, schools decide what pay increases teachers will receive. With the lack of funding increasing the number of local authorities and schools struggling to operate within budget or with a budget deficit, our stakeholders have commented on the growing trend of schools making pay decision based mainly on finances rather than a balance of performance and recruitment and retention measures. This we are told is leading to a lack of motivation to increase performance and increased employee relations issues around financial rewards.

Proposed Pay Award

8. We welcome the fact that the proposed pay award for 2019 provides for a consistent across the ranges increase above the one per cent that NEOST called for in its written STRB evidence. Although we recognise that pay is only one factor in resolving the problem, it is necessary to make a start in improving the
recruitment and retention of teachers including those in leadership posts. A consistent uplift, also assists the perception of fairness, feelings of equal value across the different pay ranges whilst reducing the risk of negative employee relations issues.

Financial Impact

9. However, NEOST also made it clear that the increase needed to be fully funded. Whilst we welcome the addition of the £105 million to cover the cost of 0.75 per cent of the 2.75 per cent increase, the vast majority of schools and local authorities continue to tell us that most schools cannot afford to fund the initial two per cent element of a pay award for 2019. Therefore the pay award needs to be fully funded by central government, with new money.

10. Our stakeholders strongly disagreed with the DfE calculations included in its written evidence to the STRB that indicated that 'there could be an increase in per teacher pay of two per cent, nationally and overall, before schools faced real-terms cost pressures'.

11. The majority of our stakeholders told us that schools had budgeted for a maximum two per cent pay award for 2019 as a result of the DfE position above. Several local authorities, including the majority of schools in a local authority in the North East, informed us that some schools had continued to budget for a one per cent pay award. What was made clear in many responses was that although a school may have budgeted for a pay award of one or two per cent that did not mean it was affordable without making savings elsewhere for example through redundancies, a reduced curriculum, cuts to non-staffing budgets or using current reserves. Using reserves will clearly merely postpone the need to make cuts elsewhere.

12. As indicated above, the inadequate funding is highly likely to result in further jobs being lost in order to balance some school budgets. Recent years have suggested that those jobs would mostly be support staff roles, which in itself negatively impacts the workload of teachers. However, the funding situation is now impacting directly on teachers and increased class sizes affecting workload. Further reductions in teaching roles tend to affect subjects with lower take up therefore reducing the breadth of the curriculum and thus pupil choices and possibly attainment outcomes.

School Funding

13. As reflected in the STRB 29th Report, NEOST’s evidence ‘contended that schools faced significant financial pressures and that central government should fully fund any pay award for September 2019’ which was consistent with submissions from ASCL, NAHT, the NEU, NGA and Voice.

14. This is further supported by the comments reported in the STRB 29th report following school visits. They found leaders in all areas ‘had faced challenges in relation to school funding levels in recent years’.

15. The STRB 29th Report supported what our stakeholders have told us and what we included in our NEOST evidence around the growing financial challenges that

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1 STRB 29th Report
schools are facing as they reported ‘there are some indications that the situation is becoming more challenging for secondary schools, with the proportion of local authority maintained schools with accumulated deficits continuing to increase and the average deficit for such schools increasing’.

16. This is further evidenced by the Institute for Fiscal Studies (IFS) which calculated that between 2015 and 2019, real terms funding for schools in England will have fallen by 4.6 per cent\(^2\).

17. Local authorities and schools provided information on the growing number of schools operating with budgets in a deficit, or reducing reserves and local authorities forecast an increase in the number of schools that are likely to be in a deficit budget position by 2019/20.

18. Many of our stakeholders provided evidence on the specific financial impact of a 2.75 per cent across the board increase, with only 0.75 per cent additional funding for 2019. We have highlighted a small number of responses below across England to give a flavour of the issues raised around funding.

19. An authority in London told us ‘we have several schools already in deficit. This pay rise being unfunded to the extent of two per cent will clearly place pressure on these schools and delay their ability towards a sustainable budget’. It expressed real concern about maintaining appropriate class sizes and high teaching standards.

20. A large authority in the East of England explained how it needed to reduce funding to schools to top-up the growth fund by £3.2m and transfer £4.3m to the High Needs Block. As a result whilst the Schools Block allocation increased by 2.1% from 2018/19 it was only able to pass a 1.8 per cent increase to schools and not all schools received a 1.8 per cent increase especially if they had falling pupil numbers. It was clearly of the view that not all schools would be able to afford a two per cent increase without having to make savings to balance the books.

21. An authority in the North East calculated that ‘If only the 0.75 per cent of the pay award is funded then we predict that 38 (including three of our five special schools) of our 71 maintained schools could be in deficit of up to an estimated total of £2.1m by the end of 2019/20 if no additional funding is received.’

22. A large authority in the South West informed us that it had advised all schools to budget for a two per cent across the board 2019 pay lift, based on likely financial impact not on the basis of affordability for all schools. In fact, it had ‘42 maintained schools setting deficit budgets for the 2019-2020 financial year, an increase from the 35 who ended the 2018-2019 financial year in deficit. Proportionally, this is impacting more significantly on our secondary schools, but due to the number of maintained primary and special schools, we have schools impacted in all sectors.’

23. Finally, a large authority in the East Midlands told us that they ‘currently have 15 schools projecting a deficit at the end of the 2019/20 financial year. This includes an assumed two per cent teacher pay rise in September 2019’. Whilst adding that ‘during this financial year already, many schools have made redundancies (mainly teaching assistants but some teachers) and other planned reductions to expenditure budgets (including decisions not to recruit) to avoid a deficit at the end of the financial year.’

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\(^2\) ‘School funding in England will have fallen nearly 5% in real terms by 2019, says IFS’, The Independent, and 18 July 2017
of the year. Those schools that have done this have only reduced what they believe to be necessary to keep the school in a surplus this year’.

24. The conclusions of a major report published in July 2019 by the Education Select Committee adds further weight to the lack of schools’ funding by explaining that ‘Costs have increased across a range of areas, including annual pay award and salary raises, National Insurance, inflation, pensions, and SEND provision, amongst others. School funding has not kept pace’. Adding a statement to say ‘We are pleased that the Department is beginning to acknowledge the significant financial strain that schools and colleges are under. There is simply not enough core funding….’

25. The funding gap for schools has been highlighted recently by a coalition named f40 who act as an education fair funding campaign group, made up of 42 local authorities. They have set out a long-term plan to reverse the cuts which shows that a total of £12.6bn extra would be needed by 2022/23 in order to restore in real terms the 2015 level of funding for schools, high needs, early years, and pupil premium, and restoring in real terms the 2010 level of funding for 16-19 education. The analysis is backed by three leading education unions, the National Education Union (NEU), the Association of School and College Leaders (ASCL), and the National Association of Head Teachers (NAHT).

26. We are pleased that the LGA’s call for more money to be made available to support children with SEND has been recognised and in the longer term we are keen to work with the Government to tackle the high needs funding gap facing councils as demand for support continues to increase. We want to see all schools become more inclusive so that more children with high needs can be appropriately supported in mainstream schools.

Funding Mechanism / Formula

27. In order to ensure the funding works as the DfE intends at school level, NEOST should be consulted about the funding formula/mechanism ahead of any announcements relating to the final 2019 pay award.

28. Local authorities and schools explained how, as a result of the current pay grant formula, some schools are likely to receive a shortfall in funding. This is particularly the case in those schools with a higher than average teacher to pupil ratio due, for example, to falling pupil numbers, and/or a higher percentage of teachers on the UPR or leadership range. Leading some schools to replace experienced staff with NQTs on a fixed term contract as a way of reducing payroll and the liability of future redundancy costs. Smaller schools with just over 100 pupils in areas of low deprivation were also highlighted as being disproportionately impacted as they have limited flexibility to reduce often higher than average teacher salary costs. As were schools who were classified by Ofsted as in need of improvement or inadequate as this often leads to the need to employ higher paid experienced teachers and leaders in order to accelerate the improvement of the school and outcomes for pupils.

29. It is assumed that the teachers’ 2019 pay grant funding will replicate the formula for the 2018 pay award to take account of national insurance and pension costs. The formula must also include the funding of the additional Apprenticeship Levy

3 A ten-year plan for school and college funding
4 Coalition unveils long-term funding plan to reverse education cuts
charges as these were highlighted as significant additional employer cost pressures.

30. The Teachers’ Pension Funding Grant\(^5\) includes CETs in its scope for funding. It also provides a supplementary fund for employers including local authorities to apply for additional funding over and above the formula allocation if the actual costs of the teacher pension increases are more than 0.05% above what has been allocated to the employer. NEOST asks that this approach is replicated for the teachers’ pay grant for 2019.

Centrally Employed Teachers

31. All budget holders responsible for those covered by the document should have a level playing field to enable them to implement the changes to the STPCD. Several local authorities told us that without full funding for CETs further cuts will need to be made as the Dedicated Schools Grant is under enormous pressure as a result of increased SEND costs etc. If full funding is not provided then many local authorities and academies who also employ CETs have told us they will need to reduce, stop or pass the full costs onto schools for the special provision of services that include music services, school improvement and SEND provision. If, as we anticipate, not all schools are able to absorb these increased costs it puts the whole funding model that enables these services at risk for all schools in an area. Central government must therefore fully fund the cost of implementing the 2018 and 2019 pay awards to maintain the quality and range of educational services available to pupils.

32. The latest DfE figures (November 2018) record a headcount of 5002 centrally employed staff by post and role that need to be taken into account in the new funding formula. NEOST is seeking confirmation from central government that the pay increase from 2018, the proposed 2019 increase and future pay awards for CETs will be fully funded.

Consultation Process, Timing and Detail

33. This year the STRB report and draft STPCD consultation report were again published jointly on the 22\(^{nd}\) July 2019, when the vast majority of schools had closed. Although the consultation period was helpfully extended to 8 weeks, it was still over the summer holiday period, so in reality this had little impact on the ability of our stakeholders to gather and analyse responses from schools before providing an overarching response to NEOST.

34. NEOST sought assurances from Civil Servants that there will be no further delay to the 2019 timetable for teachers’ pay due to the current wider political context. We are pleased to have received the re-assurance that the Statutory Instrument bringing the new document into force will be laid before Parliament for 21 days regardless of prorogation.

35. The current process and timescale impacts negatively on the application of the DfE guidance on the appraisal process within schools. Governing bodies have to consult representatives of recognised trade unions before finalising their own revised pay policy / pay structure ahead of setting appraisal objectives. This last minute approach places immense pressure on governing bodies, school leaders

\(^5\)Teachers’ pension employer contribution grant (TPECG)
and other staff to agree new policies and then meet the best practice deadline of the 31st October each year.

36. Policy makers must recognise that something as important as the detail behind the teachers’ pay award is essential for employers to budget, to plan for and utilise their flexibilities and to set effective workforce development programmes to align with organisational priorities and affordability. Local authorities and school leaders have informed us of the difficulties they experience reviewing their pay policies in a managed and timely fashion as a result of the delayed consultation and final STPCD.

37. We understand that the STRB presented its 29th Report for the Government’s consideration sometime towards the end of May. NEOST agrees with the STRB recommendations that the report should be shared much earlier, ahead of the consultation on the STPCD, and well before schools close for the summer break. NEOST seeks reassurance that next year the STPCD consultation will be designed and implemented in a way that reduces the difficulties and additional workload caused by a late timetable for schools and local authorities.

**Spending Round**

38. NEOST is pleased that the recently announced Spending Round seeks to reduce the current severe financial pressures on many of our schools and local authorities from April 2020 until 2023. However, this does not change the government’s intended funding of only 0.75% of the 2019 proposed pay award. We wait to see the details on how the reported £7.1 billion additional funding over the next 3 years impacts on schools and local authorities ability to fully fund the 2018 and 2019 pay awards covered by the teachers’ pay grants combined with future pay awards over the next three years.

39. The government confirmed in a statement published on 2 September 2019 that ‘the £14 billion investment announced by the Prime Minister will ensure that pay can be increased for all teachers’. We note the additional funding is intended to cover future pay awards for teachers but without knowing the size of any future STRB recommendations or government’s decision on teachers’ pay over the next three years from 2020 it is difficult to assess if this will be the case at school level with any certainty.

**Future Remit**

40. The STRB report makes a number of observations and comments relating to the focus of future remits. The vast majority of local authorities and schools have continued to ask that the current salary STPCD safeguarding arrangements are reviewed again as well as changes to enable teachers to voluntarily step down from the Upper Pay Range to the Main Pay Range. Therefore NEOST asks that both issues be included in the STRB remit for 2020.

41. We note the recent statements from the Secretary of State, Gavin Williamson, describing the next remit letter for 2020 to the STRB asking for their

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recommendations on the proposal for the ‘introduction of progression points in pay’. As the majority of our stakeholders continue to use pay reference points this would be welcomed.

Reported errors within the draft STPCD

42. Please refer to the attached (appendix 1) for the details of the perceived drafting errors reported to Civil Servants as part of the draft STPCD consultation process.
Appendix 1

Corrections to draft STPCD 2019

Below are what appear to be 18 administrative errors to be reviewed. To confirm these issues have all been raised with the DfE at the time they were identified during the consultation phase (July / August 2019).

Section 1

1. Introduction para 3 should read ‘twenty ninth’ not ‘twenty eight’ report …
2. Introduction para 3 the date of publication of the STRB report has yet to be entered
3. Introduction: para 5 heading (“Summary of changes” etc) needs to be updated to “2018”.
4. 5.3 Annual pay ranges for headteachers: the quoted figure for Group 3 maximum has an erroneous extra zero digit.
5. 5.3 Minimum of Group 2 (Outer London) – quoted figure £52,064. Current year’s figure was £50,673 so we calculate a 2.75% increase should be £52,067 when rounded up.
6. 13.1 heading in black type ‘Main Pay Range 2018 – Annual Salary’ – year should read ‘2019’.

Section 2

1. 6.3: The word 'Census' has been omitted
2. 28.1(c): The reference to mobile phone salary sacrifice schemes in our opinion needs to be reviewed.
3. 42.2: Cross-reference in this para to 43.1 should be to 42.1 (was correct as of STPCD 2015 but appears to have been incorrect since then)
4. Annex 2 (1): definition of "relevant standards" - section relating to Wales still needs omitting
5. Annex 2 (4): refers to Wales
6. Annex 2 (7): Definition of “year of employment”: cross-ref to para 30 we think should be omitted (used to refer to Chartered London Teachers, the section for which no longer exists)

Section 3

1. 27: Ref to 2011 Regulations needs removing
2. 31: Ref to 2011 Regulations needs removing
3. 40 & 41: Cross-reference to para 44 should be to para 43 (this is where it used to refer to)
4. 43: Linked to above, cross-reference to paras "43 to 44" in the Document should be to "40 to 41"
5. 81: Again, cross-ref to para 44 should be to para 43
6. On page 62 (tracked version) p57 (clean) the whole para relating to registered teachers as been deleted not just that part of it relevant to Wales; on p63/p58 in the para regarding relevant standards the reference to wales has not been deleted and on page sixty four/p59 the para numbered 4 still refers to Wales.