

INTRODUCTION

This document sets out NUT guidance on movement to Point 2 on the Upper Pay Scale for teachers who have passed the performance threshold.

It consolidates previous NUT guidance to members and deals with:

- The legal requirements governing teachers' salary assessments and the statutory criteria for progress on the Upper Pay Scale;
- The NUT's policy about how these should be applied to teachers;
- Dates for implementation and payment and funding issues;
- The position of teachers in particular groups; and
- How to take up problems where schools do not follow this guidance.

LEGAL REQUIREMENTS APPLYING TO POST THRESHOLD TEACHERS

All teachers who, at 1 September 2002, have been on point 1 of the post -threshold Upper Pay Scale for two years are eligible to move to point 2 of the Upper Pay Scale. The following sections set out the rules of the pay structure. All references are to the School Teachers' Pay and Conditions Document 2002, the statutory document which all LEAs and governing bodies are required to follow.

Salary Assessments

School governing bodies have a statutory duty to undertake an annual review of a teacher's salary annually on or after 1 September with effect from 1 September (para 3.1.a). This applies to post -threshold teachers as to all other teachers.

The Document also requires that where a salary assessment has been carried out, the governing body "shall ensure that the teacher is notified in writing of that determination" (para 3.3). Again, this applies to post-threshold teachers as to all other teachers.

Every post-threshold teacher, therefore, is entitled to have their salary assessed by the governing body with effect from 1 September 2002 and to a written statement outlining the governing body's determination of his or her salary.

The WES advises governing bodies that they should take their decisions on pay progression for postthreshold teachers on the basis of recommendations made by the headteacher following the review of the teacher's performance (see criteria below).

Criteria for Progression

The statutory criteria for progression on the Upper Pay Scale contained in para 17.4 of the Pay and Conditions Document are set out below. It is important to note that these are the only criteria for progression which have statutory force.

17.4 In making a determination of the salary of a postthreshold teacher pursuant to paragraph 3.1 (a) the relevant body shall not determine that there has been any movement up the pay scale set out in paragraph 17.2 unless

(a) there has first been a review of the

(b) the achievements of the post-threshold teacher and his [sic] contribution to the school or to a school or schools in which the teacher has previously worked, have been substantial and sustained.

No more than one point on the Upper Pay Scale can be awarded but all such points are permanent entitlements (para 17.5).

NUT ADVICE TO MEMBERS: HOW ASSESSMENTS SHOULD BE UNDERTAKEN

No New Criteria Only the criteria set out in para 17.4 of the Pay and Conditions Document have statutory force. No additional or local criteria should be adopted. Only the criteria set out in paragraph 17.4 should be used by headteachers.

The existing threshold standards cover a wide field, including each teacher's contribution to the school. The NUT is clear, therefore, that those who have crossed the threshold in 2000 and have maintained those achievements should be regarded as having met the criteria of "substantial and sustained".

The criteria in the Document do not provide for decisions on progression to be related to budgetary considerations. Schools should not seek to use budgetary constraints as a justification for applying higher hurdles in order to reduce the numbers of teachers moving to point 2 on the Upper Pay Scale.

The NUT's advice to members is that where a teacher who was assessed as meeting the threshold criteria has continued in the intervening two years to meet those standards, the teacher should progress to point two of the Upper Pay Scale.

No Application Required

Schools have a statutory duty to undertake annual salary reviews for all teachers, including postthreshold teachers. Movement to point 2 on the Upper Pay Scale is not therefore an application process. Teachers should not be asked to make an application or fill in any form.

No Direct Link to Performance Management

The statutory criteria do not link the performance review required before awarding points on the Upper Pay Scale to the statutory performance management process. There is, therefore, no obligation upon the headteacher to take into account progress towards performance management objectives as part of the Upper Pay Scale review.

There should be no changes or adjustments to school performance management processes in order to link them to movement on the Upper Pay Scale. The objectives defined at the beginning of the performance management cycle and any performance management statement agreed at the end should stand unchanged. No modified, new, additional or replacement objectives should be imposed within the performance management cycle for post-threshold teachers. Similarly, there should be no delay in the process of considering movement on the Upper Pay Scale to fit in with performance management

No New Evidence Required

It may be that, in seeking to verify whether postthreshold teachers have maintained their threshold standards, headteachers ask teachers to provide evidence. With the exception set out in the following paragraph, such evidence should be sought only to supplement information already held or available to headteachers.

The threshold application form requires headteachers to identify the teacher's professional development needs, whether or not the threshold application has met the threshold standards. The NUT's advice is that this is the only aspect of the performance review for the purposes of movement on the Upper Pay Scale for which the headteacher can legitimately require further evidence.

NUT members who are post-threshold teachers may choose to draw to the attention of their headteachers their achievements in relation to performance . management objectives. If members choose not to take this option, it should not be counted against them. As indicated above, members may also wish to draw attention to any professional development activities in which they have participated.

Statement of Salary Assessment

The NUT believes that the statement which is provided to a post-threshold teacher should contain the reasons for the headteacher's recommendation to the governing body in respect of movement to point 2 of the Upper Pay Scale.

NUT Guidance to Leadership Group Members

Guidance has been sent to all NUT members who are in the Leadership Group on the post-threshold process. In addition, the June 2002 issue of the National Association of Governors and Managers journal contains NUT guidance for governing bodies.

Advice from NAHT/SHA and Others

The National Association of Headteachers and Secondary Heads Association have sent out joint guidance which now conforms with the NUT's guidance to members in the leadership groups.

The current NAHT/SHA guidance states that:

- *Schools should not seek to introduce any additional criteria.*
- *The head (should) consider the performance of the teacher against the threshold standards and consider whether the level of performance has been sustained over the past two years.*
- *Both the NAHT and SHA have made absolutely clear that all those who satisfy the criteria contained in the School Teachers' Pay and Conditions Document for progression on both the upper pay spine and the leadership group should be recommended by the head for an award of pay. All the organisations representing members in the leadership group have now made it clear that there should be no additional criteria for assessing whether teachers move to UPS2 on the upper scale. Such additional criteria as that produced by CEA should not be used.*

Headteachers may be in receipt of advice from local education authorities or other bodies which is in

guidance. For example, Cambridge Education Associates (CEA), the organisation responsible for providing threshold assessors for the threshold process, have also produced guidance on the post -threshold process. It takes the form of a set of post-threshold performance descriptors under each of the current threshold standards. Both the NUT and the NAHT/SHA guidance emphasise that there is no requirement to follow such guidance and that such descriptors should not be used.

DATES FOR IMPLEMENTATION AND PAYMENT AND FUNDING ISSUES

Date from which Payment is Due

The Government's failure to resolve the provisions of funding for progression on the Upper Pay Scale until late in the summer term has delayed the whole process. In consequence, decisions by schools are taking place this term.

Payments will, however, be implemented from 1 September 2002 on a backdated basis. As indicated in the earlier quoted extracts from the Pay and Conditions Document, teachers who move from point 1 to point 2 of the Upper Pay Scale are entitled to receive the higher rate of pay "with effect from 1 September".

Date of Actual Payment

The grant payments to schools towards the costs of the additional payments to teachers are expected to be made in January.

In the meantime, however, the delay in the payment of the actual grant to schools should not be accepted as a valid reason for delaying the actual payment to teachers. Schools can draw upon other budget heads pending receipt of the grant and reimburse those other areas of the budget when payment is received. Many schools have significant surplus balances which will allow this. In exceptional cases of genuine and severe budgetary shortfalls, the LEA should be approached for temporary assistance to prevent the otherwise delayed payment to the teachers concerned.

Funding

Schools in England will receive 80 per cent of the costs. The precise amount allocated to individual schools is subject to the outcome of a survey currently being undertaken by the DfES. This is intended to ensure that schools which now employ more teachers eligible for progression than passed the threshold in September 2000, as a result of consequent staffing changes, are not penalised by funding based on outdated data. Schools in Wales, however, should receive 100 per cent of the costs from their LEAs, as the National Assembly has allocated additional funding for this purpose.

TEACHERS IN PARTICULAR CIRCUMSTANCES

Teachers who have Moved Post

Teachers who have moved to new schools from 1 September 2002 or during the previous year should not be denied progression on the basis that their contribution to their new schools cannot be assessed.

The statutory guidance allows teachers to progress on the basis of their contribution to "schools in which the teacher has previously worked".

Teachers in this position are advised, therefore, to seek written confirmation from the headteacher(s) of their previous school(s) that their work satisfied the criteria and present it to the headteacher of their new school.

Such confirmation should be accepted by the headteacher and result in progression to point 2 of the Upper Pay Scale.

Teachers with More than One Post

Some teachers will hold more than one post and be employed, for example, under two separate regular part-time contracts with two different schools. In such situations, separate reviews have to be undertaken in each of the schools concerned. The commonsense solution will be for the school in which the teacher works most of the time to undertake the review first and, once progression has been awarded, for the other school to agree similarly to pay the teacher on point 2 of the Upper Pay Scale. Any cases of difficulty should be referred to the NUT Division or Regional Office.

Once such teachers have been placed on point 2 of the Upper Pay Scale, this becomes a permanent entitlement and on movement to subsequent new permanent or temporary posts, they are entitled to continue to be paid on point 2 of the Upper Pay Scale.

Supply Teachers

Supply teachers who are employees of the LEA or a foundation or voluntary aided school who have completed two years service on point 1 of the Upper Pay Scale on 1 September 2002 are equally eligible for progression. Their review should be undertaken by the school in which they have most frequently worked over the past two years or by the LEA if working for a central supply pool.

Again, once such teachers have been placed on point 2 of the Upper Pay Scale, this becomes a permanent entitlement and on movement to subsequent supply engagements or new permanent or temporary posts, they are entitled to continue to be paid on point 2 of the Upper Pay Scale.

Centrally Employed Teachers

Other centrally employed teachers should have their position reviewed by the LEA as the relevant body for salary assessment purposes. The criteria are the same as for teachers employed in schools.

Agency Teachers

Agency teachers who do not have contracts of employment with the LEA or other maintained schools are regrettably not covered by the provisions of the School Teachers' Pay and Conditions Document. The Union is continuing its efforts to assist these teachers and progress has been made in a number of LEAs which should enable the teachers concerned to benefit from the provisions of the Pay and Conditions document. In other areas their pay continues to be determined by the supply agency. Advice may be sought on these issues from NUT regional offices or, in Wales, the NUT Wales Office, NUT Cymru.

ACTION BY NUT MEMBERS

The NUT is determined that all post-threshold teachers should be treated fairly and equitably within the process of performance review for the purposes of post-threshold progressions. This guidance will protect members from unfair treatment.

NUT members who have not yet received information about the process should seek from their headteacher answers to these questions:

Has my salary assessment required by the Pay and Conditions Document taken place?

- Will the criteria to be used match the above advice from the NUT and from NAHT/SHA?
- When will the statement outlining my salary assessment be available?
- When will I start to be paid my new salary?

Where members find that the arrangements in their schools contradict the above advice, they should raise the issues with their NUT representative. Representation at school level by members collectively or individually may solve general problems.

If representation at school level does not lead to satisfactory outcomes, it is essential that the relevant NUT regional office or, in Wales, the NUT Wales Office, NUT Cymru is contacted so that steps outlined in the guidance above can be taken.

Members whose personal situations require individual and, perhaps, confidential advice, should contact their NUT regional offices directly. In Wales, members should contact the NUT Wales Office, NUT Cymru.

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